



## **Mom loses custody for alienating dad**

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Ruling a 'wake-up call' for parents who use kids to punish ex-partners

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Tracey Tyler  
LEGAL AFFAIRS REPORTER

In a stunning and unusual family law decision, a Toronto judge has stripped a mother of custody of her three children after the woman spent more than a decade trying to alienate them from their father.

The mother's "consistent and overwhelming" campaign to brainwash the children into thinking their father was a bad person was nothing short of emotional abuse, Justice Faye McWatt of the Superior Court of Justice wrote in her decision.

The three girls, ages 9 to 14, were brought to a downtown courthouse last Friday and turned over to their father, a vascular surgeon identified only as A.L.

Their mother, a chiropodist identified as K.D., was ordered to stay away from the building during the transfer and to have her daughters' clothing and possessions sent to their father's house.

McWatt stipulated that K.D. is to have no access to the children except in conjunction with counselling, including a special intensive therapy program for children affected by "parental alienation syndrome." The mother must bear the costs.

Harold Niman, the father's lawyer, said the decision serves as a wake-up call to parents who, "for bitterness, anger or whatever reason," decide to use their children to punish their former partners.

"Maybe if they realize the courts will actually step in and do something and there is a risk of not only losing custody, but having no contact with their children, they'll think twice about it," Niman said in an interview.

McWatt's judgment was released Jan. 16 and published on legal databases this week. By yesterday, it was a hot topic within the family law bar.

The judge said awarding A.L. sole custody was the children's only hope for having a relationship with their father, given their mother's long-running transgressions.

These include ignoring court orders, shutting the door in A.L.'s face when he came to collect the children and refusing to answer the phone when he called to say goodnight. (He was granted telephone access to say good night on Monday, Wednesday and Friday). At times, she also arranged for police to show up when her daughters had overnight visits with their father.

Eventually, K.D. cut off contact altogether, refusing to allow A.L. to see or speak with his daughters. He was reduced to shouting goodnight to them through the door of their home,

often not knowing whether they were there.

"It is remarkable that A.L. has not given in to the respondent's persistence in keeping his children from him over the last fourteen years and simply gone on with his life without the children as, no doubt many other parents in the same situation would have and, indeed, have done," McWatt said.

The mother squandered several chances to change her behaviour and is unable to accept it is in her children's best interests to have a relationship with their father, the judge said.

Nicholas Bala, a Queen's University law professor who specializes in family law, said "badmouthing" or negative attitudes by one parent toward another is quite common among separated couples. But in recent years, the justice system has begun to understand the harmful effects of the worst form of this behaviour.

In most cases, the problem is resolved through counselling, where parents are encouraged to accept they'll both always be in their children's lives, said Bala. "I tell them, '... if you're the survivor, you'll be going to the other's funeral, not because you love that person, but to support your children.'

"Having said that, there are some people – and I think some of them are suffering from personality disorders – who will not respond to therapy and will not respond to directions from judges."

Transferring custody is a last resort, because "it can be quite dramatic and traumatic" – yet sometimes better than the alternative, said Bala.

"We often talk about the best interests of the child, but often it's the least detrimental alternative, really."

Bala said courts are unlikely to take such a drastic step without hearing expert testimony about what's happening in the family. A child may be avoiding a parent for legitimate reasons such as physical or emotional abuse.

McWatt heard testimony from Barbara Fidler, a Toronto mediator and clinical psychologist who predicted eight years ago the three girls were at risk of becoming alienated from their father.

The Office of the Children's Lawyer argued the family dynamics could not continue.

Fidler said research points to long-term damage in people alienated from a parent in childhood.

Children are more susceptible at about age 10 or 11, after their brains have developed to the point where they can hold positive and negative information about a parent.

If what one parent is saying about the other doesn't accord with their own perceptions, they can become confused.

In some cases, the only way out of the emotional conflict is to take one parent's side. The child can even begin inventing his or her own reasons for hating the other parent, the court was told.

Early intervention is best, Niman said. "Really, parental alienation is a process. If you can nip it in the bud, that's the best advice I can give to clients.

"Because the longer it goes on, the more difficult it can be to undo."