

HEADNOTES



FAMILY LAW

Parental Alienation Is Real: Exposing the Myth of the Wozle

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American family courts have exposed the myth of the much-dreaded *Wozles*—the honey-stealing villains living in cold, snowy places that Winnie-the-Pooh has long warned us about. The myth that the phenomenon of parental alienation doesn't exist or has no underpinning in

science or is simply an ideology masquerading as science in the gender war over the children has so often been repeated that people assume it to be true. No more. A review of recent legal opinions from the family courts around the country, together with the professional, scientific literature, debunks this myth. Family court judges have held not only that “there is no doubt that parental alienation exists” but also that it is “not a new phenomenon” and that “[a]nybody old enough to drink coffee knows that embittered parties to divorce can and do manipulate their children.” *J.F. v. D.F.*, 61 Misc. 3d 1226(A), 2018 N.Y. slip op. 51829(U), at *8 (2018).

Hacking away at the cobwebs of needless psychobabble, family courts have determined that “whether or not a psychological ‘syndrome’ exists, parental alienation clearly does.” Judges—the triers of fact in domestic relations litigation—have found that it is far more important and effective to focus on a parent’s *behavior* rather than to go down the rabbit hole chasing esoteric theories of a syndrome that may or may not exist. The devil is in the details and “there is no reasonable dispute that high-conflict custody disputes frequently involve acts by one parent designed to obstruct or sabotage the opposing parent’s relationship with the child.” *Martin v. Martin*, No. 349261, slip op. at 7 n.2 (Mich. Ct. App. Jan. 28, 2020).

Mental health experts have used different terms to describe parental alienation. In their book, *Children Held Hostage*, published by the ABA Section of Family Law, Stanley Clawar, a sociologist, and Brynne Rivlin, a social worker, used the terms “programming,” “brainwashing,” and “indoctrination” when describing the behaviors that cause the children to reject a parent without a legitimate justification. There are two key features of the phenomenon of parental alienation. First, it can be conceptualized as a mental condition present in the *child*, i.e., the child has a distorted or false belief that the rejected or disfavored parent is “evil,” “dangerous,” or somehow unworthy of love or affection. Second, the child’s rejection of the alienated or target parent is *without legitimate justification*. And this is the key distinction: If there is documented history of the rejected parent being abusive or severely neglectful, the child’s rejection of that parent could be legitimate, and if so, it would not be a case of parental alienation.

As to how parental alienation takes place, the research conducted by Dr. Amy Baker and her colleagues describing the 17 alienating strategies is widely used and accepted by the courts and the mental health community. They include bad-mouthing, limiting contact, confiding in the child, asking the child to spy on the target parent, referring to the target parent by first

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name, withholding important information from the target parent, and undermining the authority of the target parent. Take for instance the behavior of a father who was found to have engaged in severe parental alienation. His modus operandi included sending text messages to his son telling him that he had “a right to be ugly to [his mother],” that the mother was “mentally ill” and “can’t help the way [she was] born and created by God,” that he had to visit his mother “because the law forces you to go,” and that he “will never like her. Nobody likes her. It is impossible.” *McClain v. McClain*, 539 S.W.3d 170, 194–95 (Tenn. Ct. App. 2017). Subjected to such indoctrination, children may turn on the targeted parents, vilify them, reject them, and show no ambivalence or guilt in treating them in a most cruel fashion. The trauma is suffered not just by the rejected parent; the brainwashed children too are robbed of “a normal childhood, normal sibling relationships, and a normal relationship with [the targeted parent].” *Matter of Marriage of Reichert*, 2 Wash.

App. 2d 1063, at *2 (2018).

It should not come as a surprise that courts have agreed that parental alienation “is a form of emotional abuse that should not be tolerated.” *McClain*, 539 S.W.3d at 200. And to remedy such abuse, they have realized that it is necessary to jettison the “conservative” approach of taking baby steps and ordering traditional psychotherapy while keeping the abused child in the custody of the alienator. To do so will only result in a litigious “merry-go-round” that has neither worked in the past, nor will “work in the future.” Courts have increasingly taken seemingly drastic but ultimately necessary steps of changing custody, ordering psycho-educational counseling for the alienating parent, ordering a specialized reunification program for the targeted parent and the child, together with financial sanctions, reallocation of attorney fees and litigation costs, and, in severe cases, incarceration for repeated violation of court orders.

This unfortunate phenomenon is by no means unique to America. Parental

alienation has been described, discussed, and debated in the legal and scientific literature by numerous writers all over the world. It is addressed in thousands of court rulings in Canada, the United Kingdom, Brazil, Mexico, Israel, France, Spain, India, Australia, New Zealand, and Hong Kong, and in the European Court of Human Rights and other jurisdictions around the world. This is not surprising, given that it is an expression of human behavior, albeit pathological, that occurs worldwide with similar patterns. A parent who violates the boundaries by treating the child as a weapon in a divorce or custody litigation undoubtedly causes his or her child serious emotional harm. In lamenting such sad behavior in a case involving toxic family dysfunction, England’s Lord Justice Wall aptly quoted the first four lines of Philip Larkin’s poem “This Be the Verse”:

They fuck you up, your mum and dad.
They may not mean to, but they do.
They fill you with the faults they had
And add some extra, just for you. ■