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No. 3--10--0772

Order filed February 28, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

<i>In re</i> MARRIAGE OF JONI WALLACE,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
Petitioner-Appellant,)	Rock Island County, Illinois,
)	
and)	No. 09--D--426
)	
HARRY L. WALLACE,)	Honorable
)	James J. Mesich,
Respondent-Appellee.)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Justices Holdridge and O'Brien concurred in the judgment.

ORDER

Held: The trial court's order granting custody of three minor children to their father in a dissolution of marriage proceeding was upheld on appeal because the trial court did not abuse its discretion and its factual findings were not against the manifest weight of the evidence.

Petitioner, Joni Wallace, filed a petition for dissolution of her marriage to respondent, Harry L. Wallace. The trial court granted the petition and awarded custody of the parties' three minor children to Harry. On appeal, Joni argues that the trial

court erred in awarding custody to Harry. We affirm.

FACTS

Joni and Harry were married for 23 years and had six sons. The younger three sons were still minors at the time of the dissolution of marriage. During the first half of the dissolution proceedings, the trial court entered an order finding that there were grounds for the dissolution.

Thereafter, the trial court held a hearing, and the parties presented evidence primarily addressing the custody of the three minors. The testimony at the hearing established that during most of the parties' marriage, Joni was the primary homemaker, and she homeschooled all six of their sons. Harry was a chiropractor who had been employed as a professor at Palmer chiropractic school for over 30 years.

Harry testified, however, that in the two or three years preceding the hearing, Joni had stopped devoting herself to being the primary caregiver and educator of the minors in favor of spending more time on her religion. Harry was increasingly concerned with the time Joni spent isolating herself with decreeing and praying, and not teaching, especially the two younger children. Harry also testified that Joni was estranged from her parents since the commencement of the dissolution proceedings.

Although he had sought medical treatment in recent years for

stress, stomach problems, and early lung disease, Harry testified that he was capable of caring for the minors.

Joni testified that she believed that homeschooling had been effective for their children, but that it was not going as well since the commencement of the dissolution proceedings. She testified that the two younger children could no longer work unless she sat with them, and she blamed that on the tension between herself and Harry. Joni claimed that Harry was undermining her parenting efforts, and that he had not been attentive to the children for most of their marriage. However, Joni's counsel stipulated that Harry had become a model father in the six months prior to the hearing. Joni testified that only a nonreligious person would think that she carried her religious practices to an extreme. She also admitted that she had met a man through her prayer group who lived in another state and continued to have a relationship with him.

Benjamin Wallace, one of the parties' older sons, who was 18 years old at the time of the hearing, testified that he was concerned about how much time Joni spent practicing her religion during the day. He testified that Joni spent a quarter to more than half of each day praying or saying decrees. He thought that there were financial benefits to placing the three minors with Harry, and there would not be so many religious ideas incorporated into their study, but he believed that both parents

would be satisfactory custodians if granted custody.

Lisa Ann Ford, a library employee, testified that Joni frequently brought her children to the library over the 10 years prior to the hearing. However, over the 12 months prior to the hearing, she had not seen them as often.

In its opinion, the trial court determined that joint custody was not in the minors' best interest because it was clear that Joni and Harry could not cooperate. It found that the statutory factors relevant to the situation all weighed in favor of Harry. Although none of the three minors had a preference regarding custody, and each of the parents believed they should have custody, Benjamin thought the minors should be with Harry. As for the interaction of the minors with other people, the trial court found Joni's relationship with the out-of-state man and her estrangement from her own family to be particularly relevant. It noted that Joni's significant daily involvement with her religion detracted from the time that could be spent with the minors. The trial court did not find Harry's health issues to be significant. The trial court found that the evidence was clear that awarding custody to Harry was in the minors' best interest.

ANALYSIS

Joni contends that the trial court erred in awarding custody of the minors to Harry, arguing that it was not in the best interest of the minors. She contends that the trial court

disregarded some of the testimony, and focused only on the parties' recent behavior. She argues that the evidence was clear that she was the only person who took care of the minors prior to the divorce proceedings and that Harry interfered with Joni's parenting efforts. Harry does not dispute that Joni was the minors' primary caregiver for much of their marriage. However, Harry argues that the evidence supports his contention that in the few years leading up to the dissolution proceedings, Joni changed, disrupting the family, and making him the appropriate parent to have custody. He contends there was adequate evidence in the record to support the trial court's findings.

In determining custody, and what serves the best interest of the children, the trial court should consider all relevant factors, including those listed in section 602 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/602 (West 2008)). *In re Marriage of Seitzinger*, 333 Ill. App. 3d 103 (2002). Since the trial court is in a better position to observe the parties and assess the credibility of the witnesses, the reviewing court affords great deference to the trial court's best interest findings. *Seitzinger*, 333 Ill. App. 3d 103. Thus, the trial court's factual findings will not be disturbed unless they are an abuse of discretion or against the manifest weight of the evidence. *Seitzinger*, 333 Ill. App. 3d 103.

The record indicates that Joni was a homemaker, who home-

schooled the parties' six children. Harry worked outside of the home, and agreed with the decision to homeschool their children. However, in the approximately two-year period prior to the custody hearing, the evidence indicates that Joni's involvement with her religion escalated, including her relationship with another man, and that Joni was spending far less time with the children and their homeschooling than previously. The only evidence to the contrary was the testimony of Joni, but the trial court was in the best position to judge the parties' credibility. The trial court considered the relevant statutory factors, and it determined that it was in the best interest of the minors to grant custody to Harry. Based on the record, we find no abuse of discretion nor manifest error in the trial court's conclusion.

CONCLUSION

For the foregoing reasons, the judgment of the circuit court of Rock Island County is affirmed.

Affirmed.