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Opinion: Baldwin Sheds Light on Dangerous Legal Defense

By Chris Heide

“You are a rude, thoughtless little pig.” This is the highly-publicized phrase that stemmed from a phone call actor Alec Baldwin made to his daughter Ireland just a few weeks ago. Despite the despicable nature of that comment, Baldwin has since tried to justify what he said by citing frustrations with his estranged wife, actress Kim Basinger.

According to Baldwin, the phone call was simply an inappropriately directed tirade against his daughter; he really meant to yell at Basinger, whom he claims has repeatedly violated terms of their custody agreement.

In an appearance on *The View* last week, Baldwin attacked Basinger, saying he was a victim of parental alienation and the courts were failing to protect his rights as a parent. This surely justifies calling his 11-year-old daughter names, right? Not so much.

Baldwin has brought a controversial subject into the media forefront.

Parental alienation is a legal strategy where one parent tries to prevent the other from sharing custody, and in doing so, psychologically alienates the child from the second parent.

According to a Newsweek article, child psychiatrist Richard Gardner first introduced the concept of parental alienation during the 1980s. Father’s rights groups picked up on the idea and began trying it out in court.

However, parents accused of abuse have used this as a legal defense. Statistically, men are more often the perpetrators of abuse, so this legal strategy has been used more often by fathers. What is most disturbing is that alleged domestic abusers are using this defense as a justification for their abusive behavior, as in the Baldwin case.

It is sickening to think that a mother who tries to protect her children from an abusive ex-husband by asking for sole custody will be hit with the parental alienation claim in court.

According to a Harvard survey published in the Newsweek article, “54 percent of custody cases involving documented spousal abuse were decided in favor of the alleged batterers. Parental alienation was used as an argument in nearly every case.”

Victims often do not report abuse, making it harder to prove in court.

The parental alienation claim presents an immense catch-22 in our legal system. There is the old adage that a person who allows abuse to continue is just as bad as the abuser. But there might be reason to doubt that.

A person unable to escape a pattern of domestic abuse may do so for economic, psychological or emotional reasons. It is way too easy for an outsider to say that a victim of domestic abuse should just walk away. Unfortunately, it's not always that easy.

It takes tremendous courage, time and energy for a victim of domestic violence to leave his or her spouse. Most often, victims will leave their partners to protect their children, after realizing that staying with their partner is unhealthy for the children. Parents are not the only victims of abuse; children are also victims, even if they are not directly abused.

The parental alienation defense in a custody battle gives the abuser a chance of continuing the pattern of domestic violence and abuse. Ironically, victims of domestic abuse who muster the courage to leave their partners in an effort to protect their children now stand a greater risk of losing their children in court.

Allowing such a currently prominent legal argument to be sustained is a disgrace to our legal system, which is supposed to protect victims and bring abusers to justice. Although it seems extreme, the rights of abuse victims deserve more protection than an abuser's when it comes to custody battles. If this trend is allowed to continue, it is possible that fewer victims of domestic abuse will attempt to leave their partners and fight for sole custody in an effort to protect their children.

What is a victim of domestic abuse to do?

The National Council of Juvenile and Family Court Judges have denounced the parental alienation theory as “junk science.” In addition, at least four states have passed legislation to curtail its use in custody cases involving allegations of domestic violence, according to the Newsweek article. Hopefully, these progressions will spark a greater trend in our judicial dockets and the conscience of all Americans.

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