

**IN THE COURT OF APPEALS OF IOWA**

No. 7-297 / 06-1999  
Filed June 27, 2007

**Upon the Petition of  
ALLISON CROW,**  
Petitioner-Appellee,

**And Concerning  
SYED TAUFEEK MIRAN SHAH,**  
Respondent-Appellant.

---

Appeal from the Iowa District Court for Buchanan County, Kellyann M. Lekar, Judge.

Syed TaufEEK Miran Shah appeals from the district court's decision giving Allison Crow physical care of their minor child. **AFFIRMED.**

Robert L. Day of Day & Hellmer, P.C., Dubuque, for appellant.

Janice R. McCool of McCool Law Office, Cedar Rapids, for appellee.

Heard by Mahan, P.J., and Eisenhauer and Baker, JJ.

**MAHAN, P.J.**

Syed Taufeek Miran Shah appeals from the district court's decision giving Allison Crow physical care of their minor child. We affirm.

**I. Background Facts and Prior Proceedings**

Talan, born in October 2005, is the son of Syed Taufeek Miran Shah (Taufeek) and Allison Crow. Allison became pregnant with Taufeek's child towards the end of her senior year in high school. After they graduated from high school in Winthrop, Allison and Taufeek moved to the Des Moines area. Once Talan was born, Allison immediately moved back to Winthrop to live with her family. This move was prompted by Taufeek's allegedly callous attitude during the birth and his mother's statements and actions at the hospital. Allison also feared that Taufeek's family was going to take Talan through physical force or legal action.

Ten days after Talan's birth, Allison filed an application seeking sole custody and child support, with supervised visitation for Taufeek. The couple later reconciled, and Allison moved back to the Des Moines area to live with Taufeek. At one point, the parties came close to signing a stipulated custodial agreement whereby Allison would have physical care, both parties would share joint legal custody, and Taufeek would have a "normal" visitation schedule. However, the relationship quickly soured because Allison believed Taufeek was only concerned with drinking, chasing women, and playing video games. Allison also felt uncomfortable leaving Talan with Taufeek. On the one occasion she left him alone with Talan, Taufeek fell asleep. Allison and Talan returned to Winthrop to live with her parents.

In April 2006 Tafeek filed an application for temporary visitation. The court granted Tafeek supervised visitation. The court also ordered that “all medical providers are to provide [Tafeek] with copies of all medical records for [Talan], if requested.” The order did not address whether Tafeek could attend Talan’s medical appointments.

Friction developed when Tafeek began to take an interest in Talan’s doctor’s appointments. Based on the court order and advice from her counsel, Allison insisted Tafeek did not have a right to be at the medical appointments. This ongoing argument caused Allison to postpone some appointments. The court amended the existing order, and Tafeek was allowed to attend the medical appointments. Nine months after the petition for sole custody was filed, Tafeek amended his answer and requested physical care.

The case came to trial a month later in August 2006. At the time of trial, Allison was nineteen years old, living with her parents in Winthrop, and studying for a degree in culinary arts. Tafeek was also nineteen years old. He lived in the Des Moines area with his sister and brother-in-law. He attended college and worked at a part-time job.

At trial Tafeek admitted that he had consumed alcohol and used false identification to enter drinking establishments. He also admitted to doing so while he was on informal probation for an earlier charge of indecent exposure.

Tafeek’s attorney confronted Allison with deposition testimony about her view of Tafeek’s role in Talan’s life. Allison had indicated she did not want Tafeek to have a relationship with Talan. At trial, Allison recanted her deposition testimony. She stated the deposition did not depict her true feelings.

Instead, her statements were merely a reflection of her anger towards Tafeek as he rolled his eyes, repeatedly stood up and focused the video camera on her, and then made “smirky faces” when she answered his attorney’s questions. At trial she testified that her relationship with Tafeek had improved since the deposition and they were able to communicate about Talan. She testified that she wants Talan to know his father, his religion, and his background.

The district court entered its decision on November 7, 2006, giving both parties joint legal custody. Allison was granted physical care, and Tafeek was granted visitation rights. The court also ordered Tafeek to pay monthly child support. Tafeek appeals, contending the trial court erred in awarding physical care of Talan to Allison.

## **II. Standard of Review**

Our scope of review in this equitable action is de novo. Iowa R. App. P. 6.4. We give weight to the district court’s fact-findings, particularly when considering the credibility of witnesses, but they do not bind us. *Id.* We use the same legal analysis in determining custody of children born to unmarried parents as that utilized if the children’s parents were married and divorced. *Lambert v. Everist*, 418 N.W.2d 40, 42 (Iowa 1988). Neither parent bears a higher burden of proving parental fitness under these circumstances. *Id.*

In assessing an issue of child custody, the controlling consideration is the best interests of the child. *Id.* The court determines placement according to which parent can minister more effectively to the child’s long range best interests. *In re Marriage of Barry*, 588 N.W.2d 711, 712 (Iowa Ct. App. 1998). The court’s objective is to place the child in the environment most likely to bring them to a

healthy physical, mental, and social maturity. *Id.* Insofar as is reasonable and in the best interests of the child, the court should make an award of custody that will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents and which will encourage the parents to share the rights and responsibilities of raising the child. See Iowa Code § 598.41(1) (Supp. 2005).

### **III. Merits**

In its ruling, the district court placed particular emphasis on a family-centered psychological examination prepared for trial. The psychologist recommended primary placement with Allison, with ongoing and frequent visitation for Tafeek. The psychologist also stated that, “Given Mr. Shah’s background history as well as his young age, it is strongly recommended that extended family members be available to assist him in the care of his son during these visitations.” Even though Tafeek was only nineteen years old, the psychologist also made a specific recommendation that he abstain from any alcohol use during visitation. The psychologist recommended ongoing support from Allison’s family members, but did not recommend that other family members be present when she provided for Talan’s care or make any comment regarding her alcohol usage.

The court concluded Allison was the parent most capable of meeting Talan’s long term best interests and bringing him to successful maturity. In so ruling, the court noted Allison had been Talan’s primary caretaker since birth and that she had “consistently made personal, stability, housing, and school decisions which show her clear devotion and intention to parent Talan.”

Taufeek's primary argument on appeal is that the court erred in granting Allison physical care because he claims she will not recognize and support his role as a parent. Taufeek argues Allison's deposition testimony reflects her true attitude, while her testimony at trial was fabricated to appease the court. The denial by one parent of a child's opportunity to have meaningful contact with the other parent is a significant factor in determining the custody or physical care arrangement. *Barry*, 588 N.W.2d at 713. The district court specifically addressed this issue in its decision. The court stated:

Allison's deposition testimony, although concerning, shows most vividly emotional frustration, immaturity, and a lack of understanding of parental roles. However, although her behavior has not always been particularly encouraging, Allison has complied with the court orders and the court believes she is credible in her statements that she will comply with future court orders.

After carefully reviewing the record, we find no reason to upset the findings of the district court. Both parties' words and actions exhibit a level of immaturity indicative of their age. This immaturity is likely fueled by their parents' animosity towards the relationship. Allison's deposition testimony was concerning, but her testimony at trial and the psychologist's report both indicate she is supportive of having Taufeek involved in Talan's life. We also note that Allison has complied with all court orders regarding visitation, and we find no reason to believe she would jeopardize her position as physical caretaker by choosing to ignore the present ruling.

We also find no basis in Taufeek's assertions that Allison provides Talan with inadequate medical care. Talan's doctor testified that Allison provides "very

good care” for Talan and describes her as a “caring mother who has been attentive to her child.”

#### **IV. Conclusion**

We find it apparent that the district court carefully reviewed the evidence before making its custody, physical care, and visitation determinations. The court concluded Allison was the parent best capable of meeting Talan’s long term best interests and bringing him to a successful maturity. However, the court also noted:

Allison will need to significantly increase her efforts to cooperate with and support the relationship of Taufeeek and Talan as this is a significant issue of concern for this court. Allison should be aware that so long as Taufeeek lives within reasonable driving distance and his family continues to reside in close proximity to Talan, Taufeeek and his family should be afforded substantial opportunity for maximum continuing contact with Talan. Rather than resist the involvement of Taufeeek and his family, this court hopes that Allison can learn to see Talan’s extended paternal family as a support for Talan.

After considering all arguments raised on appeal, whether or not specifically addressed in this opinion, we agree with the district court’s decision and find Talan’s best interests are served by granting physical care to Allison. However, we also reiterate that Allison and her extended family must significantly increase their efforts to cooperate with Taufeeek and to support his relationship with Talan. Consistency in these areas is a requirement of this decision and not simply a suggestion. We caution Allison that denial of Taufeeek’s visitation or obstruction of reasonable access to Talan would be viewed seriously in any future action to modify the physical care provisions of this order.

**AFFIRMED.**