

CANADA / JUDGMENT

A.D.C. v. S.G.C

2025 BCSC 1485

COURT

Supreme Court of British Columbia

DECIDED

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2025 BCSC 1485 A.D.C. v. S.G.C

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

A.D.C. v. S.G.C,

2025 BCSC 1485

Date: 20250801

Docket: E62154

Registry: Kamloops

Between:

A.D.C.

Claimant

And

S.G.C.

Respondent

Before: The Honourable Justice B. Smith

Reasons for Judgment

Appearing in person:

A.D.C.

Counsel for the Respondent:

D.E. Oliver

Place and Date of Trial:

Kamloops, B.C.

April 15-17; April 30;

and May 1-2, 2025

Place and Date of Judgment:

Kamloops, B.C.

August 1, 2025

Introduction

- [1] In this family law dispute, the respondent father ("S.") applies for an order for enforcement of a separation agreement, based on alleged denial of parenting time by the claimant mother ("A."), an order prohibiting relocation of the parties' two children from Kamloops, an order appointing a parenting co-ordinator, and an order concerning conduct. A. cross-applies for an order that she be permitted to relocate the children from Kamloops to Nanaimo.
- [2] S. was represented on the applications by counsel. A. was not.

Background Information

- [3] S. and A. started living together in or around March 2004. They were married on July 14, 2007. They separated on October 24, 2021. They are the biological parents of two children:
- T., born [date of birth omitted], currently 17 years old; and
 - R., born [date of birth omitted], currently 11 years old;
- (collectively the "Children").
- [4] T. and R. attend school in Kamloops.
- [5] S. is 51 years old and employed as a plumber. A. is 46 years old and employed as a dental hygienist. They have both lived in Kamloops since 2011. They currently both work in Kamloops. They have each re-partnered since separation. S.'s new partner is C., and she lives in Kamloops. A.'s new partner is G., and he lives in Nanaimo. S. opposes any relocation of the Children from Kamloops. A. wishes to relocate to Nanaimo with the Children to be with G.
- [6] Mediation has failed.
- [7] There are two views of the child reports: the first dated December 8, 2023 (the "First VOC Report") (views of both T. and R.); the second dated January 12, 2025 (the "Second VOC Report") (updated views of R. only).

The Separation Agreement

- [8] On August 12, 2022, S. and A. executed a separation agreement (the "Separation Agreement"), which includes provisions for: child support; spousal support; guardianship; parenting arrangements, including parenting time; a final settlement of property and debts, and all other issues arising out their relationship. S. and A. were each represented by counsel in negotiating the Separation Agreement.
- [9] Pursuant to the Separation Agreement: S. and A. are each the guardians of T. and R., with shared parental responsibilities; parenting time arrangements are set out in a Shared Parenting Schedule; and conduct requirements are set out in detail.

The Judicial Case Conference Order

- [10] On September 14, S. and A. participated in a judicial case conference ("JCC") before Associate Judge Keim, at which they consented to an order varying the parenting time arrangements of the Separation Agreement, as follows:

2 The parenting time arrangements are varied as follows:

- a. On a week on, week off rotating basis, with the exchange day to be each and every Monday; and
- b. The Party who is not exercising their parenting time will pick up the Children from the other Party's residence at 5:30PM.

- [11] S. and A. were each represented by counsel at the JCC.

Discussion

- [12] S.'s applications for orders enforcing his parenting time with the Children and preventing their relocation overlaps with A.'s application for an order permitting their relocation. I will begin by discussing the overlapping applications concerning parenting time and relocation. I will then discuss S.'s applications for orders pertaining to the appointment of a parenting co-ordinator and conduct.

Parenting Time

- [13] S. seeks an order enforcing his parenting time with the Children, as provided for in the Separation Agreement.
- [14] After separation, S. and A. initially shared substantially equal parenting time and joint parenting responsibilities for the Children, as provided for in the Separation Agreement. However, S. deposes that A. subsequently started wrongfully denying him parenting time, making unilateral changes to the agreed-upon shared parenting provisions of the Separation Agreement, with little or no notice to him, often after she had already told the Children, and he had already made plans for his time with the Children. A. disputes these allegations.

- [15] Pursuant to s. 61(2) of the Family Law Act, S.B.C. 2011, c. 25 [FLA], a person entitled under an agreement to parenting time and contact with a child may apply to the court for specified relief within 12 months after the denial of parenting time. S. seeks an order specifying a period of time during which he may exercise compensatory parenting time.
- [16] S.'s application was filed on July 24, 2024, so the relevant period for consideration is the prior 12-month period. S. deposes to two instances in the relevant time period: one at the end of July 2023, which resulted in loss of a week of parenting time and the cancellation of a camping trip he had planned to go on with T.; the other in early August 2023, which resulted in the loss of a week of S.'s parenting time with the Children. A. does not dispute that either of these instances occurred.
- [17] Section 62(1) of the FLA identifies circumstances when denying parenting time is not wrongful. A. does not rely on any of those circumstances to justify denying parenting time. Instead, she says the Children tell her when they do not wish to spend time with S. and she respects their views.
- [18] I find that S.'s allegations of A. denying parenting time are corroborated by the many texts between him and her which are exhibited to their affidavit material.
- [19] I find that A.'s denials of parenting time have in many instances been wrongful. A.'s denials of parenting time in July 2023 and August 2023, were both wrongful. In both instances, the evidence establishes that A. cited the wishes of either R. (July 2023), or the Children (August 2023), as justification for her actions.
- [20] Despite A.'s assertions to the contrary, it is clear from the texts between her and S., and her evidence in court, that she erroneously believes she can simply deny S. parenting time whenever one or both of the Children indicate they do not wish to spend time with him. According to A., the Children have a voice and their wishes must be respected by giving effect to their expressed wishes. A.'s texts, and her evidence in court, are replete with references to the wishes of the Children as justification for her actions. While it is undisputed that the Children have a voice, it does not follow that respect for that voice means their wishes must be automatically complied with, even when those wishes are contrary to the provisions of a separation agreement negotiated by their parents with the assistance of counsel.

Decision

- [21] I find that the provisions of the Separation Agreement are enforceable.
- [22] I find that A.'s denials of parenting time in July 2023 and August 2023 were wrongful.

- [23] I order that S. is entitled to parenting time of one week with R. as compensation for A.'s wrongful denial of parenting time at the end of July 2023; and that S. is entitled to parenting time of one week with the Children as compensation for A.'s wrongful denial of parenting time at the beginning of August 2023. The compensatory time is to be exercised within eight months of the date of these reasons.
- [24] I make no specific findings concerning any instances prior to July 2023, because they are outside the relevant time period for bringing an application for relief respecting denial of parenting time.

Relocation

- [25] S. seeks an order that neither party will remove the Children 50 km outside of Kamloops for a period of 14 consecutive days or change the Children's ordinary residence without written consent or court order.
- [26] A. seeks an order that she be permitted to relocate the Children from Kamloops to Nanaimo. A. proposes that she and the Children would live with G.

Is the proposed relocation in good faith?

- [27] Pursuant to s. 69(6) of the FLA, for the purposes of determining if the proposed relocation is made in good faith, the court must consider all relevant factors, including: the reasons for the proposed relocation; whether the proposed relocation is likely to enhance the general quality of life of the child, and, if applicable, the relocation guardian, including increasing emotional well-being or financial or educational opportunities.
- [28] S. submits that A.'s proposed relocation is not in good faith, that it would disrupt the current equal-time parenting arrangement, significantly impair the relationship he has with the Children, and is not in their best interests.
- [29] It is undisputed that the primary motivation for A.'s wishing to relocate is to be together with G. and combine households with him. I have no doubt A. believes the proposed relocation will enhance her life, including increasing her emotional well-being and potentially financial or other opportunities, such as being able to start teaching at a post-secondary institution, to which she deposes having an opportunity to become involved in.
- [30] I find the proposed relocation is in good faith.

Has A. failed to present reasonable and workable arrangements to preserve the relationship between the Children and S., and others?

- [31] S. submits A. has failed to present reasonable and workable arrangements to preserve the relationship between the Children and him, and between the Children and their grandparents.
- [32] S. lives and works in Kamloops. The Children have grandparents who live in Kamloops.

[33] A. proposes a parenting schedule in which the Children spend the majority of the time with her and two four-day weekends a month with S. The parenting plan may require them to miss up to two days a month from school.

[34] The major points of A.'s proposed plan are that:

- A. and S. would exchange the Children at the Tsawwassen Ferry Terminal in Delta, British Columbia;
- The schedule would account for R.'s extracurricular activities and, in the event of S. being unable to attend an extracurricular activity with R., A. would have parenting time and S. would be given compensatory time.

[35] I find A.'s proposal is neither reasonable nor workable. It would expose the Children to a multi-hour return trip between the Tsawwassen Ferry Terminal and Kamloops twice a month. Much of the necessary travel would be in the winter when driving on Southern Interior highways is more dangerous, particularly after dark. They would have to lose time from school. While missing up to only two days a month from school may not seem significant, over time the accumulated lost time is likely to become significant. After accounting for travel, the time S. would have with the Children would be greatly reduced. The plan would be disruptive of S.'s work schedule. It would force him to incur expenses he currently does not have to incur, most significantly for fuel, and perhaps accommodation. The time S. spends with the Children would be quantitatively and qualitatively different. S. would have less parenting time, and a significant portion of it would be travel time.

Is A.'s proposed relocation of the Children from Kamloops to Nanaimo in the best interests of either T. or R.?

[36] Pursuant to s. of s. 69(2) of the FLA, the court may make an order permitting or prohibiting the relocation of a child by the relocation guardian. In making such an order, the court must consider, in addition to the factors set out in s. 37(2) of the FLA (best interests of the child), the factors set out in s. 69(4)(a) of the FLA.

[37] The Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.) [DA] also deals with relocation. Pursuant to s. 16.92 of the DA, in deciding whether to authorize a relocation, the court shall determine what is in the best interests of the child by considering the factors in s. 16, as well as: the reasons for the relocation; the impact of the relocation on the child; the amount of time spent with the child by each person who has parenting time; and the level of involvement in the child's life of each of those persons.

[38] The factors in s. 37(2) of the FLA and s. 16 of the DA are similar. I have considered them all.

[39] T.'s and R.'s health will not be greatly impacted either way by the proposed relocation, although R. has a cat allergy, which negatively affects him when S. exercises parenting time, because S. has a cat in his household.

- [40] T.'s emotional well-being is likely to be unaffected. T. appears to have a healthy and strong relationship with S.
- [41] The effect on R.'s emotional well-being is unclear. On the one hand, it seems R. currently has a greater attachment to A., which the proposed relocation is likely to increase, however, the proposed relocation is also likely to decrease his emotional attachment to S. In my view, an increased emotional attachment to A. at the cost of decreased emotional attachment to S. would be contrary to R.'s overall emotional well-being.
- [42] It is undisputed that both Children love S.
- [43] The Children have grandparents who live in Kamloops. It is undisputed that the grandparents are entitled to contact with the Children, or that they have a significant role in the lives of the Children. A. has not provided any proposal to preserve the relationship between the Children and their grandparents.
- [44] It is appropriate to consider T.'s and R.'s views, given their ages. A. places much emphasis on the fact that the Children have expressed the wish to relocate to Nanaimo. I have also considered the views of the Children, as expressed in the two Views of the Child ("VOC") reports.
- [45] T.'s expressed views have changed over time. Originally, he wished to remain in Kamloops and live full-time with S. Then he wanted to be on the week-on week-off schedule. Most recently, it appears he wishes to go and live in Nanaimo. The reasons for T.'s most recently expressed wishes are unclear. According to A., T. will be able to secure employment in Nanaimo which he cannot get in Kamloops. There is no evidentiary basis for that assertion.
- [46] According to the two VOC reports, particularly the Second VOC Report, R. experiences anxiety transitioning to parenting time with S., and is enthusiastic about moving to Nanaimo, citing opportunities to advance in baseball and other extracurricular activities.
- [47] Based on a number of things R. told the assessor, I conclude that his expressed enthusiasm about wishing to move to Nanaimo is based on things he has been told by other people within his immediate and extended family, including G. In my view, this is an important consideration to keep in mind in considering R.'s expressed views.
- [48] There is no basis in the evidence for a finding that relocating R. to Nanaimo would do anything to lessen his anxiety transitioning to parenting time with S. If anything, requiring R. to travel from Nanaimo to Kamloops for parenting time with S. is likely to only exacerbate his anxiety and increase the likelihood that he will become increasingly unwilling to have any parenting time with S.
- [49] Before separation, the Children have a history of being cared for by A. when S. was working out of town, which he often did. Post-separation, the Children have a history of being cared for by both S. and A.

- [50] T.'s need for stability may be less than it was when he was younger, given his age and stage of development. R. clearly needs stability. Determining the relocation issue will foster increased stability for both.
- [51] S. and A. both have the abilities to exercise their responsibilities, although they have different parenting styles around things such as bedtimes, time spent playing video games or using electronic devices, and food choices.
- [52] As I will discuss in more detail below, I find the evidence establishes on a balance of probabilities that T. and R. have both been directly or indirectly exposed to family violence by G., which I find, if repeated, has the very real potential to affect their safety, security or well-being. The most serious incident of family violence was directed at S. I am unable to determine from the evidence who was the target of the other incident. G. was an active participant in both incidents.
- [53] The first incident was when G. and A. attended at S.'s residence to retrieve a personal item. A physical altercation ensued, in the course of which G. assaulted S. There is a dispute about whether one or both of the Children witnessed the incident. What is undisputed is that even if they were not physically present where the assault occurred, they were close by and would have been present for the aftermath. Further, while there was no police report filed in connection with the incident, it is undisputed that the incident occurred. Based on the evidence before me about the incident, in my view, had it been reported to the police, it could have resulted in G. being criminally charged.
- [54] The second incident occurred at the residence of A. and the children in Kamloops, in which G. destroyed a television. In A.'s affidavit material she downplays the significance of this incident, and deposes that she and the Children were out for a walk at the time, however, the incident was apparently sufficiently upsetting for her that she told T. that she and G. were "done" and that he should block G. on social media. In subsequent texts between A. and T., he told her: he blocked G. on social media; he did not want to be around G.; he "hated" G.; and G. was "evil".
- [55] These incidents of family violence involving G. raises concerns about his ability to engage in proper anger management. These concerns are heightened having regard to the fact that A. proposes that G. would live in the same household as her and the Children.
- [56] It is claimed that T. is bullied at his current school and will have better employment prospects in Nanaimo after he graduates than he will in Kamloops. However, while it is undisputed that T. has been bullied at school, there is no evidence that he could not change schools in Kamloops. Similarly, there is no evidence that he would have better employment prospects in Nanaimo after he graduates than he would in Kamloops.

[57] It is claimed that R. has much better prospects for advancing in baseball in Nanaimo than Kamloops. However, while it is undisputed that R. loves baseball and is good at it, the evidence establishes that he has not yet advanced as far as he potentially could by continuing to play baseball in Kamloops.

[58] It is undisputed that R. has friends in Kamloops and has the type of personality which will result in him having friends wherever he lives.

Decision

[59] Upon careful consideration of all the various factors, I find that;

- the proposed relocation is in good faith;
- A. has failed to present reasonable and workable arrangements to preserve the relationship between the Children and S., and between the Children and their grandparents; and
- A. has failed to discharge the burden on her to demonstrate that the proposed relocation of the Children from Kamloops to Nanaimo is in the best interests of either T. or R.

Appointment of Parenting Co-ordinator

[60] S. seeks an order for appointment of a parenting co-ordinator, which he submits is necessary because:

- as recommended in the First VOC Report, he purchased a full year subscription to Our Family Wizard, but A. refuses to use this service; and
- as recommended in the First VOC Report, he proposed to A. that they engage in counselling to work on their co-parenting relationship, but she has refused.

[61] A. denies she has refused to use the Our Family Wizard service and deposes she is prepared to do so.

[62] Pursuant to s. 15 of the FLA, the court may order the parties to use a parenting co-ordinator for the purpose of implementing an agreement or order respecting parenting arrangements and contact with a child for up to two years.

[63] Based on the texts between S. and A., and the content of the First VOC Report, it is apparent that the central reason for the conflict between them is their apparent inability to consistently communicate with each other concerning parenting time issues. This is clearly something that needs to be addressed, as it is affecting not only S. and A., but more importantly, T. and R.

Decision

[64] I decline to order S. and A. to use a parenting co-ordinator, for three reasons.

- [65] First, although S. and A. have had conflict in the past, counsel for S. candidly said things are now on track, from which I infer that the previous conflict has diminished.
- [66] Second, an order for the appointment of a parenting co-ordinator will significantly affect S. and A. financially. In the past three years, S.'s gross employment income has been: \$75,982 (2022); \$92,706 (2023) and \$106,290 (2024); while A.'s gross employment income has been: \$75,982 (2022); \$75,593 (2023) and \$81,018 (2024). The evidence establishes that a parenting co-ordinator would require an initial retainer of \$5,000 from each parent, and would charge them \$350 an hour. While S. and A. each have average income, S.'s income in the past two years has been significantly higher. It is undisputed that A. finds it difficult to make ends meet and that she could not afford to pay her share of a parenting co-ordinator's accounts. Additionally, A. testified about wishing to take on a reduced role in her current employment, in order to have more time for parenting, which would result in a reduction in her income.
- [67] Third, although there is disagreement between S. and A. about A.'s willingness to use the Our Family Wizard service, in my view, their using the service would strike a good balance between having them communicate directly and in an unfiltered fashion, on the one hand, and communicating through a parenting co-ordinator on the other. I order that S. and A. will communicate using the Our Family Wizard service.

Conduct

- [68] S. seeks a conduct order.
- [69] S. deposes to a number of instances of concerning conduct in which A. has involved one or both of the Children in various aspects of the conflict between them, contrary to the provisions of the Separation Agreement. In addition, S. refers to concerning conduct in the way A. communicates with him by text and email.
- [70] Pursuant to s. 222 of the FLA, the court may make a conduct order for various purposes, including to manage behaviours that might frustrate the resolution of a family law dispute by an agreement or order, and to facilitate arrangements pending final determination of a family law dispute.
- [71] As with S.'s allegations concerning A.'s wrongful denial of parenting time, his allegations concerning A.'s conduct are corroborated by the many texts between her and the Children, and between him and her, which are exhibited to their affidavit material. That said, it is also clear from this material, and the First VOC Report, that S. and A. both bear responsibility for involving the Children in the conflict between them.

Decision

- [72] As noted earlier in these reasons, counsel for S. candidly concedes things are now on track. I am satisfied that a conduct order can accomplish the statutory purposes for the making of a conduct order, as identified above, as well as the objective of achieving compliance with the provisions of the Separation Agreement.
- [73] In the circumstances, I find it is in the interests of justice that there be a conduct order and that it be directed at both S. and A. I make a conduct order in the terms of sections 3.3 to 3.7 of the Separation Agreement.

Orders

[74] To summarize, I make the following orders:

1. Pursuant to s. 61(2) of the FLA, S. is entitled to parenting time of one week with R. as compensation for A.'s wrongful denial of parenting time at the end of July 2023. This compensatory parenting time will be exercised within eight months of the date of these reasons;
2. Pursuant to s. 61(2) of the FLA, S. is entitled to parenting time of one week with the Children as compensation for A.'s wrongful denial of parenting time at the beginning of August 2023. This compensatory parenting time will be exercised within eight months of the date of these reasons;
3. Pursuant to s. 222 of the FLA:
3. Guardianship and Parental Arrangements

[]

3.2 Guardianship will be defined as follows:

[]

- (c) each guardian will have the obligation to discuss with the other guardian any significant decisions that have to be made concerning the Children, including significant decisions about health (except emergency decisions), education, religious instruction, and general welfare;
- (d) the guardians will have the obligation to discuss significant decisions with each other and the obligation to try to reach agreement on those decisions;

- (e) in the that the guardians cannot reach an agreement on a significant decision despite their best efforts, then absent emergency both Parties shall use best efforts to mediate the issue through either a private mediator with the costs shared equally, or through the Family Justice Centre, and shall attend at least two sessions before taking other steps, and if the Parties still cannot reach an agreement, either party may apply to court for direction under section 49 of the Family Law Act;

3.3 Each parent will:

[]

- (b) encourage the Children to have a good relationship with the other parent and speak to the Children about the other parent and that parent's partner, if any, in a positive and respectful manner; and
- (c) make a real effort to maintain polite, respectful communications with each other, refraining from any negative or hostile criticism, communication or argument in front of the Children.

4 Parenting Time

[]

4.4 Commencing September 1, 2022, the Parties will have parenting time with the Children as follows:

- (a) on a week on, week off rotating basis, with the exchange day to be on Sunday at 5:00 pm; and
- (b) every Wednesday, while the Children are in school, the parent not exercising parenting time will pick the Children up after school and take the Children to school the next morning, and every Wednesday, while the Children are not in school, the parent not exercising parenting time will pick the Children up from the other parent's residence at 4:00 pm, and return them the next morning at 9:00 am;

(the "Shared Parenting Schedule").

4.5 The Parties agree that there will be a right of first refusal if either parent needs overnight care for the Children.

4.6 The Shared Parenting Schedule will be altered as follows:

[]

- (e) commencing in 2023, Spring Break shall be shared evenly between the Parties, with A. having the first week and S. having the second week;
- (f) commencing in 2022, Christmas Break shall be divided into two equal blocks with the first block commencing on the day following the last day of school. A. shall have the Children during the first block, and S. shall have the Children during the second block, with the Parties alternating blocks every year thereafter

4 Pursuant to s. 69(2) of the FLA, S. and A. are each prohibited from relocating one or both of the Children, by changing their ordinary residence in Kamloops, British Columbia, without written consent or court order.

[75] S.'s application for the appointment of a parenting co-ordinator is dismissed.

[76] A.'s application for an order that she be permitted to relocate the Children from Kamloops to Nanaimo is dismissed.

Costs

[77] S. has been substantially successful in these applications and is entitled to his costs at Scale B.

"B. Smith J."

B. SMITH J.

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