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# THE CANADIAN JUDGE'S REVIEW REPORT

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## \*\*\*\* CZUTRIN, MR. JUSTICE GEORGE \*\*\*\*

Hamilton, Ontario. Unified Family Court, General Division

**FILE UPDATE:** December 12, 1998 (Follow-up to trial April 22-25, 1997 & decision June 30, 1997)

**CASE OF:** Wayne Allen vs Deborah Grenier (File # D-18-95)

### THE COURT DECISION REVIEWED BY TRIBUNAL

In follow-up to the court trial, Justice George Czutrin of the Hamilton Court General Division decided that sole custody of the couple's 2 ½ year old girl remain with the mother with only limited access to the father.

### REVIEW OF CIRCUMSTANCES & COMMENTS

The case involved the custody and care of a young child. The father was experiencing extensive difficulties with access denial since birth of his daughter and continued hostile parenting by the mother. The father had demonstrated that he was capable of providing care in a non-hostile and loving environment.

#### Review of documents, statements and other evidence surrounding case revealed that:

- 1) An affidavit to the court by the Children's Aid Society indicated that the mother had a history of disobeying the court including a violation of a previous court order in which she snatched the child away unilaterally from the care and control of the CAS in what the CAS considered "contempt" of the court Order.
- 2) The mother had previously been found in contempt of court for numerous violations of access denial to the father and was in violation of all previous court orders.
- 3) The mother had already served time in jail for refusal to obey court Orders relating to access denial.
- 4) The mother had made false allegations of sexual abuse against the father in what Judge Wallace referred to as "**worse than mischievous...that someone would play with the system in such a way is intolerable.**"
- 5) CAS officials indicated that the mother had told them that she had no concerns about the father parenting abilities.
- 6) The child had loving grandparents on the father's side of the family who lived within the child's jurisdiction.
- 7) When the mother snatched the child from the custody of the CAS, the police and the CAS did nothing to stop her.
- 8) That the mother challenged the authority of the court and the CAS and taunted CAS workers to call the police during the incident when she and her mother snatched the child from the CAS.
- 9) Affidavit by CAS stated that the mother took the child to a local doctor, Dr. James Leonge to examine the child and although the doctor found no evidence of abuse, the mother stated that the doctor gave her a note stating that the child should not see the father.
- 10) Affidavit by CAS officials stated that the mother and her mother refused to disclose the location of the child to the CAS after they had abducted her. When told by the CAS that this would be contempt of the court, the mother and grandmother refused to cooperate.
- 11) An affidavit by CAS official indicated that the mother had stated that she wanted the child to know the father. Yet contrary to her statements and fact, the mother continued to deny access to the father many times.
- 12) The court indicated that the mother swore Court documents that the father was a capable father with no history of abuse. The father's parents were loving grandparents in the child's life. The sister of the mother had disowned her because of the mother's inability to get along with even her own family members. History would seem to indicate that there were serious emotional problems with the mother.
- 13) AFTER the mother snatched the child from the CAS and after the CAS did nothing to get the child back into their care, a case conference was held at CAS offices with Nancy MacGillivray, Ingrid Hauth, Kathleen Doney, Michelle St. Pierre, and Anne-Marie Mileck. After the child had already been seized illegally from their care with nothing being done, the CAS decided that the child was not in need of care, despite of a court order to the contrary.
- 14) That the mother had sent intimidating letters to the father which included threats to take the child away and telling the father that he must contact the mother even if he was to take the child up the street for a walk.

## 15) FOLLOW-UP ON CASE SINCE COURT DECISION

Following the decision of the Court, the mother continued to deny access to the father in spite of court orders to the contrary. The father was eventually forced out of the child's life in 1998 as a result of the mother's never-ending hostilities and failure of the court to stop the mother's abuse of the father and the court.

In November of 1998 the mother terrorized the grandmother by assaulting her in the parking lot at her work. The mother threw presents intended for the four-year-old child on the ground and put them under the wheels of the car. Yelling and screaming at the grandmother, Ms. Grenier taunted the terrorized grandmother to drive over the presents. Two witnesses observed the assault. Both father and grandparents have been forced by the courts to give up as a result of the court's refusal to effectively deal with the situation.

## ASPECTS OF CASE WORTHY OF PUBLIC DISCUSSION

- 1) Did the decision of the court truly reflect equality and justice as required under the Charter. Did the courts deliver justice in a manner that Canadian citizens would expect?
- 2) Why did the court place the child in the sole custody of a parent who clearly demonstrated poor social and behavioral skills and with a history of disregard for the law?
- 3) Why did the court, by its inaction, allow the mother to kick the loving father, grandparents and other extended family members, out of the life of a child they loved and cherished?
- 4) Could gender bias against fathers be part of the problem? Did the judge have a bias against fathers?
- 5) With regards to the note to the mother by the doctor as indicated by CAS affidavit, why would a doctor give a note to a mother in a custody battle based on allegation? Did the mother go to a doctor who would give her a report favourable to what she wanted? Does any doctor have the right to interfere with the rights of a parent to see their child when there is no evidence indicating abuse, but only an allegation.
- 6) Why after the child was seized from the CAS did CAS workers suddenly decide that the child no longer needed their care. Was this to avoid the embarrassment of the child being unlawfully removed from their care? Was this to assist the position of the court that let mothers get their way, even to break the law?
- 7) How much money did it cost the taxpayers as a result of the mother's false allegations and needless involvement of the CAS, doctors and court time? Six professionals from the CAS, including Ms. Doney (a solicitor), are paid by the taxpayers. The taxpayers of the community must ask **WHY?**

## CONCLUSIONS OF THE CITIZEN'S TRIBUNAL

**After review of information about the case and review of more recent information since the Order of the court, members of the Citizen's Justice Review Tribunal feel it reasonable to conclude:**

- 1) That the young girl has been placed in the sole custody of what would appear to be a vindictive mother who is unable to control her anger and desire for revenge. This is not in the best interests of the child.
- 2) That the young girl has been placed by the court in an environment that most Canadian parents would consider not to be in the best interests of the child.
- 3) That the child's relationship with her grandparents and other extended family members has been severed contrary to what most Canadians would consider to be in the best interests of the child.
- 4) That the court, by its failure to impose consequences against a mother who displays disrespect for the law, has only encouraged further abuse of the process of the law, as was exhibited by the mother's recent assault on the child's grandmother.
- 5) The child may suffer long term emotional and possibly physical abuse at the hands of the mother.
- 6) The little girl may never get to see her father as a result of the mother's actions to alienate the child from the father with the support of the courts, contrary to the best interests of the child.
- 7) The mother has been taught by the court that court Orders mean nothing. She will likely create further problems for the courts in the years to come, at further costs to the taxpayers. The Citizen's Justice Review Tribunal will review this case again and submit further updated reports when they become available.
- 8) The child's current environment will offer less protection for the child's physical and emotional well being because contact with other caring family members has been severed by the mother. The child is now in the control of a vindictive parent, with no other parent to rely on in the event that abuse does occur.

**The Canada Judges Review Report is a periodical report prepared by the CITIZEN'S JUSTICE REVIEW TRIBUNAL. The report is intended to bring details of selected court cases of some of Canada's judges to the attention of the Canadian public and to promote further public discussion of the cases. Information is based on analysis of court transcripts and/or speaking in person to witnesses in court and/or to those who were involved with the court proceedings. This report is intended to bring greater public awareness to those outside of the court system about how the actions of the courts are impacting on those families immediately involved as well as the community as a whole.**