

CANADA / JUDGMENT

C.P. v. S.P.

2025 BCSC 1654

COURT

Supreme Court of British Columbia

DECIDED

27 August 2025

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2025 BCSC 1654 C.P. v. S.P.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

C.P. v. S.P.,

2025 BCSC 1654

Date: 20250827

Docket: E116185

Registry: Kelowna

Between:

C.P.

Claimant

And

S.P.

Respondent

Before: The Honourable Justice Wilson

Reasons for Judgment

The Claimant on own behalf:

C.P.

The Respondent on own behalf:

S.P.

Place and Date of Hearing:

Kelowna, B.C.

January 31, February 14, 21

and April 16, 2025

Place and Date of Judgment:

Kelowna, B.C.

August 27, 2025

- [1] There are cross applications in this family law proceeding before the Court to vary final orders already made at trial.
- [2] The claimant, C.P., seeks the following relief in her application:
- a) to adjust the parties' parenting time with their three children;
 - b) to adjust the parties' Christmas Day parenting time;
 - c) to update spousal support and child support calculations; and
 - d) for the return of a \$2,500 bond deposited by C.P. in court.
- [3] The original notice of application also sought an order for appointment of a lawyer for the children to ensure that their views are heard. However, during the application, C.P. amended her request. Instead, she asks that there be either a hear the child report or, more ideally from her perspective, that there be a judicial interview with the children to determine their views.
- [4] The respondent, S.P., seeks the following in her cross application:
1. An Order pursuant to s.61 of the Family Law Act that the Claimant has wrongfully denied the Respondent of parenting time or contact with a child;
 2. An Order pursuant to s.21-7 of the Family Rules declaring that the Claimant is in contempt of Court, along with a fine, imposition, security, and/or a notification to the Attorney General, pursuant to s.127 of the Criminal Code, to proceed with criminal contempt as this Honourable Court deems just;
 3. An Order pursuant to s.37 and s.215 of the Family Law Act to temporarily suspend the Final Order of 15 Jul 2020 so that, instead of equal parenting time with the Children on a week-on, week-off basis, that the Respondent have full parenting time of the younger 2 Children until such time as the Claimant has seen a licensed psychologist or psychiatrist at least 16 times and can demonstrate sufficient progress made on dealing with her issues. In the alternative, pursuant to s.224, an Order that the Claimant sees a licensed psychologist or psychiatrist at least 16 times within 5 months, and to provide evidence of those visits to the Respondent;

4. An Order pursuant to s.37 and s.40 of the Family Law Act that the Claimant makes a best effort to forthwith bring or return the Children to the Respondent's care in any event where they are scheduled, planned, and intended to be with the Respondent, but otherwise are not;
5. An Order pursuant to s.19 of the Federal Child Support Guidelines (SOR/97-175) to vary the Order of 25 Sep 2020 to update the Claimant's imputed income. In the alternative, an order for all necessary accounting inquiries, assessments, and references to the Registrar as it relates to income or property received by the Claimant from all sources.
6. An Order pursuant to s.215 and s.224 of the Family Law Act to vary the Final Order of 15 Jul 2020 to replace the Children's former counsellor with either one solely decided upon by the Respondent, or to one from a list of provided names and clinics;
7. An Order pursuant to s.41 of the Family Law Act to grant sole decision-making authority for the middle child, JP's hearing-related needs.
8. An Order pursuant to s.9-1 of the Family Rules that the Claimant forthwith provide a copy of all communications between the Claimant and the Children made in the last 12 months;
9. An Order pursuant to s.9-1 of the Family Rules that the Respondent be permitted to disclose communications from the Children;
10. Such further and other relief as the Honourable Court deems just.

Background

- [5] The parties have been separated for about 10 years. Prior to separation, the claimant, C.P., was a stay-at-home mother. She has since gone back to school and completed an apprenticeship as a hairdresser and has started her own business. The respondent, S.P., works as an engineer.
- [6] The parties have three children as follows:
- a) A.P. - 18 years old and has completed grade 12;
 - b) J.P. - 15 years old and going into grade 10; and
 - c) L.P. - 12 years old and going into grade 7,
- (collectively, the "Children").
- [7] The parties proceeded to trial on all matters in 2019 (reasons found at 2019 BCSC 1742) (the "2019 Decision"). The parties were self-represented at trial. The trial judge adjourned the parenting issues, which are at the heart of this application, pending receipt of a s. 211 report. Dr. Michael Elterman conducted the s. 211 report, dated February 2020. The court proceeded to determine the parenting matters when the trial resumed in 2020. The trial judge's reasons on the parenting matters are found at 2020 BCSC 1043 (the "2020 Decision").

- [8] When the trial resumed, the trial judge ordered a follow-up report from Dr. Elterman in approximately six months. Due to COVID, the report was not received until February 2023, and there have been no court orders revisiting parenting since the updated report was provided.

Applications following trial

- [9] It is important to keep in mind that this is an application to vary orders this Court made following a trial after a thorough canvassing of all of the evidence.
- [10] Section 17 of the Divorce Act governs variation applications and provides as follows:
- 17 (1) A court of competent jurisdiction may make an order varying, rescinding or suspending, retroactively or prospectively,
- (a) a support order or any provision of one, on application by either or both former spouses;
 - (b) a parenting order or any provision of one, on application by
 - (i) either or both former spouses, or
 - (ii) a person, other than a former spouse, who is a parent of the child, stands in the place of a parent or intends to stand in the place of a parent; or
 - (c) a contact order or any provision of one, on application by a person to whom the order relates.
- (2) A person to whom the parenting order in question does not relate may make an application under subparagraph (1)(b)(ii) only with leave of the court.
- (2.1) If the court makes a variation order in respect of a contact order, it may make an order varying the parenting order to take into account that variation order, and subsections (3) and (11) apply as a consequence with any necessary modifications.
- ...
- (4) Before the court makes a variation order in respect of a child support order, the court shall satisfy itself that a change of circumstances as provided for in the applicable guidelines has occurred since the making of the child support order or the last variation order made in respect of that order.
- (4.1) Before the court makes a variation order in respect of a spousal support order, the court shall satisfy itself that a change in the condition, means, needs or other circumstances of either former spouse has occurred since the making of the spousal support order or the last variation order made in respect of that order, and, in making the variation order, the court shall take that change into consideration.

- (5) Before the court makes a variation order in respect of a parenting order or contact order, the court shall satisfy itself that there has been a change in the circumstances of the child since the making of the order or the last variation order made in respect of the order, or of an order made under subsection 16.5(9).
- [11] Similarly, s. 47 of the Family Law Act, S.B.C. 2011, c. 25 [FLA] provides that that a court may change, suspend or terminate an order respecting parenting arrangements if there has been a change in the needs or circumstances of the child since the making of the order, including because of a change in the circumstances of another person.
- [12] I must view these applications, to the extent they seek to vary what the trial judge previously decided, through this lens.

Application to change parenting

- [13] C.P. seeks to vary the parenting order such that all the Children reside primarily with her.
- [14] The final order of Justice Walker, dated July 15, 2020, arising out of the 2020 Decision, dealt with shared parenting:
1. The parties shall have equal parenting time with the Children on a week-on, week-off basis.
 2. Transfers shall take place at the children's school(s) on Fridays at the end of the children's school day. When school is not in session, exchanges shall occur at 3:00 p.m., curbside at each parent's residence, shall be brief and limited to five minutes, and neither party will exit their vehicle absent a medical emergency.¹
- ...
4. Each parent shall take the Children to their scheduled extra-curricular activities when they are in their care. However, all activities that take place in the other parent's scheduled week must be agreed upon in advance and in writing. Neither Party may unilaterally schedule an activity that requires the other to take any of the Children to an activity during their parenting week.
- [15] As provided in s. 17(5) of the Divorce Act above, the party seeking to vary must first establish that there has been a material change in the condition, means, needs or other circumstances affecting the child, and that the change was one that was not reasonably contemplated at the time of the original order.
- [16] In this case, neither party sought to resume the trial based upon the updated s. 211 report. Indeed, at this point, the updated report itself is now dated - Dr. Elterman's last interviews with the Children occurred in 2022, some three years ago.

Positions of the parties

- [17] C.P. argues that both J.P. and L.P. have expressed a preference to spend more time with her and less with S.P. C.P. deposes that the Children have indicated a preference to spend more time with her, and points to the reports of Dr. Elterman in which the Children expressed similar views.
- [18] C.P. says that the Children have become more vocal about wanting to spend more time with her as they get older. C.P. points to a series of incidents or concerns that have arisen recently, resulting in the Children expressing a preference to reside primarily with her.
- [19] S.P. refers to observations and findings of the trial judge in his reasons for judgment regarding C.P. In particular, S.P. highlights the following from the 2019 Decision:
- [14] In hearing C.P.'s evidence, it is clear to me that in numerous instances, she demonstrated reluctant compliance with court orders, and in some instances, non-compliance, taking advantage of any potential for lack of clarity of a term of an order. In some instances, she pursued her rights under interim orders to an unreasonable extreme. C.P. was rebuked by the court in some instances for non-compliance with court orders.
- [15] I also find that at different points in time following their separation and up until shortly before the trial began, C.P.'s conduct impeded the children's fruitful parenting time with S.P.
- [16] I also find that C.P. has nurtured the children's uncertainty and apprehension about their relationship with S.P. She has demonstrated a lack of regard for some of S.P.'s rights as a joint guardian and S.P.'s status as the biological parent of the children. C.P. has not facilitated an easy exchange when the children were handed over from her care to S.P., and has caused them upset with prolonged emotional displays.
- [20] After stating that he was satisfied that C.P. genuinely believed that she was acting in the Children's best interests, the trial judge said the following:
- [19] That said, I continue to have reservations about C.P.'s lack of awareness of the impact of her conduct, both in and outside the litigation. In her evidence and in closing submissions, she often deflected blame on to her former lawyer for unduly aggressive and seemingly meritless applications brought in this action (such as initiating this litigation with a dubious application for a no contact order). C.P. is a bright and articulate individual who had no difficulty making logical and cogent arguments in closing submissions, including an analytical discourse of two case authorities concerning the maximum contact principle that I had made the parties aware of only the day before (*Kagan v. Brown*, 2019 ONCA 495; *Rigillo v. Rigillo*, 2019 ONCA 548). Consequently, C.P.'s continued attempts to excuse her lack of compliance with some orders on the basis that she is a lay litigant and does not fully understand them raises significant concerns about her willingness to readily comply with court orders that she does not agree with.
- [21] In the 2020 Decision, the trial judge stated the following:

[23] Unfortunately, many of the issues I identified in my Reasons concerning the nature of the parties' ongoing conflict, as well as the concerns expressed by Dr. Elterman, were manifest during the parties' evidence and submissions at the continued trial. Their communications continue to be strained despite my prior order in fall 2019 requiring the parties to appoint a parenting coordinator. That said, I am satisfied that the parenting coordinator, who was only retained in February 2020 (the delay was due to C.P.'s failure to act in a prompt manner in accordance with my order), has helped facilitate resolution of some issues.

...

[25] In his report, Dr. Elterman discussed the issue of C.P.'s conduct, concluding that she has acted out of hurt and fear of loss. In doing so, he provided this lengthy discussion which I had hoped would highlight to C.P. the negative impact of her conduct on her children:

On the question of alienation, I am aware that this is a different kind of case to the extent that the children themselves have struggled with the change in role and appearance of [S.P.]. The issue of "alienation" is more to do with whether [C.P.] has made the situation worse or has not allowed or facilitated the situation to settle in a way that it could have. The other issue is whether the alleged alienation was intentional or unintentional. In this particular case, I see [C.P.] acting out of hurt, fear of loss and resentment but not specifically setting out to ruin the relationship between the children and [S.P.]. Of the 3 children, clearly [A.P.] has most problem and has bought into her mother's narrative of what took place, the voluntariness of the transition made by [S.P.], and generally seeing [C.P.] as the victim in the marital breakdown. As the oldest child, she identifies and has witnessed her mother's hurt and anger and feels that [S.P.] has caused this and is responsible.

I think that there are things that [C.P.] has done that have resulted in the children's reactions. I think that her not appreciating the long and lingering good-byes convey a message to the children that not only will she miss them, but that only their return to her will relieve this. I think that the children's reactions about not having their photographs taken [with S.P.] to suggest that they were having a good time, may have resulted from messaging from [C.P.]. Some of the statements made by the children, such as "this is not our home" may not have come directly from [C.P.] but may have resulted from the sentiment that she expressed about them leaving her to spend time with [S.P.]. I think that [C.P.'s] statement that it is up to the children if they want to talk to [S.P.] while at the same time expressing how important it is for the children to have a relationship with [S.P.], gives a mixed message. A number of the statements such as the one made by [L.P.] that "I can't do that with you" to [S.P.] may not have come directly from [C.P.] but certainly it is a manifestation of a certain limitation put on the role that [C.P.] is allowed to play.

[26] Unfortunately, it was clear from C.P.'s evidence at the continuation of the trial and from the parties' ongoing written communications that Dr. Elterman's remarks have not resonated with her.

...

- [30] C.P. has had over four months to review and digest Dr. Elterman's report. From my observations of her while giving evidence and from the evidence of her continued approach to her conflict with S.P., I conclude that she is, at least by now, aware of many of her ongoing negative behaviours and conduct in spite of being well aware of the children's distress with S.P.'s gender transition and the marital breakup. I reject C.P.'s claim to be the victim of what she described as the "passive aggressive approach" of S.P. and of what she perceives to be S.P.'s written slights.
- [31] However, like S.P., C.P. loves her children very much and believes that she is acting in the children's best interests. The difficulty is that she has not recovered from the breakup of the marriage and has not come to terms with S.P.'s transition. She is simply not prepared to act upon any of Dr. Elterman's analysis, opinions, and recommendations that she does not agree with. Instead, as is the case with court orders, she points to parts of his report that she thinks will help her case. It is not clear to me whether each of these instances is intentional on her part or continue to be a matter of lack of insight that I commented on in the Reasons (para.19).
- [32] My hope is that C.P. will, once she has read these reasons and reflected further on Dr. Elterman's report, appreciate that her conduct is alienating the children from S.P. This is not in the children's best interests.
- [33] I found S.P.'s testimony to be credible, reliable, and consistent with the objective evidence. There are some positive changes in respect of the findings that I made in the Reasons (at para. 26) regarding S.P.'s approach to conflict and C.P. However, she continues to feel betrayed and disrespected by C.P., and in light of C.P.'s past and ongoing conduct, firmly believes that C.P. will take every opportunity to limit her parenting time and push her out of their children's lives. S.P. is still upset over C.P.'s several meritless reports of abuse to the R.C.M.P. and the Ministry of Children, C.P.'s numerous failures to comply with court orders, and C.P.'s admittedly deliberate false statutory declaration given to the government of Canada where she swore that S.P. was mentally unstable in an attempt to prevent S.P. from travelling with the children with their passports.

[Emphasis added.]

- [22] It is S.P.'s position that the comments of the trial judge remain as relevant today as they did at the time of trial. She says that C.P. continues to not comply with orders and continues to try to undermine S.P.'s role as a parent to their Children.
- [23] S.P. says that the Court on this application should make no changes to the existing parenting regime, one that was recommended by Dr. Elterman and confirmed by the trial judge.
- [24] S.P. points out that in his second report, Dr. Elterman wrote that the younger two Children had initially indicated to him that they were satisfied with the shared parenting arrangement, only to tell him something different after spending time with C.P. Dr. Elterman also expressed concern that the Children's awareness of C.P. missing them while

they were with S.P. would inevitably influence their position. For example, Dr. Elterman stated the following at page 22 of his second report when discussing his second interview with the youngest child L.P.:

In my second interview with [L.P.] I asked again about the arrangement and she responded that she likes it. She then goes on to say that she and mom [C.P.] had had a conversation where it was suggested that they would spend 2 or 3 days with mom [S.P.] and a week with mommy [C.P.]. I note that she speaks in the plural when she says "we find it too long here". When I asked further why she thinks it feels too long she replied that she does not know. The impression that [L.P.] gives is that she has heard or been told a variety of things as she picks up the same themes as the older girls but when one asks for more detail she' only really talks about the headline and not the actual issue. [L.P.] is acutely aware that her mother wants to spend more time with them and that she misses them when she is not with them. It is difficult to believe that having heard how much their mother misses them that this would not influence the children. From an interpersonal point of view if their mother is unhappy when they are away from her then only they have the ability to relieve this by spending more time with her. The girls are loyal and want to spare their mom emotionally. The concern is that the emotional need that [C.P.] displays is part of what is influencing the children to be dissatisfied at - [S.P.].

[Emphasis added.]

Discussion on parenting time

- [25] I reiterate I must be mindful of the fact that parenting of the Children is a matter that has already been the subject of a lengthy trial that took place in two instalments and in which the trial judge had the benefit of a detailed s. 211 report from Dr. Elterman. Similarly, I am also mindful that the trial judge ordered a follow-up report from Dr. Elterman, in which Dr. Elterman's recommendations were largely similar to those from his first report.
- [26] The question I must ask is whether there has been a change in circumstances since the trial decisions that would warrant revisiting whether the shared parenting arrangements remain in the best interests of the Children.
- [27] The mere fact that time has passed since the original order was made does not, in and of itself, constitute a material change in circumstances. In *Castle v. Oei*, 2020 BCSC 1392, the Court summarized the legal framework and case authorities at paras. 37 to 44 and varied the parenting order, concluding that:
- the original order had emphasized the youth of the Children;
 - five-and-a-half years represents a significant change in the Children's needs and interests against which to assess their best interests; and
 - the passage of time since an order had been made in respect of a very young child was sufficient to show a change in circumstances.

- [28] The first step in the analysis is to determine whether there has been a material change in circumstances since previous order was made, which is a flexible standard that depends on the circumstances of the parties at the time of the order. If the court finds a material change in circumstances, then the court's sole consideration is the best interests of the Children.
- [29] A significant area of disagreement between the parties is religion. C.P. holds strong Christian beliefs and those beliefs play a significant role in C.P.'s daily life.
- [30] From S.P.'s perspective, the church that C.P. attends, and that the Children also attend when they are with C.P., is antithetical to her as a transgender person. S.P. transitioned from male to female prior to the parties' separation over 10 years ago. I understand that the Children have been attending the same church since their births. It is also apparent that the Children, while not necessarily to the same degree, are all actively involved with the church in a manner that goes far beyond mere attendance of regular Sunday services.
- [31] A.P. has been residing primarily with C.P. for much of the past several months. While this arrangement does not accord with the order for shared parenting, the fact is that A.P. is now 18 years of age and has completed high school, and an order regarding her ongoing living arrangements would be inappropriate. A.P.'s relationship with S.P. is strained and I conclude that it has been for some time.
- [32] C.P. is involved in the Gardom Lake Bible Camp (the "Bible Camp") and is on their Board of Directors. A.P. has attended on numerous occasions through the years. In 2024 she worked as a staff member there.
- [33] During the summer of 2022, A.P. was registered to attend the Bible Camp for three weeks, one of which overlapped with S.P.'s regularly scheduled parenting time.
- [34] Similarly in the summer of 2023, A.P. was signed up for five weeks at the Bible Camp without S.P.'s knowledge. S.P. did not consent but eventually allowed to A.P. to attend the Bible Camp in July and August. C.P. suggested that A.P. had signed herself up for Bible Camp.
- [35] While I accept that A.P. may have filled out her registration form online, the criminal record check was completed because C.P. picked one up from the RCMP detachment, and C.P. paid for the fees. It cannot be said that A.P. unilaterally signed herself up for the Bible Camp.
- [36] In May 2024, there was a Bible Camp staff training weekend scheduled during S.P.'s parenting time. S.P. declined to grant permission for A.P. to go but A.P. went anyway. This event was referred to in some detail by both parties, and will be discussed further later in these reasons.
- [37] A.P. returned after the weekend at the Bible Camp. A.P.'s grade 11 school band trip was the following week (the "Band Trip"). The Band Trip was to go to Alberta and arrangements had also been made for A.P. to see her grandparents on S.P.'s side of the family. S.P. revoked her consent for the band trip and therefore A.P. missed the Band Trip, which was to be the highlight of the school year.

- [38] During the summer of 2024, A.P. was again signed up for five weeks at the Bible Camp. S.P. agreed to A.P. attending only one of the five weeks of the Bible Camp in 2024, and claims she was wrongfully denied 63 days of parenting time during this period.
- [39] A further example of C.P.'s attitude towards S.P. was illustrated by an opportunity for A.P. to travel to Guatemala in March 2025. Rather than discussing it with S.P. in advance, C.P. took steps to register her such that A.P. would know that if she did not get to go, it would be solely as a result of S.P.'s decision. S.P. ultimately consented to A.P.'s travel to Guatemala.
- [40] For her part, S.P. is strict with the Children and will withhold privileges or enjoyable experiences (such as school trips). For example, S.P.'s withdrawal of consent for A.P. to go on the Band Trip could be viewed as a harsh response.
- [41] As a further example, on June 12, 2024, the middle child J.P. was initially told she could not attend her end of school year event, akin to graduating from elementary school because she referred to S.P. as "dad". It was only after J.P. apologized that she was taken to the event much later in the evening. The event started at 6:30 PM, but S.P. did not take her until 8:45 PM.
- [42] These events illustrate what might be described as harsh consequences for a child, and may also explain why the Children at times express a preference to spend more time with C.P.
- [43] There are letters from A.P. and J.P. both expressing a wish to spend more time with C.P. However, I am satisfied that the possibility of C.P. improperly influencing the Children against S.P., a concern identified by Dr. Elterman and the trial judge, remains. The second of Dr. Elterman's reports makes conclusions on the last page:

My concern about the current arrangement now is that [A.P.] is likely to influence the younger two children who seem more satisfied with the current arrangement than they are willing to articulate. For example, in contrast to what [J.P.] and [L.P.] told me on both of the first interviews it would seem that they were influenced following the second interview to take a position more consistent with what C.P. had wanted. My recommendation is therefore that the younger two children, [J.P.] and [L.P.], continue with the present arrangement but that [A.P.] would then only attend on the Friday afternoon after school and return to C.P. on Sunday at 7pm. [J.P.] and [L.P.] would continue until the following Friday. My other recommendation is that C.P. seek further counselling from a licensed psychologist or psychiatrist to deal with her emotional issues around separation and loss. I would recommend that she start counselling soon and attend a minimum of 16 sessions. Part of the agenda relates to bringing the children into the conflict, keeping the boundaries between the adult and child issues and also their experiencing of her anger which I believe continues to fuel her resentment at. [S.P.] If insufficient progress is made by the summer vacation then the Court might consider having the children spend the summer months with [S.P.]. I would like C.P. to see this as an opportunity and an incentive to accomplish the therapy which has become quite apparent she needs.

- [44] C.P. would prefer to return to the split custody that was the arrangement in August 2017. The Children were with S.P. from Wednesday evening until Sunday morning, which allowed the Children to go to church with their mother on Sunday mornings and to attend youth group on Tuesday evenings. At present, the Children miss half of their church-related activities because S.P. refuses to let them attend. It is apparent that C.P. and the Children are fully immersed in church-related activities, and that S.P. does not particularly like those activities because of the church's position on LGBTQ+ issues.
- [45] However, this application is not intended to provide an opportunity to relitigate past issues. The question is much narrower: has there been a material change in circumstances since the trial order?
- [46] S.P. concedes that she does not seek any parenting orders regarding A.P. I accept that no orders are appropriate for parenting time for A.P, who is 18 years of age and has finished high school.
- [47] In all of the circumstances, I am not persuaded that anything has changed, other than the Children are now a little older. C.P. in her affidavit deposes that the Children continue to struggle with S.P.'s transition. However, J.P. and L.P. were under four years old and under one year old respectively when S.P. transitioned. It is most unlikely that either of them remembers S.P. from before. Similarly, A.P. was six years old at that time.
- [48] As Dr. Elterman said, it is C.P. who continues to struggle with S.P.'s transition from male to female, not the Children, and C.P. also continues to encourage the Children to align with her views, whether deliberately or otherwise. This was the case at trial and it is still the case now.
- [49] Since I am not satisfied that there has been a material change as required under s. 17(5) of the Divorce Act that would result in a reconsideration of the existing parenting order, C.P.'s application is necessarily dismissed, with the exception that an order is no longer appropriate regarding A.P. and the Final Order shall be amended accordingly. It is therefore unnecessary to consider whether a hear the child report or judicial interview would be appropriate.
- [50] I note, however, that given Dr. Elterman's comments in his second report that I referred to above regarding C.P.'s influencing the Children against S.P., it is highly unlikely that I would have considered myself sufficiently qualified to conduct an appropriate interview of the parties' Children.

Christmas parenting time

- [51] C.P. also applies to vary the current parenting schedule because the result of the schedule ordered by the trial judge is that the Children spend virtually every Christmas day with S.P.

- [52] In the 2019 Decision, Justice Walker ordered, by consent, that "parenting time on Christmas Day shall be the full day to the parent entitled to parenting time and shall not be split."
- [53] I decline to make the order sought. There has been no material change in circumstances. Additionally, the trial judge explained in great detail the need for a specific and defined parenting schedule, which include concessions by each party on other holidays and significant dates, and there is nothing in the evidence presented on this application that would suggest that the parties would benefit from any change. Certainty and structure would appear to be of primary importance in this case and therefore I decline to make the order sought.

Wrongful denial of parenting time

- [54] S.P. argues that C.P. continues to act in breach of court orders, even though she has been frequently reminded that they are not optional.
- [55] The parenting arrangements have been week-on week-off since the trial. The parties exchange the Children's belongings directly, often while the Children are at school. C.P. has taken to not dropping off A.P.'s belongings and A.P. has not attended or has only been partially present for S.P.'s parenting time on various occasions from late 2024 to early 2025.
- [56] A.P. is now 18 years old. While it seems that C.P. has supported A.P.'s decision to spend less time with S.P. than was ordered, the practical reality is that the court must necessarily be reluctant to order a child who will soon be graduating high school and turning 18, to do anything.
- [57] S.P. applies for an order pursuant to s. 61 of the Family Law Act that C.P. has wrongfully denied her parenting time or contact with the Children. She also seeks an order that C.P. be held in contempt.
- [58] S.P. refers to a number of examples of what she says is a wrongful denial of parenting time, but the primary instances that are of concern are the instances when A.P. went to the Bible Camp during S.P.'s scheduled parenting time in 2024. S.P. says that she was wrongfully denied from seeing A.P. during these periods.
- [59] Following the Final Order of Justice Walker arising from the 2020 Decision, C.P. is not to arrange any activities for the Children during S.P.'s parenting time. It does not appear to be disputed that the three weeks of Bible Camp in 2022, and five weeks of Bible Camp in each of the summers of 2023 and 2024 included significant periods during S.P.'s parenting time.
- [60] Additionally, the weekend Bible Camp trip in 2024 was during S.P.'s parenting time. On this occasion, C.P.'s fiancé's son picked up A.P. to take her to Bible Camp. On all occasions, it appears from the evidence that C.P. coordinated and paid the fees for A.P.'s Bible Camp trips.

- [61] The incidents in 2024 appear to be of most significance to the parties. According to C.P., A.P. made her own arrangements, including rides to the Bible Camp. However, I am satisfied that C.P. facilitated A.P.'s actions without S.P.'s permission in breach of the parenting order. I reject C.P.'s explanations in which she tries to minimize her role in A.P.'s attendance at the Bible Camp.
- [62] All of that said, A.P. was 17 years of age at the time and even in Dr. Elterman's report from February 2023, he identified A.P.'s relationship with S.P. as being strained.
- [63] It was as a result of A.P. attending Bible Camp the weekend of May 2024 as opposed to visiting with S.P. that S.P. withdrew her consent for A.P. to go on the Band Trip.
- [64] Because S.P. withdrew her consent for A.P.'s attendance at the Band Trip, A.P. refused to go to S.P.'s home and went to stay with family friends, the Hart's, for a week instead.
- [65] S.P. describes her decision to revoke consent at para. 27 of her Affidavit No. 29:
27. As a result of [A.P.]'s choices, reckless behavior, dangerous actions, and demonstrated lack of trustworthiness, and in order to ensure that [A.P.] would not jeopardize hers, or her classmates' safety, reputation, schedules, or plans, I was forced to make the difficult decision to not let her attend the band trip that had previously been agreed upon and planned on for 27-31 May 2024.
- [66] The affidavit does not explain what was meant by A.P.'s "reckless behaviour" or "dangerous actions", or how A.P.'s participation in the Band Trip might jeopardize the safety, reputation, or schedules of her classmates. I conclude that S.P.'s evidence is at times overstated. For example, she also says that Mr. Hart prevented S.P. from seeing A.P. after S.P. withdrew her consent for A.P. to go on the Band Trip, but this is not correct because although A.P. was staying at the Hart's, A.P. went to school every day, and presumably S.P. could have seen her there.
- [67] The difficulty I have in terms of the order sought by S.P. - an order that there has been a denial of parenting time, and a sanction in contempt - is that A.P.'s refusal to see S.P. is more a function of the deterioration of S.P.'s relationship with A.P. as opposed to a denial or withholding of A.P. by C.P.
- [68] As such, the fact that S.P. did not see A.P. for an extended period of time would appear to be a decision made by A.P. and not one made by C.P. The fact that C.P. was clearly aware of what A.P. was doing does not necessarily result in the conclusion of a denial of parenting time by C.P. Indeed, the examples provided by S.P., with a weekend at the Bible Camp during May 2024, the five additional weeks of Bible Camp in the summer of 2023 and 2024 and the week spent at the family friends, all involve time that A.P. was with neither parent.

- [69] The best interests of the child are the only consideration in making parenting or contact orders with a child, and the caselaw is clear that older children must be given a significant amount of autonomy when refusing contact with one of their parents: *K.L.S. v K.M.S.*, 2017 BCSC 1315 at para. 15.
- [70] That said, depending on the circumstances, where it is the child who is resisting parenting time, the court may find a wrongful denial of parenting based on a more nuanced view of the source of the resistance from that child. This issue is canvassed in *K.R. v. J.W.*, 2016 BCSC 225 where Mr. Justice Betton states:
- [59] A pattern of wrongful conduct that frustrates an agreement or order such that parenting time is not fully available is a wrongful denial. A parent need not say the word "no" to scheduled parenting time for them to communicate a denial nor must they physically prevent the parenting time from occurring for it to be a wrongful denial. The cumulative effect of less definitive words and actions may suffice.
- [60] When a child is resisting the parenting time accorded a parent by the order or agreement, it is appropriate to view the origins of that resistance. A parent who encourages that resistance by words and/or actions can, in my view, be said to be denying parenting time and, depending on the circumstances, it may be a wrongful denial.
- [61] In circumstances such as this case, an assessment of the parent's response to that resistance can be critical. If the response is situationally appropriate but ultimately unsuccessful in overcoming the resistance, the parent should not be found to have wrongfully denied parenting time.
- [71] The decision in *K.R.* is similar to the circumstances of this case in that the action of one of the parents, while not explicitly denying parenting time from the other, has denied parenting time by encouraging the child's resistance through their words and actions.
- [72] The starting point on an application regarding wrongful denial of parenting is that court orders are to be complied with. Once a denial of parenting time has been established the onus shifts to the offending parent to show that the denial was not wrongful. Only reasonable denials of parenting time will excuse a denial: *A.N. v. A.M.N.*, 2021 BCSC 2228 at para. 17.
- [73] In *S.C. v T.J.P.B.*, 2022 BCSC 418, a 10-year-old child's resistance to the parenting time was brought as a defence to an application for wrongful denial of parenting time under ss. 60 and 61 of the FLA. In *S.C.* at para. 40, Associate Judge Robertson concluded that the respondent's decision to take a hands-off approach with respect to the claimant's parenting amounted to a failure to exercise her parental authority and a wrongful denial of parenting time.
- [74] *S.C.* relies on *A.N.* at paras. 20-28 for its legal basis. *A.N.* is a case involving older children (16 and 14), making it more similar to the circumstances here. In *A.N.*, Justice Murray similarly found that a father who had been condoning the children's wishes to be at his home rather

than at the mother's had a responsibility to ensure that the court-ordered parenting time was followed. Justice Murray concluded that if he truly believed that he could not do so or that it was not in the children's best interests, it was his responsibility to make an application to court to vary the order: at para. 25. As a remedy for the wrongful denial, Murray J. awarded a \$5,000 fine.

- [75] On the other hand, in *L.L. v A.L.*, 2025 BCSC 551 at paras. 99 -103, Justice Greenwood varied an agreed parenting arrangement on the basis that the parties' 13-year-old daughter could not be forced to attend parenting time if she refused to go. Justice Fitzpatrick in *T.L.M. v D.J.M.*, 2023 BCSC 2059, comes to the same conclusion at para. 66 respecting an application for wrongful denial brought by the father of 13-year-old boy who refused to visit the father's home despite the mother's best efforts.
- [76] The distinguishing feature between these lines of authorities appears to be the role of the parent in influencing the child's behaviour. The cases where the court finds a parent wrongfully denied parenting time regardless of a child's refusal to attend all involve findings of influence or encouragement on the part of the breaching parent. In contrast, parental influence is not present in the cases that conclude the parent cannot force the child to attend parenting time with the other parent. Fitting this into the analysis, where a parent is influencing a child's behaviour, it is difficult for that parent to then show the denial of parenting time is reasonable.
- [77] In this case, I conclude that A.P.'s resistance to S.P.'s parenting time stems from C.P.'s encouragement of that denial. The Bible Camp incidents are the clearest examples of the denial, and S.P. raises other examples in her affidavits.
- [78] I conclude that C.P. actively encouraged A.P. to not go to S.P.'s home during S.P.'s parenting time by facilitating A.P.'s attendance at the Bible Camp. If C.P. found herself unable to persuade A.P. to go to S.P.'s home or that it was in A.P.'s best interests to not go to S.P.'s home, she should have applied to vary the order. She did not do so until well after the fact.
- [79] Even if the court finds a wrongful denial of parenting time, the decision to impose a remedy under s. 51(2) is discretionary: *K.R.* at para. 23. In *K.R.*, although Betton J. found a wrongful denial of parenting time had occurred, he did not consider it in the child's best interests to make an order related to contact or parenting time under s. 61(2), but rather ordered the claimant pay a fine to the respondent for the benefit of the child: *K.R. v J.W.* at para. 84.
- [80] I conclude that C.P. wrongfully denied S.P.'s parenting time with A.P. by facilitating A.P. missing her scheduled time with S.P., but I will not order compensatory parenting time with A.P., nor is such an order sought by S.P.
- [81] I find that a fine is the appropriate remedy, which I set in the amount of \$1,000, to be paid from the funds posted by C.P. as security.
- [82] I therefore decline to make orders for the other sanctions sought by S.P.

Application to change Children's counsellor and for sole decision making authority for J.P.'s hearing needs

- [83] S.P. applies for an order to vary the final order of July 15, 2020, to replace the Children's former counsellor, either with one determined solely by S.P., or alternatively, for S.P. to select a counsellor from a list of names. S.P. also seeks an order that she have sole decision-making authority regarding J.P.'s hearing-related needs.
- [84] The trial order relating to counselling provides as follows at para. 8:
8. C.P. and S.P. shall continue to take each child to [their counsellor] in accordance with her recommendations, for so long as [their counsellor] determines counselling is necessary. Counselling shall only stop upon the written advice from [their counsellor] or such counsellor any of the Children may be seeing in the place of [their counsellor].
- [85] Subsequent to the trial, S.P. filed a complaint against the Children's former counsellor with the governing body for registered clinical counsellors. While the governing body did not accept all the complaints, it is apparent from a letter from the BC Association of Clinical Counsellors that they upheld certain aspects of the complaints to varying degrees. I accept that their current counsellor is therefore no longer appropriate in the circumstances.
- [86] Both parties agree that the Children should have counselling, but there is no agreement as to who the new counsellor should be. Indeed, while I recognize that S.P. has identified a number of organizations with counsellors on staff in her affidavit, it is not apparent that a great deal of effort has been made to identify a mutually acceptable counsellor, notwithstanding that both agree it would be in the Children's best interests.
- [87] Turning to the issue of J.P.'s audiologist. J.P. has a hereditary hearing disorder inherited from S.P. S.P. says that she is in the best position to address J.P.'s hearing needs.
- [88] J.P.'s previous audiologist with Interior Health made a number of recommendations regarding J.P., and sent those along to their clinical counsellor. The letter includes the following:

I am [J.P.]'s audiologist and have been requested by [J.P.]'s biological mother [(C.P.)] to write to you regarding concerns for [J.P.]'s access to audiological services. Although [J.P.] and [C.P.] reportedly want to receive services as listed below, her biological father [S.P.] has declined them for [J.P.], which is documented in [J.P.]'s file with us.

[C.P.] and myself, are concerned for [J.P.]'s mental health. [J.P.] has reportedly had frequent inconsolable outbursts involving her hearing aids. She recently needed her hearing aids replaced/refurbished and was given loaner hearing aids to wear in the meantime while her own hearing aids were sent out for repair. The loaner hearing aids were the exact same make, model, and program configuration as her own hearing aids, yet they caused such anxiety/distress for [J.P.] that both parents called my office informing that she needed to miss school because of it. When [J.P.] received her replaced brand new hearing aids; again she was in distress and left my office in

tears. This is not a typical reaction exhibited by a child with hearing loss, and indicates that there are other stressors causing such a reaction.

[Emphasis added.]

[89] The letter went on then to make a series of recommendations, all of which are noted in the letter as having been declined or refused by S.P. The last paragraph of the letter states the following:

I am concerned that this pattern of service refusal is having a detrimental impact on [J.P.]'s social, emotional, and physical well-being. I strongly recommend all of the above services to [J.P.] in order for her to reach her best potential in life while living with a hearing loss. I am also concerned that this service refusal is going against [J.P.]'s wishes for her own well-being.

[90] S.P. refers to the italicized portion of the first paragraph of the letter and says that J.P.'s audiologist has "blatantly misgendered" her. S.P. reported J.P.'s audiologist to her governing body and she is no longer J.P.'s audiologist.

[91] In her affidavit, S.P. explains why she disagreed with J.P.'s former audiologist's various recommendations. The Court is not in a position to determine the validity of S.P.'s opposition to the various recommendations nor as to the suitability or appropriateness of her as J.P.'s audiologist. That said, it is readily apparent that J.P. needs an audiologist, just as the Children should have a counsellor, and consent of both parents is required for anyone to assume those roles.

[92] While there may or may not be merit to S.P.'s complaints about the various treatment providers to their professional governing bodies, and I make no findings or comments in that regard, I am also concerned that there may be some merit to C.P.'s submission that there is a pattern of behaviour whereby if S.P. does not like what the service provider says, S.P. will revoke consent to preclude the Children's participation, file complaints to the various governing bodies, and withdraw the family from any further involvement with that service provider.

[93] In the circumstances, I have concluded that it would not be appropriate for either party to have sole decision-making authority regarding either the Children's counsellor or J.P.'s audiologist. As the parties can not come to an agreement on these issues, I find it appropriate for a parenting coordinator to assist them, as discussed later in this decision.

S.P.'s application for production of various communications involving the Children

- [94] First, S.P. wants permission or approval from the Court to be allowed to attach and put into evidence certain communications between the Children and C.P.'s lawyer and also the s. 211 writer Dr. Elterman. I advised her that the normal practice would be to either send the documents to the other party and ask for their position, or alternatively, to attach them to an affidavit and wait to see if the other party objects. I would not grant a blanket permission without seeing the documents.
- [95] The second aspect was that S.P. wants copies of all communications (presumably texts, etc.) between C.P. and the Children. I told her that it was highly improbable that such an order would be granted. It would not be in the best interests of the Children. The Children should generally feel free to communicate with their parents without fear of having everything ending up in an affidavit. It may be that there are certain communications that could be significant or important, and I acknowledge that C.P.'s affidavits include certain text messages between the Children and her. However, I generally put very little stock in text messages. By comparison, the letters written by the Children likely reflect their views at that time the Children wrote them but are not necessarily comprehensive statements. Text messages are even less reliable in this regard. They are typically sent unfiltered and unedited and are generally of much less value than parties believe.
- [96] I decline to make the orders sought for production of communications.

Parenting coordinator

- [97] The parties have previously had a parenting coordinator, although the parenting coordinator's term expired some time ago. It appears that the parties continue to disagree on virtually all matters involving the Children, both large and small, and each demonstrate a very limited ability to communicate appropriately and respectfully with the other.
- [98] The need for both parties' consent for both a new counsellor and an audiologist for J.P. are examples of important matters where the parties are hamstrung due to the requirement for the consent of both parties and their very differing opinions on matters. I consider that many of the matters that were put before the Court on this application are ones that could be more appropriately addressed by a parenting coordinator who would be in a position to respond more quickly.
- [99] If the previous parenting coordinator is willing to assume the role again, that would obviously save costs for the parties given his familiarity with their file. However, if he is unwilling to assume the role or if the parties do not agree, the parties are to pick another qualified parenting coordinator within 30 days of the date of these reasons, failing which the parties may attend before me and I will decide.

Support obligations

[100] As I indicated earlier, an applicant must demonstrate a material change in circumstances before the court will undertake a review of support obligations ordered following a trial (Divorce Act, s. 17). However, if the original trial order provided for a review of support, there is no need to establish a material change.

[101] In this case, the trial judge's order provided for annual reviews for each of the first four years after the trial. The trial judge's order of September 20, 2020, provides for the following at para. 1:

1. Paragraph 31 of the Order issued from trial on 11 Oct 2019, is varied as follows:

Each party shall exchange financial information, in the form of sworn Form F8 financial statements, including all attachment income statements, income tax returns and notices of assessment as required by the Rules, annually before June 30 of each year. Child and spousal support shall be adjusted, in writing, in accordance with the Guidelines by no later than 30 July of each year, until July of 2024. Failing agreement, they shall forthwith apply to court for determination. After July 2024, the review period shall be established by written agreement. Failing agreement, the Parties shall apply to court for determination.

[102] Because the trial judge ordered annual reviews, proof of a material change in circumstances is not required for a review of any of the parties' support obligations, up to and including 2024.

[103] The quantification of both spousal support and child support therefore depends on the court's determination of the parties' respective incomes for support purposes.

Incomes

[104] C.P. applies for a retroactive and prospective variation of support. S.P.'s cross application seeks an order to impute income to C.P.

[105] Pursuant to the order of the trial judge, the parties share parenting of all three Children. As such, child support is determined based on their incomes, whether actual or imputed. Additionally, S.P. is obligated to pay spousal support at the mid-range amount, which must be determined after child support has been ascertained.

[106] The actual evidence regarding the parties' incomes since the trial is sparse.

[107] According to C.P.'s affidavit #25, the parties were obligated to provide each other with Form F8 financial statements annually and she deposes that they have done so. Only some of those financial statements were before the Court at this hearing, however.

[108] C.P. deposes that the incomes of the parties in the intervening years have been as follows:

Year

C.P.'s Income**S.P.'s Income**

2021

\$21,940

\$85,000

2022

\$19,253

\$112,407

2023

\$22,947

\$137,883

S.P.'s Income

[109] S.P. responded in detail to C.P.'s affidavit #25, but made no specific comment or response to the paragraphs pertaining to her income. I therefore assume that S.P.'s income as set out in her income tax returns is correctly summarized. S.P.'s income for support purposes is not controversial because she is a T4 employee. I accept that her income is as set out above. In the absence of any apparent controversy, and subject to one aspect I will address later, I assume the above chart to be accurate.

C.P.'s Income

[110] C.P.'s income is more problematic. After the parties separated, she took a course to become a hairdresser and has pursued that occupation since.

[111] When the issue of C.P.'s income was before the trial judge, he noted that C.P. was just starting to work as a hairdresser and that her income was inevitably affected by the COVID-19 pandemic. Although there are no formal reasons for judgment for this on file, there was a transcript of proceedings available, which appears to be the trial judge's reasons.

[112] At the time the matter was argued, September 15, 2020, it was only six months after the pandemic had started and a lot of face-to-face work was not possible. The trial judge concluded there were a number of ways to look at C.P.'s income:

- a) CERB payments, which would work out to \$24,000 per year;
- b) available income to hairstylists in Canada and in British Columbia, that indicated a range of between \$37,000 and \$39,000 per year; or

- c) to impute income based upon the minimum wage of the time, which would equate to slightly over \$30,000 per year.

[113] In the result, the trial judge concluded that it would not be reasonable to expect that C.P. would be able to work full-time at minimum wage primarily on account of the pandemic and ultimately concluded that an income of \$27,500 should be imputed for the purposes of determining the parties' respective support obligations.

Positions on C.P.'s income

[114] The parties have very differing views of how C.P.'s income ought to be determined at this time, almost five years later.

[115] C.P. says that her income no longer needs to be imputed and that we can use her actual income. She points out her actual income is lower than the amount imputed to her.

[116] C.P. has tendered a doctor's note that says that she can only work two days a week; however, the note is a couple of sentences only, and does not set out the basis for the opinion or how the doctor reached his conclusion. The note is wholly insufficient and falls far short of what would be required for acceptance as an expert opinion. I will therefore disregard the doctor's note because it has no evidentiary value.

[117] S.P. suggests that C.P. be imputed an income over \$100,000. In coming to this amount, she has exhibited to her affidavit a number of advertisements and job postings that could be extrapolated to income of about that range.

[118] S.P. refers to C.P.'s F8 financial statements that disclose financial assets of \$103,000 one year followed by \$132,000 the following year. S.P. argues that the increase should be taken into account in determining C.P.'s income.

[119] Finally, S.P. suggests that C.P. is hiding income and as such her income as reflected in her tax returns is not accurate.

Discussion of C.P.'s income

[120] I reject S.P.'s arguments about the increase in assets and hiding of income.

[121] As for the increase in value of assets on C.P.'s later F8 financial statements, nothing in the evidence suggests this was anything other than appreciation of the assets. One would not expect there to be any statements of investment income, for example, if all that had happened was assets had appreciated. Absent any evidence of an ability on the part of C.P. to acquire new assets, these various investment assets are likely previously divided family property. The appreciation of financial assets is no different than if a home had appreciated due to market forces. These increases in value of financial assets are not treated as income, just as a reduction in market value would not lower income for support purposes.

- [122] Next, there is absolutely no evidence to support S.P.'s suggestion that C.P. is 'hiding' income, such that her actual income is actually much greater than she has disclosed on her various income tax returns. I reject the suggestion that I adjust C.P.'s actual income based on a failure to disclose.
- [123] The starting point for the determination of income is the definition of income in the Federal Child Support Guidelines, SOR/97-175 [Guidelines]. Section 19(1)(a) of the Guidelines provides that the court may impute an amount of income to a spouse "as it considers appropriate in the circumstances", which includes circumstances where the spouse is intentionally under-employed or unemployed. Under s. 19(1)(a), the court considers a party's capacity to earn income, and whether the party is not earning to capacity: *Marquez v. Zapiola*, 2013 BCCA 433 at para. 37.
- [124] There are a number of options open to me for determining C.P.'s income for support purposes. First, I could use C.P.'s actual income as she has suggested.
- [125] Second, it may be reasonable to impute income at minimum wage - if her career as a hairdresser has proven to be financially unsuccessful, she may need to find an alternative source of income that is more remunerative. This would put her in the range of approximately \$36,000 per year.
- [126] Third, I could infer that she should be able to make something more than minimum wage as a hairdresser.
- [127] I do not accept that C.P. is unable to work full time. As I indicated earlier, the short 'doctor's note' is not admissible evidence of a reduced ability to work. My determination of C.P.'s income will therefore be based on the assumption that she is capable of full-time work.
- [128] In the circumstances, I conclude that it is reasonable to impute income to C.P. pursuant to s. 19 of the Guidelines. However, I can see no reasonable basis to impute an income in the magnitude argued by S.P.
- [129] While S.P.'s materials include advertisements for hairdressers for various but higher rates of pay, there is no evidence before me that would enable me to conclude that C.P. is capable of getting any of those jobs, or that she would succeed in them. The question when imputing income is not what can other people in a similar trade or profession earn, but rather what would be a reasonable amount for the party against whom an order is sought to make. Industry averages or positions for which the person might be qualified might inform the analysis, but the focus remains on the earning ability of the party against whom the order is sought.
- [130] That said, it is also not reasonable for C.P. to persist with a career as a hairstylist if she makes significantly less than minimum wage. It may be that C.P. chooses to continue in her chosen line of work, but there comes a point when it is no longer reasonable from a child support perspective and also from the perspective of someone who seeks to continue to receive spousal support to continue to earn less than she is capable of earning. To be clear,

I am not persuaded that C.P. has the ability to make a significant income as a hairstylist. Rather, sufficient time has now passed such that C.P. ought to have considered other options.

[131] I impute income to C.P. in the amount of minimum wage, which now amounts to approximately \$36,000 per year, something she ought to have been earning as of 2024.

[132] I conclude that support will be calculated based on an imputed income for C.P. of \$36,000 for 2024, and on an income of \$27,500, which was the amount imputed by the trial judge in 2020, for the intervening years.

[133] Finally, it is not apparent to me as to whether S.P.'s income, as summarized above and as taken from C.P.'s affidavit #25, is stated after spousal support has been deducted or before deduction. According to C.P.'s notice of assessment for 2021, her line 15000 income was \$21,940. Her 2021 income tax return shows income at line 15000 of \$21,940.38, which is consistent with the notice of assessment and includes \$4,128 of spousal support received. Her 2022 income tax return shows a total income at line 15000 of \$19,254.20, of which \$4,128 was spousal support payments received.

[134] The parties' respective support obligations must be determined based on their incomes before adjustment for spousal support. I assume the parties will be able to determine the appropriate amounts for the four reviews ordered by the trial judge. If they are unable to do so, there will be a reference to the registrar, who will certify the amount of any amounts payable in accordance with these reasons.

Section 7 expenses

[135] Although C.P. referred to section 7 expenses in her notice of application, I heard little about any specific examples of controversy. The order by the trial judge was as follows:

9. By consent, if one party incurs the cost of counselling or special expenses, they shall be reimbursed by the other party with the other's [sic] party's share within 30 days of the other party being presented with a written request for payment and particulars of the expense.

[136] This term of the trial judge's order remains in force and effect.

C.P.'s application for return of bond

[137] C.P. applies for the return of the \$2,500 bond she paid into court resulting from this Court finding that she previously wrongfully denied S.P. parenting time in February 2022. On March 28, 2022, Justice G.P. Weatherill found that there had been a wrongful denial of parenting time and ordered compensatory parenting time. Relevant to this application, he also made the following order:

3. [C.P.] shall pay \$2,500 into court within 30 days, to be held in court pending further court order. [C.P.] may apply to have the funds paid out to her after 6 months if she complies with all court orders, including this one.
- [138] I remain concerned about C.P.'s reluctance to comply with court orders she does not agree with, something that was specifically noted by the trial judge. My conclusion above that C.P. has wrongfully denied parenting time and must pay a \$1,000 fine from the bond demonstrates that this concern remains relevant.
- [139] In my view, the bond continues to be required to serve to motivate appropriate conduct on the part of C.P. and I therefore decline to order the remainder of bond returned to her as requested.
- [140] C.P.'s application for return of the remainder of the bond is denied at this time, and she may reapply in a further 12 months.

Suspension of parenting time pending counselling

- [141] In his follow-up report, Dr. Elterman recommended that C.P. receive further counselling from a licensed psychologist or psychiatrist and recommended that she attend a minimum of 16 sessions. The notice of application specifically sought the following order in this regard:
3. An Order pursuant to s.37 and s.215 of the Family Law Act to temporarily suspend the Final Order of 15 Jul 2020 so that, instead of equal parenting time with the Children on a week-on, week-off basis, that the Respondent have full parenting time of the younger 2 Children until such time as the Claimant has seen a licensed psychologist or psychiatrist at least 16 times and can demonstrate sufficient progress made on dealing with her issues. In the alternative, pursuant to s.224, an Order that the Claimant sees a licensed psychologist or psychiatrist at least 16 times within 5 months, and to provide evidence of those visits to the Respondent
- [142] Contrary to the specific relief sought, the court may have the ability to require someone to attend counselling, although I note in this case the parties did not return to attend before the trial judge following Dr. Elterman's second report, but the court does not have the ability to make an order that would somehow require a person to "make progress with their issues".
- [143] C.P. advised during the hearing that she had completed counselling. When asked to point to where in the evidence this confirmation could be found, she was unable to do so, but said that she could provide a follow-up affidavit if necessary. She was provided an opportunity and an filed an additional affidavit confirming that she had completed counselling.
- [144] As such, I decline to make any order with regard to item number 3 (regarding suspending parenting time) from the notice of application.

Summary of orders made

[145] I make the following orders:

Parenting orders

[146] The existing parenting order remains in place, with the exception that it no longer applies to A.P.

[147] C.P. shall pay S.P. \$1,000 for wrongful denial of parenting time pursuant to s. 61(2)(g) of the FLA drawn from C.P.'s bond held in court.

[148] I order the parties to retain a parenting coordinator within 30 days. If the parties are unable to agree to a parenting coordinator, they will advise me through Supreme Court Scheduling and set a hearing before me for directions. The terms of the parenting coordinator shall be as set out in Schedule "A" of this decision.

Support

[149] S.P. shall pay retroactive and prospective child and spousal support to the C.P. according to the terms of the trial decisions and based on the parties' incomes as determined in this decision calculated before adjustment for spousal support. If necessary, there will be a reference to the registrar, who will certify the amount of any amounts payable in accordance with these reasons.

[150] For the reasons set out above, I decline to make all other orders sought by the parties.

"Wilson J."

Schedule "A"

Parenting Coordinator Terms

[1] Pursuant to s. 15 of the Family Law Act the parties will forthwith retain a member in good standing of the Roster of the British Columbia Parenting Coordinators Roster Society (the "Society") as parenting coordinator (the "Parenting Coordinator"), for a minimum term of 24 months, on the terms provided in this Order and in the most current form of generally accepted precedent for a parenting coordination agreement endorsed by the Society (the "Standard PC Agreement"); provided that where terms of this Order conflict with the Standard PC Agreement, this Order will prevail.

[2] The Parenting Coordinator shall be agreed upon by the parties no later than September 26, 2025, with liberty to apply to this Honourable Court failing agreement.

[3] The Parenting Coordinator may assist the parties in the following manner:

- a) by building consensus between the parties, including, but not limited to, by:
 - i. developing and instituting guidelines for the implementation of the parenting terms of this Order;

- ii. developing and instituting guidelines for communications between the parties;
 - iii. identifying, creating and implementing strategies for resolving conflicts between the parties;
and
 - iv. providing information respecting resources available to the parties for the improvement of their communication or parenting skills, and
- b) subject to the specific provisions of this Order, pursuant to s. 18 of the Family Law Act, and in the event the parties cannot agree on any matter respecting their parenting responsibilities as defined in s. 41 of the Family Law Act, by making a determination on such matters subject to s. 19 of the Family Law Act.
- [4] The fees, disbursements and other charges of the Parenting Coordinator will be shared by the parties proportionate to their incomes, actual for S.P. and imputed for C.P., under this order, subject to the Parenting Coordinator's authority to reapportion the total parenting coordination costs between the parties as provided in the Standard PC Agreement.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/25/16/2025BCSC1654.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/c-p-v-s-p-2025>

Prepared on 26 October 2026 · Esheria