
CANADA / JUDGMENT

D.D.D. v. K.D.D.

2020 BCSC 1633

COURT

Supreme Court of British Columbia

DECIDED

7 August 2020

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2020 BCSC 1633 D.D.D. v. K.D.D.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

D.D.D. v. K.D.D.,

2020 BCSC 1633

Date: 20200807

Docket: E51733

Registry: New Westminster

Between:

D. D. D.

Claimant

And

K. D. D.

Respondent

Before: The Honourable Madam Justice Wilkinson

Oral Reasons for Judgment

In Chambers

Counsel for the Claimant appearing by teleconference:

M.S. Dhanoya

Counsel for the Respondent appearing by teleconference:

K.E.S. Ashton

Place and Date of Hearing:

New Westminster, B.C.

August 6 and 7, 2020

Place and Date of Judgment:

New Westminster, B.C.

August 7, 2020

- [1] THE COURT: This is my ruling on the claimant's application filed November 14, 2019, in this family law matter.
- [2] This is an application of the claimant for an order that the parties will implement the parenting schedule that is recommended in the report written by Mr. Gerry Bock of the Re-Connect Program, dated September 16, 2019 (the "Bock Report"). Mr. Bock is a registered clinical counsellor. He testified at this application in furtherance of his recommendations. The claimant makes this application because he says that the Bock Report recommendations are recommendations referred to in the final order in this matter pronounced by Justice Blok on December 19, 2018 (the "Final Order") and as such must be implemented.
- [3] The respondent submits that the Bock Report is not the kind of report set out in the Final Order and the parties therefore are not bound to implement them.
- [4] The Final Order provides, amongst a variety of other relief, in paragraphs 1(d) and 4 that:
- 1 (d) The family shall be referred to one of the programs listed below, to act as an integrated and professional team in relation to the counselling terms of this Order:
- i. REACH program;
 - ii. Family Forward Program; or
 - iii. Re-Connect Program.
- ...
- 4 The Re-Connect Program team will make recommendations in regard to parenting time for the claimant and the respondent, which the parties will implement, and if one party disagrees, he/she is at liberty to apply to Court to determine the issue.
- [5] That order was pronounced in the context of the parties reaching agreement through mediation. These terms were based on recommendations made by Mr. Robert Colby, a registered psychologist, in his s. 211 Family Law Act psychological assessment report of September 21, 2017.

- [6] With respect to parenting, in addition to the parenting arrangements, Mr. Colby recommended the following in Recommendation Number 6:

It is recommended that the above interventions with this family, specifically in regards to addressing issues of K's, E's, and M's relationship with their father, requires an integrated and professional team, working together in providing services for all family members. Such an intervention team would provide therapeutic intervention services for the children by one team member, while therapists work individually and jointly with each of the parents. There are a number of programs available within the Lower Mainland in that regard.

That is the source of the three programs referenced in the Final Order. Furthermore, Mr. Colby goes on to describe the purpose of the programs recommended:

The goal of such programs is both to provide resources, education and intervention to each of the parents, while assisting the parents in developing an integrated and concise co-parenting model to re-establish the parent/child relationships within the family.

- [7] It is clear to me that the order of Justice Blok contemplated that any subsequent recommendations to be implemented arising from involvement in such a program in which the parties participated would be those made by, and I quote from Mr. Colby's recommendation:

. . . an integrated and professional team, working together in providing services for all family members. Such an intervention team would provide therapeutic intervention services for the children by one team member, while therapists work individually and jointly with each of the parents.

The goal of such programs is both to provide resources, education and intervention to each of the parents, while assisting the parents in developing an integrated and concise co-parenting model to re-establish the parent/child relationships within the family.

- [8] The work underdone in support of the Bock Report does not meet that standard. The report is written by Mr. Bock alone and the recommendations are not made by an integrated intervention team as a result of the process contemplated and intended in the Final Order. Therefore, I find that the respondent was not bound to apply to court if she disagreed with those recommendations, and the parties are not bound to implement them.

- [9] I also have concerns about the context of the report's creation and its contents. Mr. Bock testified he undertook to write the report at the request of the claimant and, more importantly, undertook the intervention with this family on his own and not part of an integrated team, because he says the claimant and possibly the respondent, though I understand she denies it, wanted to save money in the process. He says there was a written contract with the parties, but he cannot produce it since his records have been destroyed. The claimant has not produced a copy and the respondent does not recall signing one.

- [10] Furthermore, I have serious concerns about Mr. Bock's independence and impartiality, and the assumptions and opinions he expresses in the report. He engaged directly with the claimant without the participation of the respondent when the claimant contacted Mr. Bock requesting that he write a report. Mr. Bock further advised the claimant as to what the report would likely say, and how it could be used in the court process. Once provided with that information, it appears the claimant asked Mr. Bock to write the report. Mr. Bock also received from the claimant a number of the claimant's affidavits filed in this matter and reviewed them but did not receive any from the respondent.
- [11] Mr. Bock did not deny inappropriate conduct while undertaking a counselling session in July 2019 with the parties' 14-year-old son. One question asked was about what the son would think if "I (Mr. Bock) was dating your mom?" and saying that if the son did not agree to see his father it would cost his parents a lot of money and the court could make him live with his father fulltime. Mr. Bock stated he could not recall whether he asked such a question or made such a statement. The respondent, who was present at the session, in her affidavit was very clear in her recollection of Mr. Bock's questions and statements and her attempts to intervene. When confronted with the respondent's testimony, Mr. Bock stated since he had no record of that happening he would have to say it did not happen since he would have written it down. That was the last session the son attended with Mr. Bock, due, on the evidence before me, to the son's request.
- [12] Mr. Bock's lack of recollection of whether he asked such a question or made such a statement is questionable. Such an incident should stand out if it occurred.
- [13] Mr. Bock assessed the respondent as not being a capable parent primarily on the basis that she was unable to force that same 14-year-old son to meet with the claimant. The evidence was that she did not put up any barriers for those meetings, that she encouraged them, and that she was cooperative with Mr. Bock.
- [14] Mr. Bock acknowledged that his conduct did not cast him in the best light and that he made missteps. In hindsight, he stated he should have insisted that the team be involved. Mr. Bock certified his report as that of being one of an independent expert. However, Mr. Bock took on the role of advocate for the claimant instead of being an impartial independent third party making recommendations to the Court.
- [15] In addition, I do not find that Mr. Bock had sufficient information to make the recommendations he made. Those recommendations would result in a radical change in the parenting arrangements from the original 2018 Final Order without an adequate foundation. There is very little in the report about the other sons, there were few sessions involving the respondent, and Mr. Bock did not attend at the respondent's home.
- [16] Therefore, even if his report did qualify under the terms of the Final Order, I cannot find that his recommendations are in the best interests of the children.

[17] For these reasons, I dismiss the application of the claimant which means the parenting arrangements set out in the Final Order remain in place.

[Submissions on continuation of Final Order provisions]

[18] It is still part of the order that the parties participate in an integrated intervention program. So I would ask the parties to investigate the best method of going forward. That may be a continuation with the Re-Connect team as I understand they were fully engaged after Mr. Bock provided his report, but not involving Mr. Bock, or finding another comparable program that might be more affordable to the parties. However, you might end up -- it might be a false economy because a new team at another organization would have to familiarize themselves with the parties. I will leave that to you to explore, but I do think it is in the best interests of the children to proceed with engaging in an integrated intervention team process as originally ordered.

[Submissions]

[19] Costs are ordered to the respondent on Scale B.

"Wilkinson J."

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