

The Power of Alienation

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A Burleson mother discovered something in 2006 about Texas law that shocked her, dragged her into a sinkhole of misery, and pushed her family to financial ruin. She found out how easy it is to lose custody of a child even when there are no accusations of molestation, no physical battering, no drug or alcohol problems.

“I’ve never even smoked a cigarette in my life; I’ve never done anything,” Chassidie Russell said.

As it turns out, it’s easy in this state for a judge to yank a child out of a home in apparent contradiction of the law, sending a family into a years-long tailspin.

Parents consider it their duty to prohibit their children from being around people they deem unfit. But in Texas, as Russell found out, a mother’s parental rights can be trumped by judges and social workers who cite something called “parental alienation” as sufficient reason to take children away from otherwise fit and loving parents.

The term refers to the problem of a custodial parent turning his or her kids against the other parent. Some mental health officials embrace alienation as a valid social problem. Others call it trendy junk science that’s abused by courts, counselors, and lawyers during custody battles.

Others call it even worse.

“Pure-ass garbage,” Fort Worth attorney Jerry Loftin said. “Every time we turn around we’re hearing, ‘I’m being alienated.’ There can be some examples of it, but it’s absurd, by and large.”

When the allegation of parental alienation is made in a custody case, it usually involves a child being sought by a parent. But Russell’s case was even more controversial. She was found by the court to be alienating her daughter, Caitlyn, from grandparents who weren’t even blood relatives.

“They tried to come up with a whole new thing — grandparental alienation,” Loftin said about the social workers appointed in Judge Randy Catterton’s 231st District Court. “That was absolutely absurd.”

Caitlyn was 6 when she was removed from her biological mother and sent to live with her non-biological grandparents. Russell spent years fighting to get her firstborn returned, exhausting her family’s bank account along the way and fighting depression much of the time. She and her husband borrowed money from friends, but they couldn’t keep up with legal bills. Meanwhile Catterton’s court demanded expensive sessions with counselors and supervised custody visits that kept piling on the debt.

After more than three years of court battles and with her options all but gone, Russell grabbed at the final straw. She appealed the decision *pro se*, meaning she was representing herself in court. The chances of a *pro se* litigant with no money, no lawyer, and no legal background getting an appellate court to overturn a state district judge's ruling was a long shot.

Actually, that doesn't do the situation justice. Most folks figured she had a snowball's chance in hell.

Back in 2000, Caitlyn's impending birth wasn't without drama. Chassidie Russell was pregnant by a man she describes as physically abusive. She left him and married a U.S. Marine named David Harvey while she was about seven months pregnant.

The marriage didn't last. Russell complained he was gone too much. Two years after Caitlyn was born, Russell and Harvey divorced. They were both named as managing conservators, but Russell got to determine where the girl lived. So mom and daughter stayed together in Burleson, while Harvey lived in Fort Worth.

Russell didn't make the point in legal records during the divorce that Harvey wasn't the biological father. He'd been a stand-up guy despite their differences. She appreciated him for that. The court granted Harvey standard visitation rights as the presumed father.

"If she had contested it at the time they got divorced, if she had said, 'He is not the father and I don't want him having any rights to her,' she could have prevented all this," said Mike Russell, who has been Caitlyn's stepfather for the last six years. "Years of litigation could have been avoided."

After the divorce, Harvey saw Caitlyn but not as often as he could have based on his visitation arrangements, the Russells said.

In 2004, Chassidie met Mike Russell at the county agency where they both worked. They dated, fell in love, and married in 2005. Meanwhile, Harvey moved to San Diego.

"He put in for a transfer to go to Arabic school in California so he could get to Afghanistan or Iraq," Mike Russell said. "He wanted to go to the Middle East."

Harvey's parents, Ken and Jan Harvey, also lived in Fort Worth. After their son moved, they wanted to take on his visitation rights with Caitlyn.

"Before David moved off, we never heard from them," Mike Russell said. "His parents saw Caitlyn whenever David came to pick her up once or twice a month for day visits. Once David moved to California, all that changed. They'd come by unannounced."

Ken and Jan Harvey didn't respond to phone messages from *Fort Worth Weekly* seeking comment for this article. The couple's attorney, Janice Schattman, declined to comment. But in various court records, the Harveys describe Chassidie Russell as depriving David Harvey of his right to see Caitlyn and preventing them from seeing their granddaughter. They said Chassidie's resistance grew stronger after David Harvey moved to California — she tried to cut off the grandparents completely. They accused Russell of engaging in “an intense campaign of alienation.” They said Caitlyn's being in her mother's custody “would significantly impair the child's physical health or emotional development” because of the alienation.

Caitlyn didn't feel comfortable with the grandparents, Chassidie Russell said.

“When your daughter is scared and upset and not wanting to go somewhere, that tells you that something is wrong,” she said.

The Harveys mounted a full-court press to become more involved in Caitlyn's life, but Chassidie and Mike Russell didn't appreciate their persistence. They called police several times and complained that the Harveys were harassing them.

“David's mother is a very controlling type of personality,” Mike Russell said. “They wanted all David's visitations. David wasn't in the state, and his parents didn't have the right to take Caitlyn from us. With the way they were doing things, we as parents made the choice that they were overstepping their bounds and that we needed to set some limits. Parents have the right to bring up their children as they see fit, which includes who they are able to have contact with. That's a fundamental right that parents have. There are people out there who say grandparents need to have rights too — but not over the objections of parents.”

The more the Russells resisted, the more dogged the Harveys became. The final straw came, Mike Russell said, when Ken Harvey threatened him. Mike Russell had returned home after picking up Caitlyn from school one day when Ken and Jan Harvey showed up.

“She grabs Caitlyn and pulls her to one side of the garage, he pulls me around the other side of the garage, pointing and pushing on my chest, saying they're going to take Caitlyn away from us,” Russell recalled. “There were actual threats and aggressive and abusive actions on their part, which was part of the reasons why we were wanting to close the door and not allow them access to Caitlyn.”

After that, the Russells shut out the Harveys completely. A legal battle loomed. And that worried Mike Russell. As county workers, he and his wife didn't make a lot of money.

“[Ken] Harvey is an engineer and has a decent income,” Mike Russell said. “What it boils down to in our court systems these days is, people with money can push and do just about what they want. Those of us who don't have the means to fight it suffer, and suffer greatly.”

David Harvey filed suit in 2006, asking that his visitation rights be extended to his parents. Like most hearings in the 231st district court, it was held before Associate Judge Lisa Beebe, an extravagant, loud, and often emotional jurist who is quick to chastise the never-ending stream of moms, dads, and grandparents who come through her court.

Beebe ordered counseling for Chassidie Russell, the Harveys, and Caitlyn — and allowed the Harveys to have visitation rights in place of their son while he was deployed outside the state. Texas law allows military parents to transfer their visitation rights when deployed outside the country. Since David wasn't deployed outside the United States but had voluntarily moved to California, the Russells argued, his visitation rights shouldn't be transferred to his parents.

Beebe disagreed. It was the beginning of an avalanche of motions, hearings, attorney fees, counseling sessions, and counselor fees.

It was about this time that the Russells tried a new tack. They looked up Caitlyn's biological father and arranged to meet with him and introduce him to Caitlyn. The Russells hoped to establish him as the biological father and forestall further court battles with the Harveys.

"We met with him once, and Caitlyn got to meet her biological father," Mike Russell said. "He was on medication, and his life had changed quite a bit from six years before."

But the biological father didn't seem interested in helping, and the Russells didn't trust him. That was the end of the discussion. But word of the meeting got back to the counselor and the Harveys, and they were horrified that the Russells would introduce Caitlyn to someone who had been abusive.

In another incident, Chassidie Russell's parents, Jack and Margie Greenwood, took Caitlyn to her scheduled visit with the Harveys. But the Greenwoods said that Caitlyn refused to get out of the car, and Jan Harvey tried to pull her by the arm even though Caitlyn was still wearing her seat belt. The Greenwoods refused to leave the girl there. The Harveys complained that Chassidie's parents had interfered with their court-ordered visitation right.

The counselor, Cathy McGinnis, said Chassidie Russell was resistant to counseling and was alienating the grandparents. She recommended the Harveys get custody of the girl.

"She told the court we were abusing Caitlyn by alienating her from her grandparents — the same grandparents who were harassing us and causing physical altercations," Mike Russell said.

The Harveys filed a motion seeking to be appointed as Caitlyn's joint managing conservators, and they asked that Chassidie Russell be denied access to Caitlyn, or at most be allowed only supervised visitations.

In a January 2007 hearing, the Russells arrived with a dozen character witnesses, including teachers, co-workers, and church members. Beebe cleared the court and didn't allow any of them to speak. "She was cussing and yelling and ranting and raving and telling me how horrible a person I was and how horrible a mother I was, and she didn't have any evidence," Chassidie Russell said.

There's no transcript to back up her claim — Beebe had curiously sent away the court reporter as well, which doesn't appear to be normal protocol in a contempt motion hearing. She postponed the hearing for another week and ordered Chassidie Russell, Caitlyn, and the Harveys to meet with another counselor at Family Court Services in downtown Fort Worth.

Parental alienation is a hot topic at Family Court Services, where district judges send parents for court-ordered counseling.

"You go in there, and they have these TVs with videos playing over and over about parental alienation," Chassidie Russell said. "When you go in to where the social workers are, it's almost like a cult, like they are branding it in your head — parental alienation, parental alienation."

Parental alienation occurs when one parent purposely turns a child against another parent, often by making up lies about them.

"It's the buzzword for how to take your child away from you," Mike Russell said, choking back tears. He was sitting in the living room of their modest but tidy home. A tall guy with a quiet, gentle nature, he had to pause several times during interviews with the *Weekly* to compose himself.

Parental alienation can occur in varying degrees, even when parents are living together, said P. Rhonne Sanderson, a marriage and family therapist in Fort Worth. "It's not an unusual kind of thing that occurs but it can be exacerbated or amplified in separation or divorce situations," he said.

Sanderson hasn't testified in court cases since moving his practice to Texas about 10 years ago, but before that he was living in Florida and testified often in custody cases. The term "parental alienation" wasn't used back then. Even now it isn't mentioned in *Diagnostic Statistical Manual of Mental Disorders*, which is "our critical diagnosis bible we typically use to put a classification on some kind of psychological or mental impairment," he said.

Still, that "doesn't mean it doesn't exist," he said.

Psychiatrist Richard Gardner introduced the idea of a parental alienation syndrome in the 1980s. However, his ideas eventually drew fire, particularly among women's groups.

The syndrome was almost always applied to mothers in custody cases, used as a legal weapon to ensure a father's visitation rights. Gardner testified in many custody cases.

Carol Nati, a child psychiatrist and University of North Texas Health Science Center faculty member, said parental alienation is accepted among psychiatrists to a degree.

"It exists; whether it's severe enough to be a syndrome is not agreed upon among the medical professionals," she said.

Courts are more inclined to use parental alienation as a reason for removing a child from a parent if the alienation is creating psychological problems for the child, she said.

The new counselor in Caitlyn's case found that parental alienation or, in a surprising twist, grandparental alienation was occurring. Beebe agreed. And with that, Caitlyn was removed from her mother and ordered to live with her grandparents. There were no allegations of physical abuse or neglect, only the charge that the Russells had turned Caitlyn against her grandparents. Months would pass before mother and daughter were allowed to see each other again.

The Russells were floored. They couldn't believe that a child could be taken from her mother on those grounds. Beebe ordered Chassidie to remain at the court until the Harveys went and picked up Caitlyn.

"I didn't even get to tell her good-bye," Chassidie recalled, sobbing quietly. "They took my daughter away. I passed out and had a seizure because I was so shocked and upset. I wound up having to be taken by an ambulance to the hospital."

Before Beebe's ruling, Caitlyn had spent one night away from her mother. Now she would be living full time with grandparents.

Chassidie Russell sank into depression.

"I just laid on the couch for weeks," she said.

She took medical leave from her job. Mike Russell took on a second job to pay the bills. Meanwhile, the couple's youngest child, Preston, now 5, was missing his big sister.

The couple had spent about \$4,000 in legal fees by then. It was a drop in the bucket compared to the bills on the horizon.

Beebe's blonde hair and attractive face make her look comforting on the bench — until she speaks. She doesn't hesitate to remind those standing before her that she's the boss. She can be impatient and condescending, as witnessed by the *Weekly* during a random visit to her court and from looking at transcripts of some of her cases. On Rate

the Courts, a web site that allows people to anonymously fill out judicial evaluation surveys, people typically describe her as a nightmare jurist. Her rating: D-minus.

The State Commission on Judicial Conduct won't reveal the number of complaints filed against judges. Only complaints that prompt the commission to publicly sanction a judge are public record. About 1,200 complaints are filed each year, and less than 100 typically lead to disciplinary action. Beebe has no sanctions on her record.

However, anecdotal complaints abound.

In a recent hearing, Beebe edgily questioned a divorced couple, both of them Hispanic and not fluent in English. She compared their disagreements over child custody to a fight over pets. "This has nothing to do with your children," she said. "Your children are puppies to you two. You two want to win. That's not what this is about."

"I've never heard that one," said Bill Burdock, a longtime Fort Worth attorney and former district judge. He understands how family law judges can become impatient. In criminal courts, judges see bad people on their best behavior, but in civil court, judges see "nice people on their worst behavior," he said.

Despite Beebe's persona on the bench, Burdock said she does a good job of handling difficult cases. Beebe is "one of the better ones out here" because she makes decisions rather than letting cases dangle indefinitely, he said.

Burdock, something of a character himself, considers Beebe's irreverence and salty comments as humorous. "I'm not saying I'd do what she does, but it works for her," he said. "I don't find anything offensive about her. Some people get a little irritated because their vision of courts is TV courts. She's almost like a referee."

What's funny to paid professionals who appear regularly in her court can be devastating to mom and dads embroiled in confusing and emotional hearings and at the mercy of someone who seems so quick to talk down to them. A woman who was seeking custody of her granddaughter walked out of Beebe's court last week, shaken by the judge's style of communicating.

"She was kind of harsh," Priscilla Lackey said, but added that she thought the judge's ruling was fair.

David Courtade is another longtime local attorney who makes frequent appearances in Beebe's court. He said Beebe schedules numerous hearings back to back, and her impatience can stem from trying to deal with bickering couples while staying on schedule.

"She shoots from the hip a little fast sometimes, but she's usually on target," he said. "She has her own style, but overall she does a good job. She cuts right to the heart of

the matter. If you allow every case to get all involved in everything, then you can't get everything done."

Her detractors say she is more interested in speedy hearings than logical decisions.

Beebe declined to speak to the *Weekly* about the Russell case.

"I'm not allowed under the rules of judicial conduct to talk about any pending litigation," she said.

She didn't want to discuss people's opinions on her bench style either.

"I respect people's rights to have an opinion about my style," she said. "We live in the United States, and everybody has a right to have an opinion on just about anything."

What's her opinion of her style?

"I don't have one," she said.

As for parental alienation, Beebe said it is "not rampant but it occurs on occasion."

She wouldn't comment on grandparental alienation.

"I would really appreciate it if you didn't involve me in this [article]," she said. "You can say what you want to say about what I did, and I'm prohibited from saying anything. There are lots of decisions I make that people don't understand. But there are all kinds of ways to address that — appeal, etc."

Appealing decisions isn't cheap. Chassidie Russell began her campaign to regain custody of her daughter by hiring attorney Jerry Loftin at \$400 an hour with \$15,000 up front. After already spending \$4,000 in attorney fees and hundreds more in counseling sessions, she and her husband were broke. They borrowed money from church friends to pay for the legal help to challenge Beebe's decision. Catterton (Beebe's boss in the 231st District Court) would hear the *de novo* review.

The Russells worried about their chances.

"What court wants to overturn itself?" Mike Russell said.

Loftin made numerous filings, including challenging the grandparents' standing to seek custody. The final hearing was held in Catterton's court in October 2007. Much of the testimony came from the counselors involved in the case. Catterton upheld Beebe's ruling. Caitlyn would remain with her grandparents, and Chassidie was ordered to attend more counseling sessions at \$120 a visit. The judge also ordered community visitations, meaning Chassidie Russell had to pay \$75 to a court-appointed supervisor

to be present during visits with Caitlyn. If she took her daughter to a movie, Chassidie even had to pay admission for the supervisor.

“Every week I had to pay to see my own child and with somebody right there with us the whole time taking notes,” she said.

Thanksgiving arrived but Chassidie Russell didn’t get to see her daughter. At Christmas, she got one day of visitation with Caitlyn — on Dec. 26.

“So for the whole Thanksgiving-Christmas vacation, she got to see Caitlyn for one day,” Mike Russell said. “That’s not right.”

Chassidie Russell was still fighting depression but trying to remain upbeat and positive around her son, Preston.

“He’s the only thing that kept me going,” she said. “I don’t think I would have made it if I didn’t have him with me.”

The boy was missing his sister and regularly asking why she wasn’t at home with the family anymore. The Harveys were proving they too could play hardball when sharing Caitlyn, just as the Russells had done when they had custody.

Tim Lambert, president of the Texas Home School Coalition, has been following the case. He is among those who went to Austin this year to push for legislation to provide relief for parents such as the Russells. His group got involved because grandparents sometimes sue for temporary custody of their grandkids as a way to prevent them from being home-schooled. In situations where grandparents are better off financially than a child’s parents, he said, the grandparents can sometimes use the strategy to get temporary custody.

“In these cases, the grandparents can drag it out for years, and that’s what happened to the Russells,” Lambert said. “They skip the intent of the law and exploit the loophole.” The Texas Parental Rights Restoration Act, he said, would have closed that loophole. It would have required the custody hearing to be held within 45 days. The measure was approved by a House committee but didn’t make it to the House floor before the session ended.

“In a lot of these cases, you’ve got judges who are closer to the grandparents’ age than the parents’ age,” he said. “I try not to assign motives, but you look at some of these cases and you shake your head and say, ‘I don’t understand how a judge can come to these conclusions.’ ”

More court filings by the Russells in 2008 led to more attorney fees, and eventually Loftin’s bill grew to \$30,000. By 2009, the amount doubled; then it tripled. The Russells had no way to pay. They’d tapped out friends and relatives for loans. Loftin eventually

withdrew from the case, but the Russells still laud him for all the work he did for them long after they'd stopped paying him. They still owe him more than \$60,000.

"We worked on this so long it got to be a matter of principle," Loftin said. "One side has got money and one doesn't, and we were on the no-money side. You wave a red flag at me, and I'll charge that son of a bitch. It's not always about money."

The Troxel vs. Granville ruling in the U.S. Supreme Court in 2000 provides the guideline on parental versus grandparental rights. That ruling cites parents' constitutional rights to raise their children.

Catterton wouldn't discuss the Russell case or his decision to uphold Beebe's decision.

Parental alienation comes up "fairly often" in custody cases, but he doesn't track how many times it's used in his court, he said.

"It seems to be an increasing phenomenon in child custody cases," he said. "When it gets to the point where it seems a parent has set out to destroy a relationship, that's when mental health people would call it parental alienation."

Catterton, who was a family law attorney for years before becoming a district judge in 1993, said the alienation phenomenon isn't new.

"Several years ago, mental health professionals started referring to it as parental alienation," he said. "It's more frequent now, and now it has a name. If we hear testimony that makes us think that it may be going on, we ask Family Court Services to investigate and try to make some sort of determination."

In September 2009, the Russells did something almost unheard-of: Working without an attorney, they appealed Catterton's decision. The Second Court of Appeals accepted the case, overturned Catterton's decision, and ordered that Caitlyn be returned to her mother.

"But, guess what? It wasn't over yet," Mike Russell said.

The Harveys appealed that decision.

The case was headed to the Texas Supreme Court.

The Russells filed as indigents in the appellate court, saying they couldn't afford attorney fees. The court referred them to the Bar of Texas's pro bono program, and Derek Montgomery, an attorney with Kelly Hart & Hallman, assisted the couple by writing and filing complicated briefs.

He described the couple as "defeated" and "shell-shocked" when he met them. He saw that the district court decision had obvious legal holes.

“For me personally and for our firm, it was a very rewarding experience,” Montgomery said. “It’s one of the main reasons why the pro bono appellate program was set up — to remedy what many people considered an injustice for those who wouldn’t be able to fight it otherwise.”

It worked. The Supreme Court denied the Harveys’ petition. After more than three years away, Caitlyn was coming home.

Catterton still stands by his decision to give custody to the grandparents.

“It’s my sworn obligation to protect and defend the laws of this state and this nation, and I do my best to follow it,” he said.

The Russells drove to the Harveys’ house to pick up their daughter in September 2010.

“Caitlyn ran out the door and ran straight to the car,” Mike Russell said. “She got in the car, and her very first words were, ‘I’m free.’ That’s such a sad statement to come from a 10-year-old child. At the same time, we were very happy she was freed, but she should have never had to go through that.”

They drove home and had a much-needed family night, all four of them, playing games and watching TV together.

David Harvey, who couldn’t be reached for comment for this article, still has visitation rights with Caitlyn. But those rights no longer extend to Ken and Jan Harvey.

“If Caitlyn wants to talk to them she can, but we’re not going to force her to,” Mike Russell said. “At this point she has told us she doesn’t want to talk to them. She wanted to live with her mom for three and a half years, and for a good portion of that time she wasn’t allowed to see her mom.”

Caitlyn is responding well to being back home, but years of being pushed and pulled while in the middle of battling parents and grandparents have affected her behavior. Her parents said Caitlyn regressed in her maturity while she was away from them.

“She’s 11, and she regressed back to about a 5-year-old with them,” Chassidie Russell said. “She couldn’t do anything without them over her all the time. They wouldn’t let her dress herself or take baths by herself. She’s old enough to do that. I had her so independent. She would clean up after herself, dress herself, and she was mature past her age. Now she can’t even think on her own. She sucks on her tongue constantly. Now her teeth are messed up.”

For months after she returned home, Caitlyn clung to a stuffed doll that her mother had given to her years earlier. She even carried it to elementary school. But this year she started junior high school, and her parents convinced her to leave the doll at home.

“She’s a strong little girl,” Mike Russell said.