

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 26, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 97-2022

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE MARRIAGE OF: ALLEN W. EHLTS,

PETITIONER-APPELLANT,

V.

BARBARA J. EHLTS,

RESPONDENT-RESPONDENT.

APPEAL from a judgment of the circuit court for Dodge County:
ANDREW P. BISSONNETTE, Judge. *Affirmed.*

Before Dykman, P.J., Vergeront and Roggensack, JJ.

PER CURIAM. Allen W. Ehls appeals from a divorce judgment. The issue is whether the court erred in assigning primary placement of the couple's child to her mother, Barbara J. Ehls. We conclude the court did not erroneously exercise its discretion, and therefore we affirm.

The child's name is Cassie. She was three years old at the time of the trial. The family court counselor and guardian ad litem recommended primary placement with her mother Barbara. The trial court issued a thorough opinion explaining its placement decision. The court noted that it had "serious concerns about [Barbara's] deficiencies as a mother," such as her lack of responsibility. The court wrote that if the child "were a couple of years older, the Court is confident that it would be awarding primary placement" to Allen. The primary factor in Barbara's favor, however, was the "strong bond" that she had established between her and Cassie. The court wrote that it was "sacrificing stability, structure and sobriety, as well as good role modeling, in order not to traumatize the child by separating her from her mother."

On appeal, Allen first argues that the court erred by finding that Cassie would be "traumatized" by separation from her mother. According to Allen, there is no evidence, beyond conjecture, which supports a finding that traumatization would result. Because this finding was so central to the court's decision, he argues, the decision must be reversed if the finding is erroneous.

We reject the argument. Allen places too much emphasis on the court's use of the word "traumatize," without including other parts of the decision. The court was simply using this word as a shorthand description for the difficulty Cassie would face if her relationship with her mother was disrupted. The court found that Barbara had been the primary caregiver in Cassie's life up until trial, and noted the family counselor's opinion of the importance of that bond. In light of Cassie's age, the court also noted the "urgency to maintain the close bond with the primary parent." The court's findings as to the bond between Cassie and her mother and the importance of that bond to children of Cassie's age, were not clearly erroneous.

Allen next argues that the court erred because, having stated that Allen would likely receive primary placement if Cassie were five years old, there is no support in the record for it then to conclude that a two-year age difference should lead to a different result. However, Allen again focuses on language that is not central to the court's decision. What the court would do if Cassie were five years old is ultimately irrelevant to the decision before us, because we are considering whether the record supports what the court did with respect to Cassie at age three. Furthermore, to the extent Allen also argues that a court cannot consider the child's age in determining placement, the argument is meritless. The child's age is implicitly a factor in every placement decision because the best interest of a teenager is likely to differ from the best interest of an infant.

Finally, Allen argues that the court should have arrived at a different decision after considering the factors in § 767.24(5), STATS. We conclude the court appropriately exercised its discretion. The court's opinion demonstrates a thorough grasp of the relevant facts and an awareness of the difficulty of the decision. The ultimate decision was one that a reasonable judge could reach.

By the Court.—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)(5), STATS.

