

HHJ STEPHEN WILDBLOOD – Speech at FNF Central London Branch conference on Parental Alienation - 14th Oct. 2017

'ALIENATION, SELF-ALIENATION AND VALIDATION'

Well one of the things that interests me is asking myself this –

'What will we think in thirty seven years when we look back on our systems as they are now. You see, I started as a lawyer in 1980 - that's thirty seven years ago - and in that long gone era I would often hear it said- 'Well, the children are better off without him'. It was the same time for instance as the leading judgment on same sex parents referred to a mother in a same sex relationship as being involved in a perversion and where it was said that a child should only be placed with a mother in a same sex relationship if no other solution was available to the court and that's only thirty seven years ago. Looking back it seems incredible that things like that were being said.

What are they going to be saying about us now in thirty seven years time. I suspect the way we approach some aspects of parenting will be a feature of how they will look back then and think: how on earth did they try to justify that?

Now you'll see on the screen I've put the label for this talk as being alienation, self-alienation and validation. What I want to do though is to stress five main points.

WHAT'S HAPPENING? - The first point I want to make is that it is essential, where we are in this type of family dynamic, to decide what is going on. There's got to be an early decision about what is actually happening within the family. That does not just mean have a fact finding hearing; it means that we need to understand the dynamics of the family. It may be parental alienation. It may be that actually it is self-alienation where for instance a mother or father has been so horrid, dangerous or damaging to the children that it's perfectly understandable that they don't want to see that parent - where a parent has alienated himself or herself from a family, or where the parents are both engaging in validation. I have six children- and I'm fortunate enough to be happily married. But I found myself the other day saying to my twelve year old 'Hasn't your mother got your rugby kit out yet? I'll do it.' - and I thought to myself - you complete idiot- what was I doing that for? In truth, I was feeling that I hadn't really been playing my role in the family and I was trying to build / big myself up... validating myself. Just think about how often you do that yourselves sometimes. It's easy to catch yourself doing it. So there are other concepts at play and it's very important in that first stage when you're looking at what's happened to remember that it is an issue of fact.

GET HELP FOR THE PROBLEMS - Once you've decided what is happening then the next stage must surely be- get help for the problems that you've identified. Help in this environment must surely be help that will address the problems - and the problems are emotional, psychological or indeed I'm sure Hamish Cameron would say, at times psychiatric. That's what you've got to address and until you address the emotional, psychological or psychiatric difficulties that are leading to this complex dynamic, you're going to get nowhere. You are trying to blow up a flat tyre without repairing the puncture.

CONSISTENCY - The third is- be consistent. It is surely terribly damaging when a judge has given a judgement after hearing a whole range of evidence about the family dynamics for somebody new to come in, ignore the judgment and think 'I'm the real clever dick in this dynamic... I can add really clever words of perception' and, by doing that, actually take the case right back to its starting point. There must be consistency amongst professionals and that's why I always insist for instance when there's been a judgement that there must be a transcript. How often do we forget what other judges have said in cases? So a case that I've done recently- there was a judgment in 2014- nobody had the first clue what the judge had said at that hearing.

FOCUS ON SOLUTIONS - The fourth point... and thank you Paul for our discussions over lunch today... is focus on solutions. I've actually spent the past three days saying repeatedly 'I know what the problems are, they're staring me in the face. What actually are you saying are the solutions to this?' So, focus on finding a way forward, not just repeating the problems and then looking at the judge and saying 'it's a very complex situation' as we all used to do in debates as undergraduates.

REMAIN DETACHED - The final point to those who are involved professionally is - remain professionally detached and that applies to the lawyers as well. You are helping nobody if you lose your detachment. It is a gross simplicity to say that there are three categories of behaviour- adult, parental, child- but just. Allow me that naive analysis for a moment. What you are trying to achieve is where all those involved behave as mature adults.

So remain professionally detached and if you do that, you will learn so much more. Watch what people are saying - and ask yourself 'why is she saying that', 'why is he saying that'? If you do that you will learn far more than actually taking their immediate words and getting terribly emotionally bound up yourself.

So, those are the five points -

- 1.what's happening?
2. Get emotional help
3. Be consistent
- 4.focus on solutions, and
- 5.remain detached

SYNDROME? SO WHAT? So, this is now the Powerpoint - 'What is parental alienation?' – that is the definition: a process, and the result, of the psychological manipulation of a child into showing unwarranted fear, disrespect or hostility towards a parent or other members of the family.

Is it a syndrome? What does it matter? In my opinion, it doesn't matter whether it's a syndrome or not and, in any event, I question whether calling it a syndrome is not simply a desire to pigeon hole a set of facts that arise in particular circumstances. Is it not far more important to look at the facts of the case than trying to slot them into some form of preconceived idea?

What are the Courts saying?

Well let's start with Mrs Justice Parker (case citation given):

'I regard parental manipulation of children which I see a lot as exceptionally harmful, for it distorts the relationship of the child not only with the parent but also with the outside world. Children who are suborned into flouting court orders are given extremely damaging messages about the extent

to which authority can be disregarded and given the impression that compliance with adult expectation is optional'.

Wishes and feelings - Very often one of my children will get up and say 'I don't want to go to school!' Well just imagine if I said: 'Well, you know what, let's do a wishes and feelings analysis?' And then if I said: 'I'll tell you what - I don't want to go to work!'

The problem with wishes and feelings reports where a child has been alienated is that they can simply reinforce the child's sense of alienation. The report does not address the problem. What is the alienated child going to say other than that he or she does not wish to see the other parent?

So what is the problem? What harm does alienation cause?

HARM TO THE CHILD - The problem with parental alienation is that it's not about the child at all. It's about the adults. It is about adult issues. It is not child focused.

It's the process by which one parent's emotions dominate a child's relationship with the other parent; so it's about the dominating emotions of one parent, and it's using children as an instrument of that parent's emotions. So it is in every sense wrong.

Unrestrained it causes a child to reject one half of its own natural background and make up. For instance, if the alienated child, aged fifteen, looks at himself in the mirror and thinks 'I look like my father... but I hate my father' that is extremely damaging.

SPLITTING THE CHILD – That, then is what leads to the horrible consequences of which Dr Sue Whitcombe was talking – and which can lead to children self-harming and indeed becoming suicidal. Suicide amongst young people is a very real problem, far greater than many realise.

There's another point that arises from the splitting about which we heard. If you encourage children to think that people are either good or they're bad, what are the children going to do when they grow up? What happens when they form relationships themselves and face problems within their adult relationships as we all do at some point? No relationship is perfect. They're then going to engage in splitting in that relationship and that's why I would suggest children who have been alienated are at severe danger of themselves becoming alienating parents ... I would wish to stress that point. So it causes short term and long term harm.

And the other long term really destructive point is this. If a child is taught that it's acceptable to reject one parent why shouldn't the child apply exactly the same logic to the custodial or residential parent when difficulties arise when the child is, for instance, a teenager?

WHAT'S IT LIKE TO BE THE ALIENATED PARENT? - Can I begin this next point by looking at what it feels like to be alienated parent? First, can I say that I'm lucky, I've never been in that position, but I've seen it. More than anything else, it is deeply painful. What more painful thing than to know you've got a child and you're not allowed to see the child because someone says that you can't? It relates to the person that you are; it is being said that the person that you are is such that you can't even see your child. It defies nature. It leaves a sense of deep isolation. It leaves a sense of deep frustration. Unfairness and powerlessness.

WHAT'S IT LIKE TO BE THE ALIENATOR? What about the alienating parent? We talk about the alienating parent as though that parent will in fact be powerful. Often not. What I've witnessed in a number of cases is the sheer sense of powerlessness that exudes from the alienating parent. The sense that she or he is so unsupported that the family unit has to close down in on itself, and ringfence itself in the terms that Sue described earlier on. And so powerlessness, isolation, fear, anger, rejection - all those combined.

What's it like for the child in that?

WHAT'S IT LIKE FOR THE CHILD? - The child is being used; and that's the point, because when that child grows up that child is going to feel that his or her emotions have been ignored and neglected.

So for the child it is devastating. It is bewildering. It means that the child's home life is caught up in adult emotion. The child is being educated in treating people wrongly.

For the alienated parent, for the alienating parent and for the child it is a highly damaging environment dynamic.

THE LAW - So what do we say? Well the law is easy. Of course Article 8 is engaged. That means that seeing your child is an essential feature of family life. There should only be interference with that feature of family life in so far as is necessary to protect the welfare rights of the child proportionately to the proven circumstances of the case. The interference must also be legal and, by legal, we mean in the paramount interests of the child under section 1 of the Children Act 1989.

Of course case law says that there must be exceptional circumstances demonstrated by cogent reasons before the court concludes that it would be in the best interests of a child for all contact with a natural parent to cease. Both parents have a legal duty to support the child's relationship with both parents. All realistic avenues to maintain contact with both parents must be pursued. In a sense it's very easy to say that.

The complexity of these issues does not lie within the legal principles. The complexity lies in identifying what is going on in a family and in deciding how to address the problems that are revealed. So, what do we do about it?

WISHES AND FEELINGS REPORTS - I have this real problem with 'Wishes and feelings' report. You go to an alienated child

'Tell me how do you feel? Well I'll tell you how I feel because I'm living in this environment with an alienating parent. And I tell you I don't want to see my father'.

The problem with doing that is that it first of all doesn't tell you anything new but actually reinforces the difficulty because now you've got the professional person saying -what you say about your wishes is going to be sole ambit of my work. All I am doing is listening to your wishes and feelings and going to report them to the judge'. If that happens, it doesn't help.

Also what is the influence? You can see there on the Slide there what does happen. Do you really want to see that XXXXXX? - and you can fill in the blanks yourself.-'and if so why?'

I saw that happen outside a court in Bristol.

'That man' the mother said outside court to the 15 year old pointing at the father. *'That man is the personification of evil!!'*

That was just after the judge had spent a very long time in the judgement saying that the mother mustn't denigrate the father in front of the child.

So yes OK we can have wishes and feelings reports but I myself don't find them particularly helpful. I don't know if others do. Are they simply an overplayed card in a very complex game?

INDIRECT CONTACT – DOES IT WORK? What about indirect contact? Isn't indirect contact the same? I found myself saying in a case where indirect contact was being recommended 'But she is only three?' What are you going to do? How do you write to a child you don't see? How do you do that? What is it actually like?

I put that issue on stage. We had a 17 year old actor from a college acting out a scene that I scripted. He's in prison because he had been supplying ecstasy to his mates. He's told he can only write to his child. What does he write? What can you write?

Not only is writing letters or cards to a child you never see incredibly difficult. But then the letters that are written are produced and picked over in court, and any word that is out of place is then used as demonstrating that the person who's written the letter is not a suitable parent and should not be allowed to see the child. All too often, I think, it is impossible for the parent writing the letter to get it right.

In fact what I see happening through the use of indirect contact in this way is that it adds to further distance the alienated parent from the child. And into what environment are the letters going? The letters are going into the alienating environment, so how could that possibly create a cure? How could it possibly be expected to surmount the difficulties for the child in that environment? It won't.. so, as you will gather, I'm not speaking in favour of that.

CHANGING THE RESIDENCE -How about changing residence, as it used to be called? Well I've done it - and it's an enormous carve up. How regrettable to completely change a child's environment. To change the child's bedroom, friends, social connections, expectations, living arrangements; and to say you will now go and live somewhere possibly completely different. You may even have to change schools. It is an immense thing to do. Sometimes it's necessary and I've done it.

You have to be extremely careful though that you're not being punitive. You have to ask yourself not just will it 'work'? Rather, you have to ask: is it genuinely in the best interests of the child?

Suspended Residence Orders are of course available to the court and Mr Justice Coleridge as he then was, was the person who in effect is credited with having invented them here. You can only make orders of that sort when you really mean it; when you really mean that you will transfer the child's living arrangement if the order is not complied with. It is not a weapon.

LITIGANTS IN PERSON - Lack of legal representation is a real problem in intractable cases, as King LJ stated (case quoted). There is no professional filter - how do you draft the documents? Some of the parents may well not understand the full extent of the issues. There's no money to pay for therapy psychological input, drug testing, drink counselling or other services that may be of such importance.

Of course the whole case is driven by emotion. As King LJ put it in such a case: 'This case is yet one more example of formidable difficulties faced by unrepresented parents'.

Statistics. Now what's been said about them? The National Audit office has suggested some time ago that in 80% of Private Law cases one party is not represented. We see it a lot.

What can go wrong? I want to emphasise one particular point

Delay. In my opinion, delay is the biggest enemy of the lot. The constant, constant ordering of reviews that still occurs from time to time, despite what is said in the Child Arrangements Programme (now, PD 12B of the Family Procedure Rules 2010). I've just seen one case this year where there have been review hearings over seven years with a hearing without a transcript in the middle of it, a hearing that I know nothing about. It doesn't take the case anywhere. It leaves the problems in existence and they just continue to build with the parents seeing themselves - seeing each other - in Court for reviews with all the anger unresolved and, indeed, increasing because of things that they say in the proceedings. So, you see an accumulation of issues and hostility because statements are filed and they're not going to be nice statements. All too often the result is frustration, polarisation, immense stress for the parties, expense, burden for the court, lack of progress; lack of resolution and lack of resolve. What is the court doing when all it is doing is reviewing?

Is there a simple solution? No, but we can support litigants better and perhaps you can see from the way that I speak just how strongly I feel about supporting litigants in these circumstances. The best lack of conviction, the worst are full of passionate intensity - said Yeats. Well I'm one of the worst because I have tried my utmost in the Bristol area to put as many systems in place to support litigants.

I have no nothing to say about legal aid. That's not my province. I'd be a lousy politician. But as a judge, I've got a job to do and whilst I remain in my current post a responsibility to put in place the best local system that I can in the area where I work. That's what I'm trying to do. If you can help me please do.