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New York Divorce and Family Law Blog

[Constructive Emancipation: The Breakdown of a Relationship Between Parent and Child and the Termination of Child Support](#)

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Within the last month, the Appellate Division, Second Department, has decided several interesting family law cases. One, in particular, directly answers a question I am frequently asked, which, in some form, goes like this: My son refuses to visit me; do I have to pay child support for him?

The answer, as supplied by the Court in the case of [Gold v. Fisher](#), is- it depends.

... a child of employable age who actively abandons the non-custodial parent by refusing all contact and visitation" may forfeit any entitlement to support In contrast, where it is the parent who causes a breakdown in communication with his child, or has made no serious effort to contact the child and exercise his visitation rights, the child will not be deemed to have abandoned the parent.

The parent seeking to have the child “constructively emancipated” has the burden of proof. From my experience, given that this is a drastic remedy, which may punish the custodial parent (who may or may not be at fault) as much as the child, courts strive to discover the true origins of breakdown of non custodial parent-child relationship.

If the evidence shows that the non-custodial parent is in any way at fault for the estrangement, the application will be denied and the obligation to pay support will continue. If the non-custodial parent is blameless, support will be terminated.