IN THE COURT OF APPEALS OF IOWA

No. 8-292 / 07-1873
Filed June 25, 2008

IN RE THE MARRIAGE OF YEHOSHUA ZELIG ARONOW AND RISE CAROL ARONOW

Upon the Petition of
YEHOSHUA ZELIG ARONOW,
Petitioner-Appellant,

And Concerning
RISE CAROL ARONOW, n/k/a
RIVKAH CHAYAH ARONOW
Respondent-Appellee.

Appeal from the Iowa District Court for Allamakee County, John Bauercamper, Judge.

A father appeals the visitation portion of a dissolution decree. **AFFIRMED.**

Leslie Babich of Babich, Goldman, Cashatt & Renzo, P.C., Des Moines, for appellant.

Robert Day of Day & Hellmer, P.C., Dubuque, for appellee.

Considered by Huitink, P.J., and Vogel and Zimmer, JJ.

VOGEL, J.

Yehoshua Zelig Aronow ("Zelig") appeals from the supplemental decree entered following remand from this court, dissolving his marriage to Rivkah Aronow. On appeal, Zelig contends he should have been granted additional visitation with their children. We affirm.

Zelig and Rivkah were married in 1980 in Montreal, Canada. The marriage resulted in eight children, four of whom are still minors: Chavah, born in 1991; Levi and Sholom, born in 1995; and Yisroel, born in 1996. The family practices the Hasidic Lubavitcher Jewish faith. In February 2006, following a five-day trial, the district court entered a decree dissolving the parties' marriage. The court granted joint custody with Zelig having physical care of Levi, Sholom and Yisroel and Rivkah having physical care of Chavah. The district court's ruling was appealed and this court modified, granting Rivkah physical care of all the minor children. We remanded for the district court to consider visitation and child support issues. *In re Marriage of Aronow*, No. 06-0195 (Iowa Ct. App. July 12, 2007).

On remand, both parties submitted proposed visitation schedules. In October 2007, the district court established a visitation schedule, taking into consideration that Zelig resides in Iowa and Rivkah resides in New York. The visitation schedule granted Zelig alternating visitation over seven religious holidays throughout the year, three of which are a week or longer, eight consecutive weeks during the summer, and liberal contact by e-mail, regular mail, and telephone. The parties were also "encouraged to arrange additional visits and make certain that the minor children are able to attend all important

family events involving both parents, grandparents and other close relatives." Zelig appeals.

Zelig requests the following additional visitation: (1) two additional weeks of summer vacation for a total of ten consecutive weeks; (2) alternating weekend visitation provided that he is able to exercise visitation in New York; (3) visitation at any other time in New York provided he gives Rivkah forty-eight hours notice; and (4) daily telephone visitation beginning at 7:00 p.m. Sunday through Thursday and at 3:00 p.m. Friday and Saturday for one and one-half hours. He also requests: (1) that Rivkah be required to obtain webcam hardware and software so that he might exercise his requested telephone visitation; (2) that holiday visitation begins "after school ends prior to the holiday and end the day after the holiday" as Jewish law does not permit travel on holidays; and (3) that Rivkah

> facilitate the children's visitation with Zelig in Iowa by taking the children to a local airport (LaGuardia, Kennedy, or Newark) at designated dates and times and picking the children up at a local airport (LaGuardia, Kennedy, or Newark) at designated dates and times.

Rivkah responds that the district court granted Zelig "lengthy periods of visitation on seven alternate religious holidays, a consecutive eight-week period in the summer, and liberal additional provisions for further visitations and contact, the details of which were left to be arranged between the parties." She points out that any additional summer vacation would essentially deprive her of any time with the children during their summer break from school. Further, she asserts Zelig's other requests are unreasonably broad and disruptive of the children's home life. While she acknowledges the benefit of telephone and e-mail contact

between the children and Zelig, she asserts a specified telephone visitation every day would require her and the children to be at home at a fixed time each day and would not allow for "Rivkah to plan or structure anything for the children's needs and activities in advance." She makes the same response to Zelig's request he see the children anytime he gives her forty-eight hours notice. As to the webcam request, she asserts that she is not financially able to provide this and is concerned Zelig would use a webcam inappropriately, as he had previously tapped the home telephone and recorded Rivkah's conversations. Finally, Rivkah claims Zelig's two requests regarding the details of travel, the specified holiday travel time and the requirement she drop off and pick up the children from a local airport, are unnecessary.

Our review is de novo and our overriding consideration is the best interests of the children. Iowa R. App. P. 6.4, 6.14(6)(*o*); *see also In re Marriage of Kleist*, 538 N.W.2d 273, 276 (Iowa 1995) ("Prior cases are of little precedential value, except to provide framework for analysis, and we must ultimately tailor our decision to the unique facts and circumstances before us."). In the present case, the visitation schedule is the same schedule Rivkah was given as the non-custodial parent in the 2006 decree, later modified on appeal. On our review, the schedule appears to provide the children with the opportunity to maintain maximum emotional and physical contact with both parents, despite the geographic distance between the parties' homes. *See* Iowa Code § 598.41 (2005). Zelig argues that he needs more time with the children to maintain (or reestablish) his relationship with the children, prevent their alienation, and oversee their religious studies. We conclude that the visitation schedule as set

forth by the district court serves the best interests of the children and the district court's order was equitable in light of the specific religious and geographic concerns of both parents. There is great acrimony between these parents, and the district court's schedule allows each to have some set time with the children, giving all concerned a measure of expectation and stability. Therefore we affirm the district court. *See In re Marriage of Spiegel*, 553 N.W.2d 309, 319 (Iowa 1996) ("We accord the trial court considerable latitude in making [a custody] determination and will disturb the ruling only when there has been a failure to do equity.").

Rivkah requests appellate attorney fees. An award of appellate attorney fees is not a matter of right, but rests within the court's discretion. *In re Marriage of Kurtt*, 561 N.W.2d 385, 389 (Iowa Ct. App. 1997). We consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the district court's decision on appeal. *In re Marriage of Maher*, 596 N.W.2d 561, 568 (Iowa 1999). Having considered the appropriate factors, we grant Rivkah $3000 in appellate attorney fees. Costs on appeal are assessed to Zelig.

AFFIRMED.