Child Custody and Divorce: A Lawyer’s View

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The recommendations of child psychiatrists provide the substance and much of the content for the legal conclusion regarding the best interests of the child which must be reached by the court in cases where the contending parties cannot reach an agreement. In addition to his or her role as forensic expert, the child psychiatrist may be needed for treatment or therapy before, during, and after the divorce. Counseling may promote settlement of previously disputed issues. The applicable legal principles in child custody cases are amorphous but reflect current socioeconomic values. The former emphasis on parental fitness fortunately has given way to an emphasis of the child’s welfare, which requires a prediction of the child’s developmental needs and an assessment of interfamily relationships. The history of custodial law is summarized, the usual criteria that courts apply is examined, and the role of the expert witness is discussed.


The sociological function of law is to resolve disputes in accordance with the dominant values of the given time and place. Family law in general, and custodial law in particular, demonstrates the impact of social change upon legal principles. Alternative or new legal principles (mutations) appear once a new and strongly held consensus develops. This is possible due to the eclecticism and remarkable flexibility of the common law, which, as Professor Paul Freund (1961) observed, has legal principles that march in battalions. It is this phenomenon which enables the common law to both change and to remain stable.

We are not here concerned with divorce or dissolution as such, since custodial disputes may arise within or outside of matrimonial actions. But it should be noted at the outset that the parties themselves determine custodial and visitation arrangements in over 90% of the cases and that such issues are litigated in but a small fraction of separations and divorces.

Preferences and Presumptions

Due to principles derived from feudalism and religion, the father was the favored custodian of his children at common law. His claim, however, was conditioned upon his moral fitness, and able judges also referred to the best interests of children. Of course, only a few cases reached court and it is likely that the mother often retained custody where her circumstances permitted. It is also probable that, due to family, social and religious pressures, many fathers relinquished their prerogatives.

If we look behind the common law’s preference for the father in child custody disputes, we find socioeconomic explanations. It was not pure whimsy or tradition. Religion and feudalism combined to make the father “lord and master” of his own household. Under the feudal system he was protector and guardian of his family. Under the common law property system, he controlled the family’s purse strings. Upon marriage he acquired most of his wife’s personal property, managed her real estate, and pocketed the profits. The wife (feme covert) was not a legal person; she could not make contracts, nor sue or be sued in her own name. Moreover, children became “young adults” at age 12, and could be put to work. Divorce, except for peers and the very wealthy theoretically was unavailable, although there were other escape routes from “holy deadlock” such as annulment or desertion.

By mid-19th century, the industrial revolution, the change in wealth from land to property (tangible and intangible), and the migration to urban centers changed the structure of the family. Married Women’s Property Acts were passed in most states which emancipated (at least in part) wives from their identity crisis. They achieved legal status, could own and dispose of property, make contracts, and sue and be sued in their own name. Compulsory school attendance laws were enacted, and a few states experimented with child labor laws.

The typical household consisted of a breadwinner husband and a homemaker wife and mother, and middle class children were expected to complete high school. The law’s reaction to such significant social
and economic change was to adopt as a model the typical household and division of labor. It logically followed that the mother was the preferred custodian for the children and the father, if he wanted to, could get visitation rights. This was the effect of the "tender years doctrine."

As had been true in the case of the paternal preference, the mother's entitlement to custody was not absolute. In both cases the claimant had to be a "fit" parent, and especially during the Victorian age that meant moral and sexual orthodoxy. Percy Blysse Shelley, in 1817, lost custody of his and Harriet's daughters because of his professed atheism and notorious profligacy, and some 62 years later Mary Besant was deprived of custody because she had publicly espoused birth control. Moral activism was rampant during the 19th century, and only a few persons had heard of Sigmund Freud.

Commencing in the 1920s, American custodial law became more concerned about "best interests" and less worried about meting out rewards and punishments. In most states, the mere fact that the husband established a fault ground for divorce no longer qualified him for custody, even though the divorce ground was adultery. The "tender years doctrine" was applied except where the mother's immorality was believed to jeopardize the future well-being of the children.

As long as most husbands worked outside the home and most wives worked within, the preference for the mother in child custody decisions was functional, and it was backed up by a consensus. The emergence of the new Women's Movement after World War II and the phenomenal increase in the number of women in the work force changed the 19th century image into an obsolete stereotype. The sexual revolution, the switching of parental roles and division of labor, necessitated some changes in custodial law. And the law, somewhat reluctantly, gave in to the emerging consensus.

Legitimate demands for racial and sexual equality gained a fixed basis in the Equal Protection Clause of the Federal Constitution and E.R.A. amendments to some state constitutions. Egalitarian principles achieved popular acceptance despite difficulties of implementation. Laws that discriminated for as well as against women fell under constitutional challenges. This meant that the "tender years doctrine" was no longer viable as a preference or a presumption.

The current situation in the United States is that, theoretically, fathers and mothers have equal claims to child custody, and the best interests of the child determine the choice. In perhaps 90% of the cases, however, custody is still awarded to the mother and visitation to the father. In part this is because most fathers do not want custody. In some cases, however, judges are prejudiced in favor of mothers or against fathers and the "best interests" test is so amorphous that the result may be rationalized. A few judges may privately agree with the Utah court even though they keep their bias off the record. The Utah court said that it would agree that fathers had an equal claim to child custody once it was established that men could lactate (Arends v. Arends, 1974).

Even though the father defeats the mother and prevails only in rare instances, courts are becoming accustomed to paternal claims for sole custody and for joint custody. Such claims no longer are quixotic. A Dr. Salk may obtain sole custody (especially where the children prefer the father), and under proper circumstances most courts will consider joint custody as a possibility.

Thus, in response to social change and functional considerations the pendulum has swung from father to mother to either or to both. We have reached, or are reaching, the point where the facts of the individual case, rather than a presumption or preference, determine the result.

We have been discussing the law of child custody thus far in terms of "preferences" rather than "presumptions" because the latter seems to be too strong a term where the conflict is between parents and the claim of either is conditioned on parental fitness. Where the contest is between a parent and a "stranger" (meaning any nonparent), however, it is appropriate to say that there is a presumption favoring the parent. The stranger must, even today, introduce strong and convincing proof of paternal unfitness in order to win a custody dispute against a natural parent. He must rebut the presumption that a child belongs with his parent. The mere fact that the child might be better off with the stranger is insufficient; there must be proof of abandonment, neglect, or abuse for the stranger to win.

To phrase it differently, for a stranger to prevail, it is not enough to show that the child's best interests would be served by an award of custody to the stranger. The legal concept of abandonment, however, permits some flexibility. If the natural parent is deemed to have relinquished parental rights voluntarily it may be tantamount to an abandonment. For example, in the leading New York case of Bennett v. Jeffreys (1975), a 15-year-old natural mother had placed her baby with a family friend for 8 years before she demanded her return. The New York Court of Appeals held: "[t]he State may not deprive a parent of the custody of a child absent surrender [for adoption], abandonment, persistent neglect, unfitness or other like extraordinary circumstances. If any such extraordinary circumstances are present, the disposition of custody is influenced or controlled by what is in the
best interests of the child” [emphasis supplied]. The case was remanded to the Family Court for further hearing while the child stayed with the natural mother. The testimony of some 26 witnesses over a 4-week trial resulted in the finding that the child [Gina Marie] should be returned to the foster mother, but with liberal visitation privileges for the natural mother. The record in the extensive hearing established that while the natural mother met the physical needs she could not supply the emotional needs of Gina Marie, who still referred to the foster parent as “mother” and insisted that she wanted to return “home” after spending some 15 months with the natural mother until, at last, there was a final disposition.

In addition to the out-moded maternal preference and presumption favoring a natural parent over a stranger, there are additional considerations in child custody disputes that may be called “factors” which enter into the court’s determination. Formerly, the one who prevailed in a divorce case ordinarily got custody of the children if he or she wanted it. This no longer is the case, especially where there are no-fault grounds for divorce.

The wishes of the child regarding custody and visitation is called the child’s “preference.” At most, the child’s preference will be considered in the exercise of the court’s discretion in determining custody and visitation, and the weight it receives will depend upon the maturity of the particular child and the circumstances of the case.

Still another factor is that, where possible, courts avoid splitting siblings and prefer that they remain in the same household. Of course, in some cases for practical reasons this cannot be done. Still another factor is the court’s inclination to award custody to the parent who intends to remain in the community and to deny custody to a parent who plans to move to another jurisdiction.

Closely related to the factor of geographical location is the consideration of which parent or contestant is most cooperative in providing access to the other in order to maintain an on-going relationship with the child, including telephonic communication. This factor is gaining increasing recognition and sometimes is couched in terms of the child’s right to know and associate with both parents after the parents separate or divorce.

Finally, although the proprietary rights of parents in children are somewhat muted, they still exist. At its 1982 term, the Supreme Court held that before a parent could be permanently deprived of his or her parental rights, abandonment, neglect or unfitness must be established by clear and convincing evidence and that a mere preponderance of evidence was not enough. Exactly what impact this decision may have in contests between a natural parent and a psychological parent remains to be seen.

Basic Criteria for Decision

Courts depend upon counsel, in large measure, to develop the facts in a custody dispute. Unfortunately perhaps, skill and advocacy are influential as to outcome. Not all lawyers are equal. Not all expert witnesses are equally articulate and effective. The glib lawyer or expert witness may be most convincing even though greater merit is on the other side. Form (of presentation) as well as substance is important in a courtroom, in politics, and in most activities of life.

Judges, like academics or psychiatrists, have their own scales of value and accord different weight to different factors or criteria. Today, at least in metropolitan areas, medical or psychiatric evidence is crucial in the trial of most noncommercial cases. In custody disputes, as often as not, it is the testimony of the psychiatrist or psychologist that determines the result. Where impressive experts appear for each side, they may cancel each other out. Moreover, the testimony of a court-appointed psychiatrist or psychologist may be regarded as more “impartial” and hence entitled to receive greater credibility than the testimony of a party’s expert.

The ultimate question in most custody cases is what decision regarding custody and visitation serves the best interests of the children. All other considerations are subordinate to that ultimate issue where the contest is between parents. The difficulty with the “best interests” rule is that it is so broad and amorphous that it may encompass any result. It has not been shown, however, that “the least detrimental alternative” test would be an improvement, and it too is largely a matter of subjective judgment. In any event, the courts still adhere to the “best interests” formulation.

The practical problem is to break up the abstract “best interests” concept into smaller components. A court or lawyer having access to expert psychiatric opinion will be inclined to emphasize the psychological best interest of the child in question. Heed will be taken as to which contestant has the closer bond with the child and the child’s needs as to care, nurture, and training. To whom does the child turn in case of need? Which one does the real parenting? The quality as well as the quantity of time spent with the child may be significant. The willingness of each to cooperate in maintaining an on-going meaningful relationship with the other parent is significant.

Currently, courts are constrained not to get involved in comparing material advantages or disadvantages unless it has a bearing on the health of a child. Today,
most courts are tolerant of alternative lifestyles, although prejudice has not been completely eliminated. Lesbian mothers have been deprived of custody but perhaps the weight of authority requires some proof of actual detriment to the child. For example, a New York court understandably was upset by proof that the live-in lover of the lesbian mother was constantly running down the father and was attempting to undermine his relationship with his children. Illinois, however, in Jarrett v. Jarret (1979), took a long step backward when it took three protesting daughters from their mother’s home merely because after divorce she had a live-in male lover. Where there is a judicial overreaction to what a particular court may regard as gross immorality (usually meaning sex life), the greatest harm and injustice may be occasioned by self-righteous moral activists.

Another situation which invites error is where chauvinism (in its original sense) is operative. The California court, after the death of the father, awarded children to the custody of relatives rather than to their Czechoslovakian mother who had remained behind the “iron curtain” when the father fled to America with the children. The highly publicized Chicago case of Walter Polovchak in 1980 also had chauvinistic overtones when the Department of State intervened to block the minor son’s return to the USSR. Recent press reports related that a Georgia court took the children away from two Harvard graduates who had turned “hippy.” Of course, it may have been their educational background rather than their lifestyle that the Georgia court found most offensive.

In sum, the most relevant criteria in child custody cases are those that have a direct bearing on the child’s development and maturation in a warm and loving environment. Matters that have no direct bearing, such as the private sex life of the custodian, should be ignored. The focus should be placed upon the child’s emotional and psychological well being, not upon the alleged moral unfitness of the particular custodian. Of course, parental unfitness sometimes may be one side of the coin and detriment to the child may be the other side of the same coin. The court, however, may best promote justice to the child by concentrating on the child’s welfare and detriment.

One of the most comforting things to a judge who handles custody disputes is the knowledge that if he makes a mistake it is subject to later correction. Custody and visitation awards in most states are not final; they may be, and frequently are, modified. There have been criticisms regarding the lack of finality in custody decisions and it has been recommended that, once an award is made, it should not be subject to modification. Texas, by statute, forbids modification for 6 months after the initial order. From a lawyer’s point of view, this is throwing the baby out with the bathwater. The margin for error in the initial disposition is too great, and to protect the child there must be power to modify. This does not mean, however, that there should not be strict requirements of proof in order to obtain modification, nor that the security and continuity of the parent-child relationship is not an important and often decisive factor in modification proceedings.

Types of Custodial Arrangements

In divorce cases the favored placement is an award of the child (or children) to one parent for custodial purposes with visitation rights granted to the other. The legal custodian usually is granted autonomy and does not have to share decision making with the other parent, although by agreement or decree some issues such as schooling or religious training, may be subjects for mutual decision. The terms of visitation depend upon numerous factors, including geographic proximity, school and work schedules, the desires and needs of the parents and children, and how visitation previously worked out in practice.

Courts generally seek to accord “reasonable visitation” to the noncustodial parent and to perpetuate meaningful ongoing parent-child relationships. What is deemed to be “reasonable” depends upon all of the facts and circumstances of the individual case. However, it is quite common to award weekend visitation every other weekend in the case of school-age children, plus alternating holidays and a period of some weeks during the summer vacation. Sometimes a week day dinner is added for the parent having visitation. Preschool-age children are accorded more selective treatment and in the case of many teenage adolescents, they visit when and if they feel like it, no matter what the court decree provides.

Within the past decade there has been a tremendous increase in the number of cases where the father seeks either sole custody or joint custody with the mother. Occasionally, courts have awarded joint custody in contested proceedings but ordinarily joint custody occurs where the parties consent to that arrangement. The term “joint custody” comprehends (a) joint decision making on major child rearing issues, and (b) a sharing of physical possession. Of course, minor issues may have to be decided on an ad hoc basis by the one in immediate control, and the sharing of physical possession need not be on an equal time basis. Some “joint custody” arrangements are difficult to distinguish on an operational level from sole custody plus “reasonable visitation.” Moreover, some separate families have tried a “nesting” arrangement where the parents take turns moving into and out of the family home while the children stay put.

There is little disagreement over joint custody as an
ideal. As often stated, it most closely resembles the situation which existed when there was an intact family, and a child should have the right to an ongoing and meaningful relationship with both parents. The problem, however, is workability. The experience of most judges and lawyers has been that, to be workable, joint custody requires optimal conditions. There must be geographical proximity, a favorable school and work schedule, suitable physical arrangements, and a spirit of parental cooperation that places the child’s welfare foremost. Unfortunately, these favorable conditions usually do not exist. Moreover, sampling of public opinions suggest that most fathers do not want sole or joint custody.

Notwithstanding the practical problems inherent in joint custody arrangements, since the publication of Roman and Haddod’s (1978) book, *The Disposable Parent*, concerted efforts have been made throughout the country to make joint custody the preferred arrangement. A few states, including California, New Hampshire, Nevada, and New Mexico, have statutes that seek to make joint custody the norm and mandate that, where both parents agree, a presumption arises in its favor. If the court fails to award joint custody, it must set forth its reasons. If sole custody is awarded, the court is directed to favor the parent most likely to give frequent access to the other parent, and the court is empowered, after investigation, to award joint custody at the request of only one parent. Other states have passed statutes that in effect merely authorize the court to consider and award joint custody.

Joint custody should be reserved for exceptional circumstances, such as where civilized parents generally agree as to what is for the best interests of the children and feel free to communicate regarding their welfare. Moreover, court ordered joint custody may be a “cop out” for a particular court that wishes to avoid a meticulous assessment of the facts of the individual case. A father’s demand for sole or joint custody also may be part of an overall strategy in divorce litigation.

Although I question the practicality and wisdom of California-type statutes, I do agree that lawyers and therapists as well as courts should be alert to the fact that joint custody may be a viable alternative when conditions are favorable. Far too often in the past the alternative was overlooked. Finally, the emphasis upon maintaining access to both parents generally is in the child’s best interests, and usually it would be highly detrimental to give the custodial parent a veto over visitation as recommended in Goldstein et al. (1973, p. 38).

**Judicial Attitude Toward Expert Testimony**

Courts react to expert testimony in various ways depending in part on the training, background, and experience of the individual judge. A few judges are psychiatically oriented; perhaps more are cynical about expert testimony in general and psychiatric testimony in particular. One reason for cynicism is the so-called “battle of the experts” which is often staged in court. The court’s own staff or witness may be more convincing than forensic stars.

The model judge keeps an open mind, hears both sides, is skeptical regarding expert testimony, and conscientiously weighs the evidence. The judge is no amateur when it comes to fact finding. Moreover, the court, under our form of government, is the agency responsible for the community’s conscience and that is answerable to a consensus. Whether an accused should be convicted or acquitted upon his defense of insanity ordinarily is a social and moral decision, and the same often is true on the issue of who gets custody.

Thus, the role or function of the expert in child development, when he testifies as a witness, is to provide grist for the judicial mill. Often the expert testimony will be crucial or decisive, but at other times it will be offset by competing expert testimony or significant facts and circumstances. In Europe, the prevalent model is to hear the testimony of the senior professor at the forensic science institute and rarely is the senior contradicted. In this country, however, cross examination and rebuttal testimony are at the heart of our due process.

There are frequent proposals that we abandon the adversary process for a panel of experts, especially in child custody disputes. Even if constitutional, the wisdom of such a move is highly questionable. Far better and more acceptable under our system is the adaptation of the adversary process in the handling of child placement issues. Such may be done by helping to ensure that the court has access to all relevant facts and opinions in custody cases. Two techniques may accomplish that end: first, for such cases the court needs a competent professional staff to investigate and report; and, second, in contested cases ordinarily the child or children need and deserve their own counsel.

**Role of the Child Psychiatrist**

From the lawyer’s point of view, the child psychiatrist or other expert on child development may have two functions in connection with custody litigation. The two roles are distinct but inter-related. One involves evaluation, treatment, counseling, or therapy. The other is forensic: the specialist is a potential witness.

With regard to evaluation, the individual child psychiatrist must determine whether or not he must see the family and its members or merely the child or children. For purposes of testimony, ordinarily, where
possible, it is better for the expert to see the entire family constellation since then his or her findings and opinions will carry greater weight and conviction. He will have seen the whole picture, including the interrelationships among family members.

Due to the trauma occasioned by the divorce and postdivorce process to children as well as parents, a program of treatment may be in order for the children. The potential legal difficulty in such situations is that there may be a conflict of interests. The psychiatrist should make it clear, preferably in writing, what his or her ground rules are when he accepts such a child as a patient, and what, if any, disclosures he or she intends to make to a particular parent. If properly handled, confidentiality will be owed to the child patient, not to his parent, even though the latter pays the bills. A parent’s waiver of confidentiality (such as by bringing a custody action) may not be held to be a waiver by the patient-child.

In some states, moreover, a rule has developed that the psychiatrist may come under the larger umbrella of lawyer-client privilege where the lawyer engages the psychiatrist to assist him by interviewing the lawyer’s client or the child before trial. If the psychiatrist takes the witness stand, however, there may be a waiver of confidentiality.

The child psychiatrist or other expert also serves an important function in trial preparation. Lawyers differ as to their levels of sophistication (if any) with reference to psychiatric knowledge and insights. The experienced forensic expert may be valuable for determining trial strategy and tactics in general as well as the form and content of his own testimony. Similarly, the experienced trial lawyer may help the expert to articulate his facts and opinions in most convincing fashion. The fact that the expert is subjected to cross-examination by the other side should not be viewed as an insult, because if no questions are forthcoming, it could mean that the expert’s testimony was inef-factual.

**Practical Tips for the Expert Witness**

The child psychiatrist who is called upon to testify in a custody dispute should be aware that as an “expert” he is a privileged character. Most of us are not free to voice opinions from the witness stand. The “expert” is an exception, whether his testimony is in response to hypothetical questions or in normal fashion. Moreover, the individual psychiatrist may testify as a treating physician at one point, and as an expert at another, in which event he or she is entitled to ordinary witness fees for the former and the fees of an expert for the latter.

It is an old ruse for the cross-examining attorney to ask the expert if he is being paid for his opinion, and if so, how much? Although it is tempting to respond that he is being paid for his time not his opinion, be wary of fencing with lawyers. They are on their own turf, and the odds are against you. It is best to state accurately the financial facts and not to give hostile counsel an opening. Badgering a witness often is counter-productive. Do not play into the cross-examiner’s hands by showing anger, justified or not.

If you have overgeneralized or failed to note exceptions or qualifications in your testimony, freely admit such to be the case. Remember, the lawyer who called you will have a chance to “rehabilitate” your testimony if need be on re-direct examination. The favorite tactic of the cross-examiner is to get you out on a limb and have you saw it off. The fall may be precipitous. That may be avoided by sticking to facts and opinions you can back up and document. If there is room for a difference in opinion, graciously acknowledge such to be the case.

Insist upon a careful briefing and preparation before trial so that you will know in general and in advance what the questions will be on direct examination and what the probable questions will be on cross-examination. Do not get up tight about challenges to your professional status or reputation. Attacking the credibility of a witness is standard practice and should not be taken personally.

With regard to custody and visitation issues, show flexibility, because you may be dealing with a *prediction* as to future behavior. Where possible, speak in terms of the child’s needs and desires, apart from those of a parent. For example, a child’s need to know and associate with both parents may carry more weight than a parent’s need to see the child. There are some things you may say with more assurance than others. As for the latter, be prepared to qualify or explain.

The expertise of the child psychiatrist that may be decisive is his other awareness of the dynamics of particular relationships. If the expert is able to describe fairly what is going on within the family and its inter-relationships, it will be a positive aid to the court’s decision. Reasons and examples supporting any recommendation or evaluation and, in some cases, psychological testing, may give weight to expert testimony. Courts are more interested in family dynamics than in psychiatric labels.

Finally, remember the compromising character of law. In most custody cases neither contestant wins a clear-cut victory. One (usually the mother) gets custody and the other (usually the father) gets reasonable visitation rights. Unless there are exceptional facts or circumstances, that result is predictable.
Conclusion

The law of child custody is not written in stone. In a given case a particular judge weighs and balances all of the facts and evidence presented before him. The opinion or recommendation of a child psychiatrist regarding custody is only one of the elements considered. Increasingly, however, such testimony is crucial and decisive.

The recommendations of the Group for the Advancement of Psychiatry, Committee on the Family (1981), set forth criteria to be used in decision making in custody cases:

The court's determination should aim at providing the child with an ongoing relationship with as many members of his or her family of origin as possible....

The court should not confirm the moral condemnation of one parent by the other since the child's welfare is badly served by the loss of trust such condemnations engender....

In determining parental competence, the court should seriously consider the comparative willingness of the two contestants to provide the child access to the other parent, to siblings, grandparents, and other relatives.

The child should not be considered merely a passive recipient of parental care but also a concerned and willing source of support for both parents....the child has a need to express and channel concern about all family members, including the noncustodial parent (146-147).

The above criteria were respectfully recommended to courts that adjudicate custody matters. Of course, they are not the only factors for decision making and due to the eclectic nature of law they are not the only guide-lines courts will consider. Moreover, it may be somewhat naive to suggest that courts should not "confirm the moral condemnations of one parent," especially if the claimed immorality has a direct bearing on the child's welfare. At best we may hope that courts will focus on detriment to the child rather than upon parental "unfitness" as such.

Both law and psychiatry get into the business of predicting future human behavior. That is dangerous territory. There are so many variables. And humility is in short supply. A custody decision is a prediction as to what is best for the child. Fortunately, if there be egregious error, the prediction is subject to modification upon review. Although from the psychiatric point of view continuity, stability, and the security of child placement may be paramount, from the legal point of view it is a blessing that where need be child custody may be changed.

Goldstein et al. (1973) in Beyond the Best Interests of the Child pose the case of the Dutch Jews who left their children with gentile surrogates during World War II and what was to be done with the children when surviving Jewish parents returned. The Dutch authorities handed the children over to their natural parents. The eminent authors suggest that the children remain with the surrogates. From this lawyer's point of view, there should be no rule of thumb; each case should be decided on the basis of its individual facts. Psychiatric generalizations should not decide concrete cases. It should be the dynamics of the individual case that controls the particular result. And the psychiatric recommendation or prediction is but grist for the mill.

References

Arends v. Arends, 517 P.2d 1019, 1020 (Utah, 1974).