



“Paging Dr. Freud. Paging Dr. Freud”

Rosemarie Bell

So said Mr. Justice J.W. Quinn, of the Ontario Superior Court of Justice, in the now-infamous case of *Bruni v. Bruni*¹:

This is yet another case that reveals the ineffectiveness of Family Court in a bitter custody/access dispute, where the parties require therapeutic intervention rather than legal attention. Here, a husband and wife have been marinating in a mutual hatred so intense as to surely amount to a personality disorder requiring treatment.

It is a classic case of hating your partner more than loving your children.

Catherine and Larry *said* they were in court fighting over their separation agreement and their two children (daughter Taylor, age 13, and son Brandon, age 11), but mainly they were fighting each other. Neither had a lawyer, and both needed one to keep their wrath in check. Along the way, various parties tried to reason with them, including the local Children's Services, a lawyer appointed to represent the children, and the court. Nothing worked. After twelve interim applications and a trial that stretched over seven months, the trial judge knew the situation was hopeless. He decided to write a judgment laying bare the parties' outrageous conduct. He called it like he saw it:

- Larry was an inept parent with a “near-empty parenting toolbox.” For example, Larry told his daughter: “You put shit in this hand and shit in this hand, smack it together, what do you get? Taylor.”
- “When the operator of a motor vehicle [Larry] yells “jackass” at a pedestrian, the jackassness of the former has been proved, but, at that point, it is only an allegation as against the latter.”
- “A finger is worth a thousand words and, therefore, is particularly useful should one have a vocabulary of less than a thousand words.” [Larry]
- Even after going to three counselling sessions, Catherine texted her daughter while she was at her father's – “Is dickhead there?”
- Catherine's parental-alienation behaviour was evil and cruel, and showed she had no respect for the legal system and Larry's parental rights. She was her own law.
- The judge asked Catherine: “If you could push a button and make Larry disappear from the face of the earth, would you push it?” She smiled like she had just won the lottery.
- Both of them “splatter[ed] their spleens throughout cyberspace” with text messages, emails, and Facebook pages. It made it easy for the judge to assess their true characters.

There is a notable difference between the Ontario *Family Law Act* and the federal *Divorce Act*. Section 33(10) of the *Family Law Act* allows a judge to look at spousal misconduct in deciding the amount of support (not so under the *Divorce Act*).

Despite his scathing comments, the judge didn't shirk his responsibility to judge the case on its merits and apply the law to the proven facts. He thoughtfully analysed Ontario law on child support and the validity of separation agreements. The case is a rare example of

a situation in which Catherine's behaviour – in this case her parental alienation – was so egregious as to essentially disqualify her from receiving spousal support. There is a notable difference between the Ontario *Family Law Act* and the federal *Divorce Act*. Section 33(10) of the *Family Law Act* allows a judge to look at spousal misconduct in deciding the amount of support (not so under the *Divorce Act*). But few judges had ever applied this section, and the ones that did interpreted it to create an extremely high threshold for the kind of bad behaviour that would have an impact on support. In this case, Catherine crossed it:

The parental alienation in this case reflects an intent by Catherine to destroy the relationship between Taylor and Larry; it is shocking conduct. It also amounts to a hideous repudiation of the relationship between Catherine and Larry as co-parents of Taylor. The harm here probably is irreparable.

Based on her misconduct, the judge reduced Catherine's support to \$1 per month.

Justice Quinn also made pithy observations on what the justice system cannot do in bitter custody/access disputes:

- hatred devours reason; hatred has no legal remedy.
- “The legal system does not have the resources to monitor a schedule of counselling (nor should it do so). The function of Family Court is not to change people, but to dispose of their disputes at a given point in time. I preside over a court, not a church.”

The judgement is funny to read but the case is profoundly sad. Wouldn't you hate to be Taylor or Brandon?

Notes

- 1 2010 ONSC 6568 (CanLII) Want to find the case quickly? Go to the CANLII site <http://www.canlii.org/> and search 'dickhead.' Read through the entire case, including footnotes.

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