

## Courier News (Elgin, IL)

# Mother loses high court custody appeal

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ELGIN -- Norma Perez comforts herself with the thought that her Illinois Supreme Court case may help someone else.

The Elgin woman recently learned the high court had rejected her appeal to reverse a DuPage County judge's decision granting sole **custody** of her 12-year-old daughter to Perez's ex-husband, R. Edward Bates.

"My heart just shattered at that moment," Perez said.

The appeal focused on evidence given by a court-appointed child representative, including allegations of parental alienation syndrome. PAS is a controversial pop- psychology theory developed by Dr. Richard Gardner, in which one parent's words or conduct allegedly causes a child to become alienated from the other parent.

Perez's attorney, Paul Feinstein, argued that the trial court committed an error by failing to bar the PAS testimony of Gardner and by not allowing Perez's attorneys to cross- examine the child representative.

Justices, however, ruled "whatever the merits of the PAS theory, the (lower) court's ruling was not dependent on any finding that PAS was present in this case."

While Perez lost her appeal, "Legally, we broke some significant ground," Feinstein said. "It's the hot family law case of the year in Illinois."

Justices found Perez's due-process rights were denied when the judge did not allow her attorneys to cross-examine the child representative, although the error was "harmless," the opinion stated.

Justices also held that a child's representative is not "immune from error in observation and from inadvertent bias." The justices said a representative may be "influenced by many factors including his training and experience, the contact between the representative, the parties and child and the existence of any bias or tendency to favor one gender of parent over the other."

A cross-examination would be likely to affect a trial court's assessment of the worth of the representative's recommendations in many cases, the opinion states. The statutory language regarding the child representative's duties is "unambiguous," the court stated.

Feinstein said Perez's case will help eliminate "this dangerous creature called the child's representative." A change in the language defining a child representative's role is already being discussed within family law circles, he said.

Perez's case sets some precedent for parents in other custodial cases.

"Norma has always been concerned about other women who have been in similar circumstances," Feinstein said. "She feels very grateful this decision, although it didn't help her, will help a lot of other people."

The case also helped unearth problems within family law and helped start the process of change, he said.

Feinstein said litigation is bad in general but "this is probably the worst kind of litigation," given that the **custody** of children is involved.

Even after losing her appeal, Perez's fight is not over, she said. She and her attorneys are considering the next step. Currently, she is allowed to visit with her daughter.

Bates is not giving up, either.

He recently mailed a mock brochure to attorneys and media outlets titled Witness Intimidation, A Trial Tactic, Child **Custody** Cases listing Perez as facilitating a seminar to recruit **custody** lawyers and other "conspirators" for her case.

The pamphlet states that "child litigants are currently being actively recruited to the trial tactic of intimidation of court-appointed psychologists, child representatives and other witnesses."

"The intimidation takes the form of filing serial false and unfounded complaints" with state agencies such as the Attorney Registration and Disciplinary Commission, the state's attorney's office and the criminal division of the Internal Revenue Services, according to the document.

Feinstein said the document is false and makes defamatory statements accusing certain people and lawyers of criminal acts.

"It is absolutely unfounded," he said. "Options are being considered in response."

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