

Court Rejects Mother's Bid to Block Sons From Staying With Killer Stepparent

By Barbara J. King

An Oregon mother's unsuccessful fight to prevent her sons from staying with her ex-husband and his child killer wife highlights how a stepparent's criminal history can play into child custody disputes. The custody dispute

between Trisha Conlon and John P. Cushing Jr. made national headlines when a court recently refused the mother's request to modify their custody order.

According to an Associated Press report

, Conlon sought a court order to permanently amend her parenting plan that has her 14-year-old son with her in Silverton, Ore. during the school year and her 13-year-old son with his father, Cushing, a retired Marine fighter pilot. Conlon pursued this legal action after learning her sons were spending time with Cushing's first wife, Kristine, whom he remarried in 2005.

This revelation startled Conlon because in 1991, Kristine Cushing shot and killed her daughters, then ages 4 and 8. Kristine Cushing, who was found not guilty by reason of insanity, subsequently served nearly four years in a mental institution. Conlon had initially threatened to file a motion to amend the parenting plan after the Cushings remarried, but her husband assured her that action would be unnecessary because they were once again getting divorced

The planned dissolution of the Cushings' marriage never materialized, and it was then that Conlon realized her sons were still seeing Kristine Cushing and filed her request to change the order. However, finding that the two boys had been in contact with Kristine Cushing without incident since 2008 and that she had been found not guilty by reason of temporarily insanity and undergone a decade of psychiatric monitoring, King County Superior Court Commissioner Leonid Ponomarchuk refused to change the parenting plan.

The case struck a nerve with many parents. Even Commissioner Ponomarchuk stated that he would never want to expose his children to a similar situation.

In New York custody disputes, the chief focus of the courts rests squarely on what is considered to be in the best interests of the child. But that does not mean that a court here would have necessarily reached a different conclusion.

Recently, the Third Appellate Division for the New York Supreme Court ruled in *Gasparro v. Edwards*

to allow a father to obtain physical custody of his two daughters from a previous marriage, despite his current wife's criminal record. While the mother did have issues of instability that the court considered, the decision does not tell us the nature of the wife/step mother's crime. She was however, sentenced to probation. And similar to the Conlon case, the Third Department referenced an evaluation by a licensed psychologist, and noted that the current wife was a "loving parent" who has been receiving mental health counseling after her 2006 conviction. Her "conduct was an aberration and her treating psychologist indicated that she is not a threat to the children."

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