

A News Item from the Ottawa Citizen, May 13, 2006

Court takes dramatic action after woman obstructed access

By Cristin Schmitz

A divorced woman who sabotaged her children's relationship with their estranged father has been stripped of their custody in a decision by Ontario's top court that sends a message that "parental alienation" harms children and will not be tolerated.

Parental alienation is a term coined to describe the phenomenon of one parent persistently denigrating, devaluing and brainwashing the child against the other.

"We recognize, as did the trial judge, that the remedy of granting custody to the father is a dramatic one," said three judges of the Ontario Court of Appeal in a unanimous decision this week.

"However, that remedy was supported by the expert evidence and by the mother's persistent, ingrained and deep-rooted inability to support the children's relationship with the father."

The court dismissed Anita Tessaro's appeal against a lower court decision last year, which ordered that the primary residence of her five-year-old twin boys be gradually switched from the mother, who had sole physical custody of them since their birth, to her ex-husband, Kenneth Rogerson, who resides in Hamilton.

Calling that decision "amply supported by the evidence," the Appeal Court said that although the Jarvis, Ont., mother was "otherwise a good parent," her persistent "troublesome conduct" against the children's best interests included restricting the father to daytime visits and failing to inform him about the children's medications, or to not give him their prescription drugs, so that they would return home from visits with him sicker than when they left.

Obstructed access affects thousands of divorced parents and their children across Canada, according to a 1998 parliamentary report that urged the federal government and the provinces and territories to devise a co-ordinated response to failed parenting orders.

In Ontario and other provinces, courts have broad powers to punish those who violate custody and access orders, including fining parents and throwing them in jail for contempt of court.

But stripping a parent of custody, particularly if she or he has had sole care of a child for years, is still a relatively unusual step, said Ms. Tessaro's lawyer, Andreus Snelius.

"Contempt (of court) proceedings don't always dissuade a person" from impeding access, Mr. Snelius said. "This ... may be an indication that courts are starting to take the situation of parental alienation much more seriously."

Mr. Snelius said Ms. Tessaro has not decided whether to take her case to the Supreme Court of Canada.