



By Ian Harvey | Publication Date: Monday, 02 February 2009

The growing recognition of parental alienation syndrome by the courts is leading to a new dilemma: can judicial intervention undo the damage and when should the system intervene?



**'The myth is that at the teen years there's nothing that can be done, that the alienation is permanent,' says Dr. Richard A. Warshak. 'But that's not true.'**

The answers raise some challenges for society as a whole, says Dr. Richard A. Warshak, of the Department of Psychiatry, University of Texas Southwestern Medical Center in Dallas, Texas.

And the subject hit the headlines recently arising from Justice Faye McWatt's ruling that stripped a mother, identified as chiroprapist K.D., of custody of her three girls, aged nine to 14, and turned them over to their father, a vascular surgeon identified only as A.L. McWatt also barred K.D. from any access to the children unless it was in relation to counselling and ordered her to pay for a special program offered by Warshak.

The profile of PAS is fast growing in mainstream media — Dr. Phil featured a segment in December on it — and it's starting to garner support in the courts and with clinicians, says Warshak.

He says he's worked with children as young as five and up to teens and even beyond, though most are in between.

"The myth is that at the teen years there's nothing that can be done, that the alienation is permanent," he says. "But that's not true. We've had good success and we're in the process of following teens who have been through the program over the long term."

The sticky issue comes when the child is in fact 16 years or older, with inherent rights, he says. At what point does a court order such a teen to undergo treatment if they've already expressed an unwillingness or no interest, without violating those rights?

"In that respect it's very much ordering someone into a substance abuse program for treatment," he says.

"But these are questions that society and the law will have to make for themselves. But I think the overall positive is that the courts have shown that they are not helpless in these cases."

Warshak is considered the leading authority on the issue of reunification and parental alienation syndrome and has been involved in recent landmark cases in Ontario.

He said the fact that Ontario courts are not only recognizing the syndrome and are prepared to take definitive action such as changing a custody order or mandating treatment is a positive step in the right direction.

As it stands, however, there are still too few programs and professionals trained in how to handle children and adolescents who have been poisoned by one parent against the other.

There have been a number of cases dating back to 1987's *Tremblay v. Tremblay*, followed by the ruling of Quebec Justice John Gomery in *P.S.M. v. A.J.C.* involving four children caught between warring parents.

While Gomery is best known for his investigation into the Liberal government sponsorship scandal, he is widely quoted on the lead web pages of parental rights lobby groups: "Hatred is not an emotion that comes naturally to a child. It has to be taught.

"A parent who would teach a child to hate the other parent represents a grave and persistent danger to the mental and emotional health of that child."

Other cases followed and in the last two years there has been a steady stream of cases in which custody was ordered and changed in the light of evidence of alienation, including *A.A. v. S.N.A.* and the fall 2008 decision in *Jamieson v. Jamieson* from the Court of Appeal.

Another case is also making its way through the Ontario Court of Appeal, *CCAS v. H. and H.*, in which Justice Marvin Zuker last year reversed a custody order after the Catholic Children's Aid Society identified two children of the marriage as being in need or protection and asked the court to give the father custody on the ground that the mother was alienating them from him.

"I do think there's been a shift," says Jeffrey H. Wilson, founding partner of Wilson Christen LLP. "There was a time when a court felt

that if a young person was internalizing hostile feelings against a parent there wasn't much you could do about it."

Today, he says, the bench is much more aware of the issue and seized on family law in a way they may not have a decade or more ago, and that's led to a willingness to be more proactive.

"They're active in case management, and they're more involved generally," he says. "I don't want to use the word bold but they certainly are more predicated to intervene and take charge of a case than they were in the old days when perhaps they could be more passive."

With joint custody being the default position in the absence of evidence to the contrary there's also greater attention being paid to the Divorce Act, which makes it clear there is a duty to maximize contact with both parents, he added.

Wilson brought in Warshak in the case of *J.K.L. v. N.C.S.* in which the court ruled last December that the 13-year-old Ontario son had been brainwashed by his dominant father and turned against his mother.

The court ordered the child, L.S., be turned over to the custody of the mother with the suggestion the child be treated at Warshak's Family Workshop for Alienated Children.

Justice James Turnbull singled out the FWAC and urged the Ontario government to encourage similar programs, something Wilson, who acted for the mother, agrees is sorely needed.

"There just aren't the resources," he said. "We need more people trained to deal with this."

But advising clients seeking to make an accusation of alienation is no easy matter, says Wilson.

"It's a lot of work," he says. "You can't let the client see you as Camelot and that you're going to go out and solve it. They have a lot [of] work to do to make it work as well. It doesn't stop with the decision."

Given the emotional strain on both the child or children and the non-favoured parent to work through the estrangement, it's not a journey to be undertaken lightly, he says.

It's the aftercare which is critical, he says, echoing Warshak. There needs to be some kind of funded family recovery program in Ontario, he says, with more clinicians trained in therapy.

Once launched, getting such cases fast-tracked is important, says Dr. Warshak, noting that the longer the litigation drags on the more it aggravates the actions of the favoured parent in denigrating the estranged parent and the more damaging it is for the children.

He says there's emergent research that suggests children exposed to such manipulation are more likely to suffer from depression and have conflicts with authority.

"They learn to ignore authority and the courts, and do whatever they want," he says.

Simply taking the child from one parent and transferring custody is no panacea; there's a high likelihood of failure since the child may simply rebel, run away, or refuse to integrate.

In some cases placing the child in a neutral setting during transition may work better, such as a relative's home, residential care, or boarding school.

"At least there there's time to concentrate on themselves, their studies, and that psychotherapy may work," he says.

Given the strain, though, many parents may give up before the matter is settled, especially if it drags on through numerous appeals, says Warshak.

The greater risk for the children is that they miss bonding with the estranged parent, the associated love of that parent, and the extended family of uncles, aunts, cousins, and grandparents, which leaves a mark on their development.

Comments

Add New Search

Write comment

Name:

Email:   do not notify

Title:



Send



Please input the anti-spam code that you can read in the image.

[Close Window](#)