



First Father's Day living in dad's house

Precedent-setting case took twin boys from mom's custody

By Barbara Brown bbrown@thespec.com

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Tomorrow, the Hamilton man and his sons will spend Father's Day splashing and sliding gleefully at a water park in Niagara Falls.

The weekend is booked with plans to attend a family birthday party and to hang out and just have fun. It will be their first Father's Day since the dad was granted sole custody of then five-year-old twins in a precedent-setting decision in Superior Court's family division.

In late April, the Ontario Court of Appeal upheld the custody order issued on Aug. 29, 2005, by Justice Cheryl Lafreniere. The trial judge took custody from a Jarvis woman whom she found had engaged in a subtle and sustained campaign to alienate the boys from their biological father.

Ontario's top court recognized that removing custody from an "otherwise good parent" was a dramatic remedy, but stated the judgment was supported by evidence of the mother's "persistent, ingrained and deep-rooted inability to support the children's relationship with the father."

The parental-alienation case made headlines across the country and lit up telephones on radio and TV talk shows. It's believed to be a leading case in Canada on one of the most highly divisive and politicized issues in family law. The mother maintains the boys remain deeply insecure and upset 10 months after the court ordered them to leave her home and live with their father.

"The other day, on Tuesday, (one of the boys) was crying and saying, 'Don't give up mommy. Don't, don't give up mommy,'" she said, imitating the young child's plaintive cry.

Lafreniere observed that the mother seemed unable to comprehend that she, by her behaviour, might well be causing her children's reaction.

The mother rejected that notion in a recent interview.

"These children have their own minds and they know where they want to be. It has nothing to do with me. It has everything to do with what they've known, what they've grown up with and what's familiar to them," she said.

The mother corrected misinformation previously reported in The Spectator that she cancelled access to the father 95 per cent of the time. His access was cancelled no more than 15 times in four years, she said.

Lafreniere, a former family lawyer who was appointed to the bench in 2004, carefully structured the custody and access order so the children's transition from their primary residence with the mother to their father's home would be gradual and cause as little disruption to them as possible.

The judge gave generous access to the mom, who has her sons two evenings a week and three out of four weekends a month. The rest of the time, they live with their dad.

The father acknowledges that on occasion one of the boys will be a little sad when the mom drops them off, but within 30 seconds he and his brother are involved in some activity and everything is fine again.

"When the boys are with me, they're happy. They're living for the moment and no, they're not devastated. I do everything I can to make sure they're secure and happy," he said.

The father is an avid photographer and enjoys documenting the lives of his children. The pictures show two active boys with the kind of close bond only twins can understand and who share a curiosity about the world around them.

"When they were younger, I used to stop at construction sites and watch the heavy machinery in action. It (was) amazing how they could name the equipment and would even correct me if I called

something by the wrong name," said the dad.

"I am sure mom does a ton of stuff with them that I could not do or would not be too interested in doing with them. I appreciate that she would have different interests than mine and I like the fact they're being exposed to what we both have to offer them."

The mechanical engineer and his ex-wife, a primary school teacher, began to live together in May 1998 and were married that December. The union was short-lived, however, and they separated the following October when the wife was pregnant.

The husband demanded a paternity test, which became a source of burning resentment for his estranged wife.

The man hired a lawyer three months before the boys were born, but was not able to see his children until they were 8 1/2 months old.

The babies lived with the mother from their birth. The father was initially permitted to visit his children one hour a day three times a week, but he sought greater access through the courts as the boys got older.

His lawyer, Mari-Anne Saunders, a former social worker, gave the dad some excellent advice and he began to volunteer in children's kindergarten class and joined their school's parent-teacher association.

Meanwhile, he took advantage of all the courses he could find to improve his parenting skills. Dad learned very quickly how to manage car seats, double strollers, bottles, diaper bags, along with nap and feeding regimens.

His first glimpse of his sons had been a photograph taken by a lab technician who conducted the DNA tests. The lab called at 10 a.m. to say the tests were done. Dad was there by noon to see pictures of the babies, then just a few months old.

Dr. Richard Gardner, a psychiatrist, first coined the term "parental alienation syndrome" in 1985 to describe the troubling behaviour of children who reject the access parent on the basis of brainwashing or indoctrination by the custodial parent.

Gary Direnfeld, a child behaviour expert, said the syndrome must be differentiated from "parental alienation," which refers to the conduct of a parent who is attempting to sabotage the child's relationship with the other parent.

The Hamilton social worker stressed that

parental alienation is entirely unrelated to gender. He said fathers and mothers are equally capable of such "short-sighted" behaviour.

"Originally, it was used as a defence by men whose wives were trying to withhold custody or access of the children.

"And hence, women's groups picked up on it and said it's just another way of blaming the mother when, in fact, these fathers have been bad and that's the basis for these kids not wanting to see them."

But as more divorced fathers sought joint custody and greater access to their children, social workers doing family assessments for the courts began to see alienating behaviour on the part of both mothers and fathers, said Direnfeld.

Mary-Jo Land, who initially had been hired by the mother to do an assessment, testified she had serious concerns about the mother's negative view of the father and the inability of the parents to communicate in a civil or friendly fashion should they bump into each other at their sons' soccer game.

"That kind of negative behaviour creates for the children a feeling of divided loyalties. It creates for them confusion and ambivalence. They love their mother and, therefore, they love the people their mother loves. So what do they do when ... their mother hates their father?" Land asked in testimony.

The child psychotherapist's first report was comprehensive and involved 20 hours of interviews and watching the children in the company of each parent. Land recommended the mom should continue to be the custodial parent, but she warned that if her alienating conduct continued, the mother's custody should be reviewed.

The mother, who had found Land in the Yellow Pages, rejected both her report and her qualifications and refused to co-operate further with the assessor. The mom also has complaints about the competency of the lawyer who represented her at the trial. She has written a letter outlining her complaints to the Law Society of Upper Canada. Land did not have an opportunity to observe the mother with the children for her updated assessment report.

That second report recommended custody of the boys go to the father.

"What I want out of all of this," said the dad, "is two 23-year-old boys who are happy, well adjusted and respectable."