

**IN THE COURT OF APPEALS OF IOWA**

No. 7-103 / 06-0921

Filed May 23, 2007

**IN RE THE MARRIAGE OF ANGELA ELAINE LYMAN  
AND TRENT ALAN LYMAN**

**Upon the Petition of  
ANGELA ELAINE LYMAN,**  
Petitioner-Appellee,

**And Concerning  
TRENT ALAN LYMAN,**  
Respondent-Appellant.

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Appeal from the Iowa District Court for Wright County, James M. Drew,  
Judge.

The respondent appeals from the district court's decree dissolving his  
marriage. **AFFIRMED.**

Dan McGrevey, Fort Dodge, for appellant.

James W. McCarthy and Monty Fisher, Fort Dodge, for appellee.

Heard by Sackett, C.J. and Vogel and Miller, JJ.

**VOGEL, J.**

Trent Lyman appeals the custody provision of the district court's decree dissolving his marriage to Angela Lyman. We affirm.

Trent and Angela were married in 1993, and have three children: six-year old twins, Saxon and Brayden, and two-year old Ariane. At the time of trial, Angela was thirty-one years old and studying to become an x-ray technician at Iowa Central Community College. She plans on graduating in July 2007, at which time she intends to take a "weekend package" where she would work three out of four weekends in a month but still be considered full-time. She currently resides in a three-bedroom house in Thor, Iowa. A neighbor, Virginia Haaland, provides day care in Angela's home until the twins leave for school in the morning, and then cares for Ariane at her home the rest of the day. Haaland is also available to return to Angela's home after school, if necessary.

Trent, age thirty-three at the time of trial, works for Fort Dodge Animal Health as a lab technician. His hours are from 6:00 a.m. until 4:30 p.m. Monday through Thursday and he has Friday, Saturday, and Sunday off. He did not anticipate any immediate change in his schedule or employment. He resides in the marital home, and during the parties' separation, cared for the children from Thursday night through Sunday evening.

During the marriage, Angela had been the primary caregiver for the children, although Trent has recently taken a more active role in their care. The record does reflect, however, that both parents have some negative qualities: Trent has repeatedly failed to have Ariane properly secured in her car seat while he was driving, and Angela has a temper problem. There was a considerable

amount of testimony, regarding the parties' mutual allegations of inappropriate internet, romantic relationships. The district court found, and we agree, that their behavior did not have "a significant impact on their ability to parent the children."

Following the trial on contested issues, the district court issued a decree dissolving the marriage and awarding joint legal custody of the children, with physical care to Angela and visitation to Trent. Trent filed a motion to enlarge the findings pursuant to Iowa Rule of Civil Procedure 1.904, which was denied by the district court. Trent appeals.

We review the provisions of a dissolution decree de novo. *In re Marriage of Sullins*, 715 N.W.2d 242, 247 (Iowa 2006). "Although we decide the issues raised on appeal anew, we give weight to the trial court's factual findings, especially with respect to the credibility of the witnesses." *Id.* (quoting *In re Marriage of Witten*, 672 N.W.2d 768, 773 (Iowa 2003)).

Trent argues that physical care of the children would be more properly placed with him.<sup>1</sup> In determining which parent should be granted physical care, our overriding consideration is the children's best interests. *In re Marriage of Ford*, 563 N.W.2d 629, 631 (Iowa 1997). We consider a number of factors, including the children's needs and characteristics, the parents' abilities to meet the children's needs, the nature of each proposed home environment, and the effect of continuing or disrupting the children's current status. See Iowa Code § 598.41(3) (2005); *In re Marriage of Winter*, 223 N.W.2d 165, 166-67 (Iowa 1974).

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<sup>1</sup> Trent also raises on appeal a request for shared physical care, which he did not request or raise until his post-trial motion to enlarge. We conclude that this was insufficient to preserve the issue for appeal. See *Metz v. Amoco Oil Co.*, 581 N.W.2d 597, 600 (Iowa 1998).

In awarding physical care, the goal of the courts is to select the environment most likely to cultivate physically, mentally and socially healthy children. *In re Marriage of Murphy*, 592 N.W.2d 681, 683 (Iowa 1999). We give significant consideration to placing the children with the primary caregiver, but it is not the singular factor in determining which placement would best serve the children's interests. *In re Marriage of Wilson*, 532 N.W.2d 493, 495 (Iowa Ct. App. 1995).

The district court found both parents would provide good care of the children, but concluded that physical care is better placed with Angela. We agree. Although Trent focuses much of his argument on his perceived character flaws of Angela, the district court determined that both he and Angela had engaged in unsuitable behavior. Consequently, the district court focused on each of the parties' affirmative qualities related to the care of the children. The evidence supports that Angela has been the children's primary caregiver for the majority of their lives. She has been more attentive to the children's needs than has Trent, including their schooling and medical care. While each parent has demonstrated the ability to adequately care for the children, we defer to the district court's credibility and relevant factual findings as supported by the record that the children's best interests would presently be better served by remaining in the physical care of their mother.

Currently, Trent and Angela's schedules are complimentary, allowing a relatively smooth continuum of care for the children. We reiterate the district court's conclusion "that Trent should care for the children at all reasonable times and places as can be agreed between the parties." We heartily agree that Angela and Trent should work together so that if one parent is not available to

the children, the available parent will be considered before other child-care arrangements are made.

We affirm the district court's order.

Costs on appeal are assessed to Trent.

**AFFIRMED.**