

IN THE COURT OF APPEALS OF IOWA

No. 9-063 / 08-1302
Filed April 22, 2009

LONNY JOE BRYANT,
Petitioner-Appellant,

vs.

LINDA SUE WOODARD,
Respondent-Appellee.

Appeal from the Iowa District Court for Marshall County, Michael J. Moon,
Judge.

A father appeals a district court ruling granting physical care of his son to
the child's mother, contending that joint physical care is warranted. **AFFIRMED.**

Brian Danielson, Marshalltown, for appellant.

Jennifer Donovan, Des Moines, for appellee.

Heard by Vaitheswaran, P.J., and Eisenhauer and Doyle, JJ.

VAITHESWARAN, P.J.

Lonny Bryant appeals a ruling granting physical care of his son to the child's mother, Linda Woodard.

I. Background Facts and Proceedings

Bryant had a relationship with Linda Woodard that resulted in the birth of a child in 1999. Bryant had no contact with the child for three years. At that point, Woodard introduced their son to Bryant and later informed the child that Bryant was his father. Bryant periodically visited his son over the next several months. Eventually, the parents agreed that Woodard and the child would move in with Bryant.

The parents lived together for approximately five years. When their relationship soured, Bryant petitioned for physical care of the child. Following trial, the district court concluded that the child's long-term best interests would be served by having Woodard assume physical care of him, subject to Bryant's visitation rights. Bryant appealed.

II. Analysis

Bryant argues that Woodard should not have been granted physical care because her past performance in raising four children from another relationship "paints a bleak picture of the quality of care [this child] probably will receive if he is to remain in her care." In his view, "the proof is in the pudding."

As the district court pointed out, the record is replete with evidence of the failings of Woodard's other children and the moral weaknesses of both parents. We have recognized that past performance may be an indicator of future behavior. *In re Marriage of Winnike*, 497 N.W.2d 170, 174 (Iowa Ct. App. 1992).

But we have also stated moral misconduct is of particular importance “only in those cases where the misconduct occurred in the presence of the children.” *In re Marriage of Roberts*, 545 N.W.2d 340, 343 n.1 (Iowa Ct. App. 1996). On our de novo review, we are not convinced the parents’ past parenting and lifestyle choices directly affected the welfare of this child.

With respect to this child, the district court noted that, at trial, he got “[l]ost in the shuffle.” Nonetheless, we believe the record is clear on several key points affecting his best interests. See *In re Marriage of Rodgers*, 470 N.W.2d 43, 44 (Iowa Ct. App. 1991) (stating primary concern is child’s best interests). First, it is clear that Woodard served as the boy’s primary caretaker throughout his young life. See *Roberts*, 545 N.W.2d at 343 (stating we may consider which parent has historically been the primary caregiver). Second, the child’s emotional bond with his mother was stronger than with his father. See *In re Marriage of Hansen*, 733 N.W.2d 683, 700 (Iowa 2007). Indeed, Bryant conceded that Woodard was the parent the child turned to when he was hurt or scared. Finally, the limited evidence pertaining to the child reveals that he was fairly well-adjusted. Although he had some behavioral issues when he first started school, Bryant testified that they dissipated with time. The child also had friends, was a good student, and was involved with extracurricular activities. While there was some evidence that Woodard was more permissive and less structured than Bryant, there was scant evidence that the child was adversely affected.

Based on this record, we conclude the district court acted equitably in granting Woodard physical care of the child.

AFFIRMED.