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Brethren mother flouts court order

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AN EXCLUSIVE Brethren mother and two male relatives have risked jail by failing to present two children for planned access visits with their father.

In February, Family Court judge Robert Benjamin convicted the mother, who cannot be named, her son and her son-in-law and imposed a four-month suspended jail sentence on all three after they did not present the children for their first access visit.

The Age has learned that twice since that judgement the two children, aged 13 and eight, have not turned up for scheduled time with their father.

The father has filed an application with the court, arguing that the mother has contravened Justice Benjamin's orders.

But since February the case has become complicated by the fact that the mother is seriously ill and by her appeal against Justice Benjamin's February rulings and the sentence, which she argued was "manifestly excessive". The decision in that appeal has not yet been delivered.

The illness makes a prison term unlikely. The father has now also launched a bid for custody of the two children.

Justice Benjamin's judgement in February was an emphatic statement by the Family Court that it would not tolerate the Exclusive Brethren flouting court orders in pursuit of the sect's policy of strict separation of its members from those who have left the church.

The court heard then that the Brethren had funded the mother's legal case, setting up a bank account and depositing \$50,000 into it. She told the court that she considered the money as a loan to be repaid.

The Age has been told that since February the father has had some access to the children, but the two most recent planned visits — on the weekend from May 19 and a week-long visit from June 2 for the school holidays — had not gone ahead.

Last month the mother's barrister, Melbourne Queen's counsel Noel Ackman, argued before the Family Court's full bench that Justice Benjamin should have disqualified himself from the case in February on the grounds that he was biased. He also argued that the judge's ruling that she had contravened his earlier orders was wrong, and that the sentence was too harsh.

The president of the Family Law Practitioners Association of Tasmania, Tony Fitzgerald, said this case was being keenly watched by family lawyers because of the clash in value systems being argued out.

"It's an extreme example of what happens in many, many cases at various levels, so from that point of view it's interesting," he said.

Senior family lawyer Michael Taussig said that sometimes extreme forms of religions — including

Christian cults, and some forms of Judaism and Islam — argued against the general legal principle that spending time with both separated parents was best for the child.

"Sometimes these religious issues do blur or muddy the waters in regard to what is best for the kids, and that is what the secular court has to decide," he said. "It's of interest because there are so few of us in the family law business who have had contact with that sort of case."

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