

Father Not Obligated to Pay Child Support, Panel Finds

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09/09/2015



A father who has been prevented from seeing his son by the child's mother should not be obligated to pay child support, a Brooklyn appeals court ruled.

The Sept. 2 decision from a panel of the Appellate Division, Second Department, in *Matter of Coull v. Rottman*, 2014-1516, reverses a 2014 ruling by Westchester County Family Court Judge Hal Greenwald denying Robert Coull's petition to suspend his obligation to make child support payments.

However, the panel left intact Greenwald's order denying Coull's motion to enforce his visitation rights and granting Pamela Rottman's cross-petition to suspend Coull's visitation rights for their son.

A forensic evaluator testified in *Coull* that Rottman's interference with a regular schedule of visitation between Coull and his son has resulted in a "pattern of alienation."

The evaluator also testified that she was unable to complete her report because the child did not appear for an interview and Rottman refused to allow her to speak with mental health

providers or school officials.

Coull last visited his son in February 2010. For the next several months, he said he would go to the exchange location on visitation days, but often neither Rottman nor his son would be there. In one instance, both Rottman and the child appeared, but Rottman said the boy would not leave the car.

"Further, the record reflects that the mother, who represented herself before the Family Court, assumed an inappropriately hostile stance toward the father and witnesses who testified in his favor," the panel wrote.

Greenwald noted in his decision that Rottman stated many times that she would never allow Coull to see his child and would do "whatever it takes" to keep the boy away from him, the panel wrote.

Given the circumstances, the panel—composed of Justices [John Leventhal](#), [Robert Miller](#), [Sylvia Hinds-Radix](#) and [Joseph Maltese](#)—concluded that Coull's requirement to pay child support should be suspended.

To support its finding, the panel cited *Matter of Thompson v. Thompson*, 2010 NY Slip Op 08120 (78 AD3d 845), in which the Second Department affirmed a Westchester County Family Court ruling to suspend James Thompson's child support obligation because the mother of his son "deliberately frustrated visitation by manipulating the child's loyalty and orchestrating and encouraging the estrangement of father and son."

Parents have a duty to continually support their children until they are 21 years old, the court wrote in *Thompson*. "However, where the noncustodial parent establishes that his or her right of reasonable access to the child has been unjustifiably frustrated by the custodial parent, child support payments may be suspended," the court said, citing the Appellate Division, Third Department's 2008 decision in *Matter of Crouse v. Crouse*, 53 AD3d 750.

With respect to Greenwald's decision not to enforce visitation

rights, the panel wrote that, while the boy had participated in therapy for several months to foster a relationship with his father, he remained "vehemently opposed" to any type of visitation with Coull.

The child was 13 at the time of the hearing before Greenwald, and the judge was entitled to place great weight on the child's wishes, since he was mature enough to express them, the panel wrote. Both Coull and Rottman appeared pro se. Rottman could not be reached for comment.

Coull declined to comment and declined to disclose his required child support payment. An Appellate Division, First Department, decision from 2006 on a Family Court order for a child support payment adjustment stated he was required to pay \$1,809 per month that year.

Robin Carton, a partner at Carton & Rosoff in White Plains, represented the son. She could not be reached for comment.