Senate Judiciary Committee

July 30, 2022

Family court judges must be open to what they do not know about abuse. This requires training about the cycle of abuse and the tactics used by abusers who continue to abuse their victims through the court system. In other words, each judge must make sure that they do not become instrumentalities of the abusers.

In 2010, my youngest son disclosed details of inappropriate sexual contact and sexually explicit materials. Multiple witnesses, teachers, and professionals confirmed the likelihood he had been exposed to pornography, physical and emotional abuse. A Doctor from The Kempe Center recommend the boys be forensically interviewed immediately, be engaged in play therapy with a counselor/therapist experienced in dealing potential sexual abuse. and during the investigative period, the father only have supervised contact. The Magistrate concluded that "there was not enough evidence" and "the children should be placed in therapy with the caveat that it should NOT be with anyone who did sex abuse therapy". The children continued to have overnights with their father.

Two years later, multiple new and clear outcries of sexual abuse had been made, and I was advised by DHS, and the District Court Judge to file a Motion to Restrict. After 10-hours of testimony on my motion the Judge stated on record that there was "smoke", and he found the experts and their report of anal rape, sexual abuse, sexual trauma, and post-traumatic stress credible. The judge restricted Father's parenting time. And then restricted my parenting time (Based on a retaliatorily filed motion to restrict parenting time filed by the father).

The district court entered improper as well as inconsistent rulings on that day when it dismissed the temporary restraining order under §13-14-102, restricted Father's parenting time under §14-10-129(4) and set Father's motion to restrict Mother's parenting time for hearing. I sought a permanent protection order based on the experts' assessment that the boys made new outcries of anal rape and other acts of sexual abuse, which validated earlier outcries which had previously been considered inconclusive. Section 13-14-102 authorizes a permanent protection order to prevent domestic abuse, such as a no contact order, which is warranted on the evidence presented on May 22, which the Judge found credible. Once the Court concluded that the evidence was credible, a no contact order was appropriate. In retaliation, the fathers submitted a motion to restrict on me, on the day of the hearing. With no evidence or hearing, the children were taken from a safe home and sent to live with the paternal grandparents, who were also named as abusers. The court set the hearing for the fathers' motion to restrict, 3 days later.

On May 25th the Court had a report and an offer of proof from experts that placing the boys with the grandparents was a "trauma trigger" and could cause irreparable injury, but the new judge, characterized the reason for the hearing as the "Hatfield's and McCoy's", ignoring that the previous hearing determined the children's outcries of sexual abuse were believable. Instead, the judge chose to make fun of me for trying to protect two boys from incest and rape and ignore the safety of the children. He declined to conduct a hearing or enter a ruling. He then set the matter for a hearing **fifty-five days** later. The children were forced to live with the paternal grandparents, trauma triggers and accused abusers.

By shifting to §14-10-129(4), the Court addressed parenting time issues rather than focusing on safety of the children. By finding the experts credible it had also found that I was credibly bringing the report to the Court to protect the children. As a result, the Court was logically inconsistent in setting Father's Motion to Restrict my time for additional hearing after it had conducted over ten hours of hearing on the issue of whether the children had been victimized by their father. The findings that the experts were credible of necessity meant that Father's motion should fail. Section 13-14-102 authorizes both temporary and permanent protection orders to prevent

domestic abuse. This Court held in *Stuckey v. Stuckey*, 768 P.2d 694 (Colo. 1989), that the predecessor statute set out standards for injunctive relief while allowing district courts to address matters of custody, visitation, and permissible contact between the parties upon proceedings pursuant to the Children's Code, the Uniform Dissolution of Marriage Act or other source of district court jurisdiction. *Id*. at 700. Section 14-10-129(4) authorizes restrictions upon parenting time and has been upheld as an appropriate balance of protecting children from imminent harm and constitutional rights of parents to the care, custody and control of their children as established in *Troxel v. Granville*, 530 U.S. 57, 65 (2000). *In re Marriage of Slowinski*, 1999 P.3d 48, 52 (Colo. App. 2008).

At the May 22 hearing, both statutes had been invoked and the Court did grant the motion to restrict Father's parenting time. It specifically stated that Father should not go to his parents' house while the children were there, implying that Father was to have no contact with the children. The Court found that I had carried my burden of establishing a basis to restrict Father's parenting time and therefore also for a Permanent Protective Order.

The Court made two errors: it held that Father had made a facially proper Motion absent rereading it in light of his findings and the testimony of the day and then set his motion to restrict my parenting time for hearing on May 25, contrary to the findings it had just made that it was Father who should be restricted; and without inquiry or evidence as to how to place the children, which had become necessary when the Court gave credence to Father's motion to restrict Mother pursuant to §14-10-129(4), accepted the paternal grandparents interjection into proceedings to place the boys with them. There was no need to place the children outside their mother's home, as the Court had determined that her Motion to restrict Father was well founded, so that his retaliatory motion against me should have been dismissed. Instead, the May 22 order set the stage for denying me my constitutional right to the care, custody, and control of my children. When the Court at the May 25 proceeding declined to have a hearing and take evidence and declined to rule on Father's motion to restrict pursuant to §14-10-129(4), it had no basis and denied me, the boys' mother, due process by setting a hearing for July 16 without restoring my parenting time with the children.

As this Court observed in *Slowinski, supra*, §14-10-129(4) has immediate and drastic implication and is capable of being abused. I did my duty to protect, and as a result the children and I became a target to attack after the Court took testimony and made findings that the father presented a danger to the children. I lost custody of my children by the self-executing nature of §14-10-129(4). The Court did not hold the statutorily required hearing within seven days; rather, at the time set for hearing, it declined to rule on the motion and set further proceedings **fifty-five** days later.

A hearing and ruling are mandated by the statute within seven days of filing the motion. Once the Court declined to rule within the statutory time period, I should never have been restricted from the care and custody of my children. *See Slowinski, supra*. I was entitled to the *Troxel* presumption that I remained a fit parent to care for my children. To restrict me in accordance with the May 25th minute order which grants equal supervised visitation to Father is unconstitutional, unsupported in the record, and extremely damaging to the children.

On May 22, the Judge stated he was placing the two boys with the paternal grandparents pursuant to §19-1-104. That statute does not support his order. First, as part of the Children's Code, it is primarily concerned with dependency and neglect or delinquency actions. Second, although it granted the juvenile court authority to determine placement, that is only in accordance with the due process rights of the parents. Here, I had not been accorded due process.

Six years after the first reported disclosure of sexual abuse, 8 hearings, Dependency and Neglect court, hundreds of thousands of dollars, two little boys were finally able to be safe from sexual, physical, and mental

abuse by their father, grandmother, and grandfather. Not because of the magistrate that proudly stated, “I read nothing” or because of the judge that slept half the time on the bench, and when I was to testify said “I have no interest in hearing from her”, or the current Justice of the Supreme Court that made fun of us, as though incest and rape is a joke. It was only because of luck that the 6th judge I sat before read the evidence of the case and ruled on facts, not bias, not hearsay, and not fake diagnosis. 1 out of 6 judges did their job, followed the law, and considered the children’s safety first! Those odds are a travesty of the current family court system. But If I were to file a complaint with the court at any time, I and my children would risk punishment from the court. How could I seek justice from the same people who are not being Just?

Three years before, **" Former Preschool Teacher David Moe Sentenced To Federal Prison For Distribution Of Child Pornography”[1]. the Paddington Preschool** Director, Ann Solomon was informed multiple times from preschool parents, of misconduct by David Moe. Investigators say teacher Ann Solomon failed to report to police, as the law requires” [2], [3]. Ms. Solomon and her husband – a LCSW, mandated reporter and paid consultant for the DSS - were close family friends with David Moe. This should have made clear that my sons did not fabricate abuse. Ms. Solomon chose to protect her friend David Moe instead of thousands of children that she oversaw for over 11 years. She also chose to protect her son and husband instead of her own grandchildren. She sided with a child pornographer even during his public trial.

The family courts need to follow the law, allow in evidence and experts, not hearsay, personal opinions, bias, or fake syndromes. My children are finally safe from their abusers, but not from the emotional damage that was forced on them by a dysfunctional, uneducated, biased family court that continually forced two boys back into the arms of their abusers. At what point is the court enabling the abusers? Protective parents can not file complaints when judges mishandle their cases because we fear the Courts history of retribution. I was afraid to file a complaint because I already lost my first Amendment rights with a Gag Order, my parental rights were taken away and I was almost bankrupt. I was threatened with jail and, charged with child abuse for “listening to my children” (which was dropped after a year of living in fear). Protective parents are afraid to file complaints against the court for fear of even worse abuse from the family court!

**There must be independent judicial oversight in Colorado, most especially in family court.**

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[1] *Department of Justice U.S. Attorneys » District of Colorado » News, “Former Preschool Teacher David Moe Pleads Guilty To Distribution Of Child Pornography”, May 30, 2013*

[2] *NEW YORK DAILY NEWS “Teacher on trial for child porn kept creepy 800-page journal of hugs with preschoolers, Aug 08, 2012*

[3] *NEW DENVER POST “Journal of Paddington Station ex-teacher details contact with children”, Aug 07, 2012*