

Judge scorches mom, gives custody to dad

BY PETER VIETH

An Arlington circuit judge has delivered a resounding repudiation of a mother's efforts to keep custody of her daughter by making false accusations about the father.

In a scorching opinion, Judge Benjamin N.A. Kendrick not only concluded the mother carried on an active campaign to alienate the girl from the father, he even suggested the mother used military counter-intelligence tactics such as sleep deprivation and food rewards to manipulate the preschooler.

Kendrick's opinion awarding the father full legal and primary physical custody of the girl, now 5, includes a litany of the mother's hardball tactics designed to drive a barrier between father and daughter.

Kendrick found the mother used false allegations of sexual abuse by the father as an excuse to justify shutting the father out of the daughter's life.

"Mother has isolated the child from anyone the mother does not approve of, and has established an unhealthy co-dependent relationship between herself and the child," Kendrick wrote in *Canedo v. Canedo* (VLW 011-8-170).

The custody battle played out in a military family, and the mother's international travels did not help her cause. Kendrick found the child enjoyed "very little stability" as the mother moved her from place to place every other year. During the last two years, the mother "traveled internationally for peri-

ods of up to 4 days," leaving the child in the care of others in Italy, Kendrick wrote.

The father is a Marine major, but expects to remain in Virginia and retire in three years.

Kendrick found the mother used tactics learned at military counter-intelligence schools "for the purpose of gaining actionable intelligence from terrorists."

"Mother used punishment and reward tactics through sleep deprivation and food" when she took her daughter to interviews with professionals, the judge said. "These methods are not to be used to manipulate defenseless children," Kendrick wrote. The judge concluded the girl's disclosures about sexual abuse by the father were "unreliable."

The mother's case apparently was undone by her lack of credibility with the judge. "Mother has been dishonest with father, dishonest with [her daughter's] regular caregivers, dishonest with professionals ... and at length,

dishonest with this Court," Kendrick wrote.

The father's attorney, Michael K. Murphy of Fairfax, praised Kendrick's decisive language. It is gratifying, he said, that "some judges will take a cold, hard look at a case and will do more than deliver a shot across the bow."

"There's no way the mother can sidestep those findings. There's 13 pages of it," Murphy said.

Kendrick's conclusions are disputed by Alexandria lawyer Gwendolyn Jo M. Carlberg, who represented the mother. She said the mother had valid grounds to suspect the father

of abuse. "There is no alienation," Carlberg said. "At all times, my client acted upon the professional recommendations of the psychologist and therapist in the case."

Carlberg agreed it's rare for a judge to come down completely on one side of a family dispute. "It is not usually so one-sided in a domestic relations case," she said.

"The decision basically yanks the child from the primary caregiver of the last two years," Carlberg said. "In my opinion, the decision is plainly wrong and without evidence to support it," she said, adding, "We intend to appeal the decision."

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