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Child Custody – Expert Evidence Crucial

A judge who in her verdict in a child care case failed to give adequate reasons for departing from the clear evidence of experts recently found her decision overturned by the Court of Appeal.

The case dealt with the residency arrangements for four children whose parents were getting divorced. The mother of the children had a long history of addiction to amphetamines. At the custody hearing, evidence was given to the court that she had tested negative for use of amphetamines at the time of the hearing, but there was evidence of earlier use. The mother claimed that she had ceased to use drugs altogether.

A psychologist, a psychiatrist and a social worker submitted reports suggesting that a residence order should be made giving custody of the children to their father.

Surprisingly, the judge ordered that the children should reside with their mother on weekdays during the school term-time. The father appealed against the decision.

The Court of Appeal was of the view that the judge had placed a disproportionate amount of weight on the mother's evidence and had not given a good reason for taking a decision which differed so sharply from the opinion of the experts. The Court ruled that the residence arrangements should be referred back to another judge to determine.

It is not often that judges ignore clear expert evidence in such cases and, when they do, it is incumbent on them to give sufficient reasons for so doing. It is very important to use an expert who is good at presenting evidence clearly. At Eatons we ensure that clients relying on experts for evidence use those who are well-qualified and experienced.

For advice on all aspects of family and matrimonial law please contact Liz Williams on Tel: 01274 728 327.

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