

CANADA / JUDGMENT

D.G.T. v. V.J.I.

2023 BCSC 1061

COURT

Supreme Court of British Columbia

DECIDED

21 June 2023

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2023 BCSC 1061 D.G.T. v. V.J.I.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

D.G.T. v. V.J.I.,

2023 BCSC 1061

Date: 20230621

Docket: E212931

Registry: Victoria

Between:

D.G.T.

Claimant

And

V.J.I.

Respondent

Corrected Judgment: The text of the judgment was corrected at paragraph 54 on January 26, 2024.

Before: The Honourable Justice Branch

Reasons for Judgment

Counsel for the Claimant:

B. MacLeod

The Respondent, appearing in person:

V.J.I.

Place and Date of Trial:

Victoria, B.C.

January 3-6, 9-12, 2023

Written Submissions Received:

January 20, 2023

Place and Date of Judgment:

Victoria, B.C.

June 21, 2023

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I. INTRODUCTION

[1] In this family law proceeding, the key issue is the establishment of appropriate parenting time arrangements in the face of an allegation of child abuse.

- [2] I am unable to conclude that the claimant engaged in the abuse alleged by the respondent. The shared parental arrangements established below reflect that finding.

II. BACKGROUND

- [3] The claimant is 42 years old. He grew up in Penticton and later moved to Victoria. He owns a company that manufactures athletic compression pants. He also works part-time as a mortgage broker. He earns approximately \$72,000 per year.
- [4] The respondent is 34 years old. She was born in Switzerland, but grew up in Victoria. After her parents separated when she was five, she did not spend overnights at her father's home. She attended a French language school. The respondent was the victim of sexual abuse as a pre-teen. She graduated from high school, but did not pursue any post-secondary education. She worked as a nanny, personal trainer and gymnastics coach, among other positions. Line 150 of her recent tax filings show earnings of \$12,662 in 2019, \$24,853 in 2020 and \$27,201 in 2021. In 2022, she was working as a delivery driver. She was not working at the time of trial, however. She did agree that she has the capacity to earn \$25/hour in a full-time position.
- [5] The respondent committed a domestic assault on her partner while living in Minnesota in 2014. She agreed that she has anger management issues and has received treatment for same.
- [6] The parties met while working together at a Victoria hotel in 2008. They were never a formal couple, but did "hook up" sporadically over the following years. The respondent became pregnant in early 2017. She advised the claimant that he may be the father. There is some dispute about their respective reactions to the pregnancy, but this is not material to the issues before me. Each party now accepts that they are the parents of the child.
- [7] B.T., a casual friend of the claimant's, and independently an acquaintance of the respondent's, provided evidence that the respondent initially told him that she had been impregnated by a sperm donor. Later, after he learned that the claimant may be the father, he challenged the respondent on her earlier statement. The respondent told him she would do whatever was necessary to ensure the claimant did not raise the child. The respondent disputes this evidence. She alleges that B.T. is a drug dealer and a problem gambler, and that he cheated on his wife. B.T. vehemently denies these allegations, and the respondent offered no corroborating evidence for her claims.
- [8] The child was born on October 27, 2017. She has lived primarily with the respondent. Initially, this was necessitated by the fact that the respondent was breastfeeding the child. However, the claimant did visit with the child several days a week, even during this period. The respondent was initially pleased with the claimant's level of engagement, and felt he was a good father. The photographs presented at trial showing the claimant's interactions with the child support this view.

- [9] In 2018, the parties decided to see if they could develop a romantic relationship. This attempt failed miserably. The claimant says there was an incident where the respondent threw a large Tupperware tub at him while holding the child. The respondent does not deny throwing the tub, but says she cannot recall if the claimant was holding the child.
- [10] The claimant also alleges that the respondent assaulted him in August 2018, during a trip to Whistler. The respondent attacked the claimant, giving him a black eye, among other injuries. The respondent broke her pinkie finger in the altercation. The claimant considered laying charges, but eventually decided not to. The respondent did not deny this incident.
- [11] The claimant says that the respondent would also periodically allege that "she could ruin me with a phone call".
- [12] The claimant eventually started having his own parenting time with the child. After these early visits however, the respondent alleges that she noticed that the child coming home from the claimant's residence with redness around her vagina and anus. The respondent's father, L.I., confirmed that the respondent raised this issue with him sometime before March 2020. The respondent initially attributed this to the claimant possibly being too aggressive with cleaning, or cleaning the child improperly. Given this possibility, she did not report her observations to anyone.
- [13] Both parties noted that the child was also "humping" pillows around this time. The claimant only saw this behaviour once, but remarked upon it to his mother. The respondent says it was happening at her home as well.
- [14] In October 2019, the claimant began pressing for overnights with the child. The respondent allowed one overnight per week. The claimant's mother (whom the child calls "Memaw") and stepfather (whom the child calls Grandpa Jim) were heavily involved in their son's parenting time, and they became quite close with the child.
- [15] The respondent alleges that on March 20, 2020, after the child had started speaking, the child spontaneously advised her, while in the bath, that she "washed Daddy's penis" (the "First Disclosure"). The respondent did not report this to anyone, including the claimant.
- [16] On July 28, 2020, the claimant called the respondent concerned about the fact that the child had sung a scatological song at a birthday party. The respondent pivoted the conversation to the First Disclosure. The respondent asserted that she had a video of the First Disclosure, which turned out not to be true.
- [17] The claimant denied the allegation that the child had washed his penis. He said he never bathed with the child, and that if he did, he would wear a swimsuit. He could recall only one situation where he was in the bath with the child. They were getting out of a pool, and he had rinsed himself off in the tub in his swim trunks with the child.

- [18] Later in the same July 28, 2020 call, the claimant wondered whether perhaps the child had said that she had "watched" his penis. He had left the bathroom door open in his loft apartment a few times because he wanted to hear if the child was trying to climb the stairs. He recalls that his daughter did come in and ask him what he was doing. Rather than making a big deal out of the situation, he told her that he was peeing and that boys urinate out of their penis. The claimant noted that the child had also been asking about his male dog's penis around this time.
- [19] On July 29, 2020, as part of follow-up emails on the parenting time issue, the respondent asserted that she had noticed that the child's vagina and anus were inflamed. However, she concluded, "I do not think you have abused or acted inappropriately with our daughter". I note that the respondent says that the reason she thought the child's vagina and anus were inflamed is because "the diapers that [the claimant] uses on her sometimes are too tight". The respondent says that she did not want to believe that anything inappropriate had happened, so she let the matter be, once again.
- [20] On August 10, 2020, the respondent posted a video on her social media account entitled "Pedogate 2020" and wrote, "Do you still think this is a conspiracy theory? What if I told you child sacrifice and the consumption of blood has been taking place for so long that it's in the bible!".
- [21] On October 1, 2020, the respondent was bathing the child and asked, "Does Daddy still takes baths with you?". The child responded in the affirmative. The respondent quickly grabbed her telephone and started recording. The short video interview was in evidence, but clearly began after the conversation started. The discussion on the video went as follows:

Child: He touches (touches her vulva). I say Dad no touching!

Respondent: But he just cleans it right?

Child: He doesn't.

Respondent: What does he do?

Child: He's touching (right hand was positioned to her side, she then reaches down and touches her vulva)

Respondent: Daddy touches your vagina?

Child: Yeah.

Respondent: What else does he do?

Child: He's not cleaning [incomprehensible babbling] He's doing this and doing this [touches the side of her leg].

Respondent: Why? Why?

Child: Because he's angry.

Respondent: About what?

Child: About Memaw

Respondent: Why is he angry about Memaw?

Child: He's sad about Memaw [incomprehensible babbling]

Respondent: OK.

Child: And he does that.

Respondent: Do you say stop it?

Child: No. I didn't

Respondent: Why not?

Child: I forgot.

(the "Second Disclosure")

[22] The respondent filmed this interview in the bathtub with the child still naked.

[23] The respondent did not report the Second Disclosure to the Ministry for Child and Family Development ("MCFD") or the Royal Canadian Mounted Police ("RCMP"). Again, she attributes this to not wanting to believe it was true.

[24] The child continued to spend time with the claimant and his parents after the Second Disclosure without apparent issue. As things seemed to be going well, the claimant began to ask for multiple overnights. Initially, the respondent was reluctant. She said she could not allow it while the claimant lived in his loft apartment where the child did not have her own bedroom. (I note that the child did not, and does not, have her own bedroom at the respondent's one-bedroom apartment shared with the respondent's mother.)

[25] On December 10, 2020, the respondent forwarded two hard core pornography videos to the claimant. When he questioned whether they had been misdirected, she replied, "All 4 u daddy", followed by a bunny emoji.

[26] On March 11, 2021, the respondent sent the claimant pictures of the child in which the child appears to be naked. The respondent agrees that these pictures were staged, but she asserts that they are not suggestive.

[27] Given the respondent's demand that any additional overnights be tied to the child having her own bedroom, the claimant purchased a townhouse with two bedrooms. He moved in mid-2021. The claimant then renewed his efforts to have additional overnights. The respondent was again reluctant, this time strangely suggesting that it was her mother's decision to make. She also raised concerns about the claimant potentially being a pedophile.

- [28] The respondent says that the child advised her some time prior to August 26, 2021, that "daddy told me a secret" (the "Third Disclosure"). The claimant says that beyond telling the child that there was a secret alarm code for his new townhouse, he never told the child that there was a secret she should not tell others.
- [29] On August 27, 2021, the respondent made her first report to MCFD. By mid-September 2021, both MCFD and the RCMP completed their investigations and advised that they were not standing in the way of the claimant exercising his usual parenting time. The child had not disclosed any misconduct during their investigations, although she was interviewed by a social worker and an officer with special training in conducting child interviews (the "Stepwise Technique"). In particular:
- a) In the police interview conducted on September 1, 2021, the child indicated that she does not know what a secret is. She answered, when asked if it's something one tells people about or not, that "we tell everybody".
 - b) In its report, the MCFD made a finding that the claimant expressed an understanding that any sexual intrusion and/or abuse of the child would place her in immediate danger. The claimant was willing and able to access counseling resource through the Men's Trauma Centre, and also continued to reach out to friends and family for support. The claimant was cooperative throughout their investigation. Both the claimant and the child spoke of missing each other.
- [30] Notwithstanding these decisions by the authorities, the respondent continued to restrict the claimant's parenting time. The claimant was required to attend court on October 7, 2021, to seek a formal order. Justice Steeves made an order providing the claimant with interim parenting time, beginning with supervised time and then moving to unsupervised time. It also provided for weekly overnight visits. Finally, the court ordered that a s. 211 report be prepared ("Steeves Order #1").
- [31] On October 18, 2021, and October 21, 2021, there were text exchanges discussing the child's return to the respondent after parenting time with the claimant. The respondent indicated on both occasions that she was agreeable to the child being bathed and put in her pyjamas by the claimant. This notwithstanding that the respondent filed a Response on October 20, 2021, alleging that the child was demonstrating sexualized and other concerning behaviours after the claimant's overnight parenting time.
- [32] On October 29, 2021, the respondent sent a text message indicating that she was agreeable to the claimant having Monday, Wednesday and Friday overnights with the child.
- [33] On November 10, 2021, the parties had a telephone call in which they discussed the abuse allegations and the question of support. The respondent said that she did not want child support. She also said, once again, that she did not believe the child's abuse allegations. In seeking a potential explanation for the child's statements, the claimant noted that he did change her regularly, and that he would necessarily touch the front and back of the child's

diaper during the process. In this text, as well as the earlier ones from October, they also discussed the possibility of moving to a 50/50 shared parenting arrangement. The respondent seemed quite open to this.

- [34] On November 27, 2021, the respondent posted the following message to her social media account: "Fact: Prison inmates do more to stop pedophilia than our own government". This is only one of many other Facebook posts by the respondent regarding pedophilia over the material period.
- [35] On November 29, 2021, the respondent wrote an email stating "I no longer have any concerns regarding [the child] and am happy to sort out a schedule that works for both of us. I do not require child support and hope to follow a natural route to her health and wellness."
- [36] Matters then took a turn for the worse. On December 28, 2021, the respondent's mother, S.I., gave the child a Barbie doll. S.I. testified that the child immediately took off the doll's clothes and sniffed and scratched between its legs. S.I. asked who was doing this, and the child responded "Daddy" (the "Fourth Disclosure"). Based on this disclosure, the respondent made a fresh complaint to the authorities, and ended the claimant's parenting time unilaterally.
- [37] On January 3, 2022, S.I. videotaped a conversation with the child in French. S.I. says that they were playing a game to "get out information from her". She asked the child "what else he was doing" because "we have been desperate to get proof for [the police]". Although difficult to understand, the child appears to suggest that the claimant touched her private parts and that he doesn't let her come home (the "Fifth Disclosure"). S.I. asks what else he has done, and the child says she does not know. S.I. then says "Il n'est pas gentil, hein?" or "He is not nice, eh?".
- [38] On January 13, 2022, L.I., was with the child. L.I. is a registered clinical counselor. He read a book to the child that day entitled "My Body! What I say Goes!", which he says is intended to teach children to protect themselves from abuse. It discusses secrets. L.I. asked the child whether anyone has ever asked her to keep a secret and she replied "Yes. Daddy". The next day, while they were playing a game, L.I. returned to this topic and asked her about the secret. She said that it was that the claimant was touching her private parts (collectively, the "Sixth Disclosure").
- [39] The RCMP investigated once again, including conducting a second interview between the child and the officer who conducted the earlier interview on January 20, 2022. There were certain disclosures made over the course of this interview (the "Seventh Disclosure"). The key portions of the interview are extracted in Appendix B. I note the following points in particular:
- a) The child was only 4 years old at the time.
 - b) The respondent told the child before the interview that if she told the police what was going on, she would "not have to go back to him".

- c) The child could not remember the officer, even though she had conducted the earlier interview only four months prior.
 - d) The child was advised that there were cameras in the room, and that there were people watching whom the officer would be speaking to in due course. (This obviously creates a concern that the child would assume that the respondent was one of those watching, and that her mother would be asked for feedback).
 - e) The child was confused by a basic introductory question "Who do you live with?"
 - f) The child was sporadically distracted.
 - g) The child often did not answer in full sentences and her vocabulary was quite limited.
 - h) The child initially said that the claimant "tries" to get her to play with his penis, and later says that she never actually touched his penis, which is inconsistent with other reported disclosures. It is also notable (and concerning) that the officer drops the word "tries" in her follow up questioning.
 - i) The child stated that the abuse only happened in the claimant's new house (whereas the respondent's theory is that it began at the claimant's earlier residence).
 - j) The child did not remember that it was her grandmother who gave her the Barbie doll, even though the gift had been given less than one month prior.
 - k) The police officer comes very close to leading the child in relation to the Barbie doll disclosure, but the child still does not offer the desired detail.
 - l) The child quickly reverts to "I don't know" answers to many questions regarding the abuse.
- [40] Following their investigation, the RCMP recommended that charges be laid. However, on March 29, 2022, Crown counsel decided not to proceed further. According to the MCFD records, this decision was taken because the child was too young and was not a reliable witness. On April 25, 2022, MCFD sent notice to the claimant and the respondent that it was closing its file as well. In response to the decision by the authorities not to proceed further, the claimant took steps to reactivate his parenting time. A further motion was brought before Justice Steeves on May 6, 2022. The court ordered further supervised and unsupervised parenting time through to June 6, 2022 ("Steeves Order #2"). During the court hearing, the child was with the respondent's friend, A.P. A.P. says that they were talking about dogs, and the child said that she missed her dog, who was with her father. She then stated that she did not like her dad as he touches her private parts (the "Eighth Disclosure"). A.P. did not make a fresh report to the authorities regarding this disclosure.

- [41] There was a disclosure made to another friend of the respondent's, J.F. She was not sure when this disclosure occurred. Again, it arose out of a discussion regarding dogs. J.F. asked the child why she did not see her dog anymore. The child responded that the claimant touches her privates and would not let her go home (the "Ninth Disclosure"). It should be noted that the respondent was present for this disclosure. J.F. did not make a report to the authorities.
- [42] On May 14, 2022, there was a problematic attempt at a visit with the claimant. The claimant's parents were facilitating the transition from the respondent's home. However, the respondent and a friend named Linda disrupted the transition. They followed the claimant's parents as they tried to leave. The respondent tried to engage the parents in a discussion about the abuse allegations in front of the child. The claimant's mother said that this was not an appropriate time or place for such a discussion, but the respondent persisted. The respondent conceded at trial that she should not have pressed this issue. There is an audio recording of this visit recorded by the claimant's mother. At one point, the child becomes very upset. The claimant's parents say that she became upset when the respondent grabbed the back of the child's coat, causing her to spill her juice. One can hear the claimant's mother saying "Uh-oh, watch your drink!" in the audio recording.
- [43] On May 16, 2022, the child attended with the respondent at an ice cream parlour for a visit with the claimant and his parents. The visit went very well. The respondent went outside with the claimant's step-father for about an hour while the claimant and the child played inside. After some initial hesitancy, the child appeared to be very comfortable with her father. There were videos of this visit supporting the claimant's characterization of this visit.
- [44] On June 8, 2022, the parties attended back before Justice Steeves. On consent, he ordered further supervised parenting time for the claimant ("Steeves Order #3"). The claimant had parenting time with the child that day, supervised by the respondent's father, L.I. At that visit, the child called her father "D.". L.I. confirmed that he had previously heard the respondent tell the child to call the claimant by his first name.
- [45] On June 11, 2022, there was another visit between the claimant and the child supervised by L.I. The claimant says that the child brought a spray bottle and sprayed him in the face. After some reluctance, the child got out of the car, and the two played together in a park for some time. Later, the child and L.I. were in the car together. L.I. testified that the child asked him if his own father was bad. L.I. responded, "Not really", although he would yell and hit him on occasion. L.I. said "I've heard you call your father bad. What makes him bad?". The child responded that "he puts his fingers in my bum" (the "Tenth Disclosure").
- [46] On June 13, 2022, there was a further visit with the claimant supervised by the professional supervisor and social worker, Genevieve St. Pierre-Braiden. The child continued to refer to the claimant as by his first name rather than "Daddy", although she would revert on occasion, at one point saying "I forgot I'm calling you Daniel". The respondent admitted that she had decided to stop referring to the claimant as "Daddy", and that the child likely picked

up on that change. At this visit, the child initially asserted that she did not like the claimant, but did become somewhat more engaged over the course of the visit. She would not tell the claimant why she did not like him, but said she would tell the supervisor. When asked by the supervisor why she did not like the claimant, she said that he "touched my private parts and even [put] a finger in my bum" and that today her "bum is itchy" (the "Eleventh Disclosure"). Obviously given that presence of the supervisor, there could not have been any abuse that day, however. Later in the visit, she began playing with the claimant and referring to him as "Daddy". After a while, she returned to her assertion that she did not like the claimant. When he asked why, she responded, "Mom doesn't like you at all, and neither do I". She also indicated that she hated "Memaw and Grandpa Jim" (the claimant's parents) because they were bad like the claimant.

[47] Ms. St. Pierre-Braiden concluded her report on this visit as follows:

[The child]'s words and actions often did not align, and she frequently made statements that contradicted herself, saying she would not play with [the claimant] while actively playing with him, expressing that she would like to see Memaw and Grandpa Jim, then saying they were bad people, and so forth. [the child] appeared to be struggling with some level of comfort that she has around [the claimant], alongside the thoughts that he is bad, she shouldn't play with him, etc.

[48] Subsequently, Ms. St. Pierre-Braiden called MCFD and reported that the child did not want to stay and play with the claimant. The report generated by MCFD notes that there was no a finding of sexual abuse by the father. The report says, that "there has been ongoing concern about the conduct of the mother and the possibility that she is coaching the child".

[49] The respondent asserts that there were other disclosures of abuse made to her and her mother. However, here I have only reviewed those where there was material detail and contemporaneous reporting.

[50] Through June 2022, there were several failed visits where the respondent would either claim to be sick, or the child would not exit the vehicle. On June 20, 2022, Ms. St. Pierre-Braiden noted that the child said "I'm only going to play with you if you tell the truth". The claimant responded that "The truth is that I love you very very much and would never lie to you." On June 22, 2022, Mr. St. Pierre-Braiden reported that the child said to the claimant "You touched my privates" (the "Twelfth Disclosure"). The claimant responded, "No, I didn't". The child said that he was lying.

[51] The claimant's mother, father and step-father testified and confirmed the following:

- a) they were not aware of their son ever having been accused of sexual abuse or paedophilia; and
- b) except for the problematic incidents noted above and below, the child always seemed comfortable and happy when with the claimant.

- [52] On June 27, 2022, the respondent advised that she would not allow further visits with the claimant.
- [53] On July 4, 2022, the parties consented to an order whereby the claimant would pay \$607 in child support monthly based on an income for the claimant of \$64,000.
- [54] On July 15, 2022, Dr. Anita Snell, a registered psychologist, delivered her s. 211 report (the "Snell Report"). In the report, Dr. Snell noted as follows:

[The respondent's] responses tended to settle on a singular concept that she then repeated without adding new material. Overall [the respondent] provided less information than is customary. There were also a number of contradictory areas of response, both within and between the interviews .

The Parent-Child Observation in [the respondent's] home, while very interesting, presented with no key parenting issues of note. In summarizing this Observation, [the respondent] appeared warm, relaxed and "motherly" with [the child]

The MVMI-IV test results indicated [claimant] generally presents as energetic, ambitious and often exudes a contagious optimism. At times appearing larger-than-life with a seemingly endless exuberance, he tends to attract others into endeavors and exciting relationships. This individual may, however, suppress or otherwise disregard healthy limits and boundaries, thereby creating distress and exhaustion in himself and others

[The respondent's] MMPI-3 and MCVI-IV test results indicate that she may have one or more personality disorders. A review of [the respondent's] psychometric test result in comparison to the above description of Antisocial Personality Disorder and Histrionic Personality Disorder reveals many similarities. The Assessor is not alleging that [the respondent] definitely has a personality disorder; however, there were sufficient indicators obtained to provisionally state it is likely she meets the diagnostic criteria for one or more personality disorders. [the respondent] may lack impulse control and experience as maladaptive functioning. [the respondent] also evidenced contradictory or illogical thought processes

[The respondent] appears to be psychologically disturbed at this time

[The respondent] appears to have been preoccupied with pedophilia for many years. She stated, "I've always been concerned about pedophilia; I was abused as a preteen"

[The respondent's] Facebook site is largely focused on anti-vaccination postings, and posting concerning pedophilia

In another disturbingly illogical statement, [the respondent] stated, "Maybe [the claimant] didn't know it was wrong [to sexually abuse his daughter] because [the child] told me she 'liked it' " this statement defies logic and common decency .

- [55] The respondent was critical of Dr. Snell for not having interviewed the child. However, Dr. Snell addresses this issue as follows:

The Assessor did not interview [the child]. Initially that decision was based on the understanding that four-year-olds are subject to developmental limitations in their recall and express of events in their past. It was also a consideration that the alleged sexual abuse had occurred, variably, beginning in 2019 and the last potential occasion was late December 2021. For a child of [the child's] age to interview in June 2022, almost six months after the latest of possible assaults and up to over three years ago, it was considered highly unlikely she retained accurate memories. It was considered far more likely she had learned what she was expected to say, whether this was implicitly or explicitly established

It should be noted that once a child adopts a particular response to a question, that may become "reality" for that child, the child is not aware they are lying. Children older than six years of age are at least as susceptible to memory-distorting influences as are adults, and younger children are substantially more so. When children have been coached (e.g. by a parent in a custody dispute), even if they are later interviewed in optimally nonsuggestive ways, they may make false reports (Lindsay D. 2007).

[56] Dr. Snell addresses the reports of abuse as follows:

As the Assessment process progressed, and the MCFD and RCMP information was analysed, it became increasingly more evident to the Assessor that it was more likely [the child] had been falsely coached than it was that [the claimant] had sexually abused her. Therefore that was all the more reason not to interview [the child]. The Assessor is ethically bound to focus on [the child's] best interests; interviewing a child who has been coerced into false allegations would not be in that child's best interests. Putting [the child] in the position to once again make statements that she likely no longer knows if they are true or not, and potentially putting her in the position of being coached once again as to what her responses should be, was not tenable .

[The child] is not afraid of her father, as claimed by [the respondent], and that [the child] used words and phrases that appear to be coached

The Assessor concludes that on a balance of probabilities [the child] was falsely coached and [the claimant] did not sexually abuse his daughter. Clearly there is no way of knowing definitively what occurred in [the respondent] and [the claimant's] lives, the Assessor makes this determination on the basis of a thorough and unbiased analysis of the information available during this Assessment Process.

It is possible [the respondent]'s long-term obsession with pedophilia - per her frequent Facebook postings on this subject matter and her own admission "I've always been concerned with pedophilia; I was abused as a preteen" may have pre-conditioned her to "see" pedophilia where it didn't exist. Once convinced her daughter was being sexually abused by [the claimant]. [the respondent] may have unconsciously influence [the child] in making disclosures .

[57] Dr. Snell spoke to the impact that these abuse allegations have likely had on the child:

The toll all this has taken on [the child's] young developing psyche is heartbreaking to consider. The turmoil and confusion [the child] must be experiencing is reprehensible; she should be innocently exploring her world and instead it appears she has to navigate being fed a false reality. Children who adopt a falsehood will come to act as if the falsehood is real and they experience the fallout from such beliefs.

[The child] will require frequent, regular, long-term psychotherapy to help her unravel the harm that has been done. She is a bright child and appears to have withstood the pressures she has been under; however, the damage done to her may not be evident and it may take years of therapy and support for her to be free of the effects of what happened.

[58] Dr. Snell expressed concern about parental alienation:

It must be noted that coaching a child to make false allegations of sexual abuse is parental alienation.

[59] Dr. Snell's final recommendations are as follows:

It is the Assessor's professional opinion that despite the conclusion that on the balance of probabilities [the child] was coached to make false sexual abuse disclosures against her father and thereby caused grievous psychological harm. It is in [the child's] best interest to not be abruptly severed from her mother and maternal grandmother's care, unless otherwise indicated. If and only if, [the respondent] complies with the following Recommendations and ceases all deleterious manipulation of [the child], 50/50 parenting time will be in place. If [the respondent] and/or her family members or friends are found to be interfering with [the child's] perceptions, then it will not be in [the child's] best interest to have unsupervised time with her mother. In that case, [the respondent] and her family members will see [the child] under supervised visitation only.

The Assessor respectfully recommended that [the respondent] and [the claimant] undergo a trial of [the child] spending 50/50 time with each parent on a 2-2-3 day rotation.

It is recommended that the first contact between [the claimant] and [the child] last for two-three hours; subsequently, parenting time should increase by an additional two-three hours per visitation. [The child's] overnight parenting time with her father should occur within two weeks from the initiation of [the claimant's] parenting time with [the child]. For a period of two-three months [the claimant's] parenting time with [the child] should take place with on or both of his parents present. This is for [the claimant's] protection as much as it is for [the child].

It is further recommended that [the claimant] has full parenting responsibilities for at least the next two years. Shared parenting responsibilities may be an option after a review by the Parenting Coordinator after a two-year period.

It is respectfully recommended that a Parenting Coordinator be utilized by Order of the Court, for a minimum of three years.

It is respectfully recommended that [the child] attend psychotherapy for a minimum of two years with a Registered Child Psychologist or otherwise credentialed, experienced child therapist, once a week for a six-month period, followed by twice monthly sessions for another six months. Sessions may be reduced to once a month after one year, as indicated, at the discretion of the practitioner and Parenting Coordinator in consultation.

It is respectfully recommended that [the respondent] and [the claimant] attend regular psychotherapy sessions for at least twelve months, at least twice a month for six months and once a month for the following six months

It is respectfully recommended that [the respondent] and [the claimant] put aside their conflict and focus on cooperation and compromise, for [the child's] best interests. It is respectfully recommended that both [the respondent] and [the claimant] commit to gaining information and skills in regard to effective co-parenting and in regard to effective parenting.

[60] Neither party took steps to have Dr. Snell appear at trial for cross-examination.

[61] The parties were back in court from August 2-4, 2022 before Justice Saunders. On August 25, 2022, Justice Saunders released reasons in which he ordered:

- a) further supervised parenting time with the claimant;
- b) after two weeks, a move to a 2-2-3 schedule;
- c) that the claimant arrange for psychological therapy for the child;
- d) that the transitions be supervised;
- e) that the parenting time not be recorded;
- f) that the respondent facilitate the claimant's parenting time;
- g) that the claimant take the child to the dentist at the earliest opportunity;
- h) that the claimant arrange for the child to receive her public health vaccinations;
- i) that the child attend Happy Valley Elementary ("Happy Valley") in September 2022.

(the "Saunders Order").

[62] The claimant had taken steps to register the child at Happy Valley as early as January 2022. The school is close to the claimant's home, and the child had played in the school's playground in the past.

[63] On September 2, 2022, there was another failed visit. The child stayed behind the respondent and pounded the respondent's back with her fists. The child's behaviour became more aggressive and included smashing her head into the respondent's back.

[64] Notwithstanding the terms of the Saunders Order, the respondent took steps to register the child at the French school École Victor-Brodeur ("EVB"). The respondent took the child to EVB when school began in September. The claimant only learned of this when Happy Valley called to advise that the child had not shown up.

[65] In early September 2022, the respondent had several text exchanges with the claimant regarding schooling, suggesting that if the claimant would allow the child to attend EVB, then the transition would go smoothly:

[The respondent]: Unfortunately [the child] is very upset she will be pulled out of her current school. I can't calm her down until you give the green light

[The respondent]: It will help you greatly if you allow [the child] to keep attending her Francophone school

[66] Supervised visits between the child and the respondent resumed in October 2022. The claimant, his parents and Ms. St. Pierre-Braiden all advised that these visits went reasonably well when the respondent allowed them to occur.

[67] On October 4, 2022, Ms. St. Pierre-Braiden advised the claimant that the respondent had informed her that she would no longer be using her services, but instead would pursue a court application for the appointment of a parenting coordinator.

[68] Given the compliance issues with the Saunders Order, on October 27, 2022, the parties were back in court, this time before Justice Lamb. Justice Lamb made the following interim orders, inter alia:

- a) three visit misses would be treated as a material change in circumstances;
- b) the claimant would have sole parenting responsibilities for the items in s. 41(d), (f) and (h) of the FLA; and
- c) a parenting coordinator should be appointed.

(the "Lamb Order").

[69] But no parenting coordinator has been appointed. The respondent advised that she could not afford the cost.

[70] On December 1, 2022, the respondent alleged that the child was too upset to visit the claimant, and she purported to unilaterally cancel all future visits.

[71] On December 13, 2022, under the authority of the Saunders and Lamb Orders, the claimant arranged for the child to be picked up at EVB. The claimant brought her to Happy Valley Elementary the next day. The child stayed with the claimant and his parents for three nights. These overnights went well by all accounts.

- [72] Someone apparently made further abuse complaints to the RCMP and MCFD in late December/early January, but:
- a) there was no evidence of any specific fresh disclosures supporting these reports; and
 - b) the claimant's evidence was that he was advised that these matters were not going to be pursued further by either authority.
- [73] At some point in 2022, police officers attended at the respondent's home to discuss the fact that the respondent had distributed an intimate image of a third party without consent. The respondent says she was pressured by a neighbour to obtain a picture of the neighbour's ex-girlfriend's new partner exposing himself in a moose suit. After the respondent enticed the partner to send her the picture, she forwarded it to the neighbour. The respondent admits this was inappropriate.
- [74] During her parenting time at the start of the trial, the respondent took the child back to EVB. After a caution from the Court, the child was returned to Happy Valley.
- [75] The respondent has never brought the child to a dentist. She has not taken steps to ensure that the child received her public health vaccinations. She did not ensure that the child received a COVID-19 vaccination. She asserted that the dental care and vaccinations were unnecessary since the child has always been healthy. She says that she was awaiting further testing on the effects of the COVID-19 vaccine before allowing her to be vaccinated.
- [76] The respondent freely acknowledged that she has regularly breached court orders regarding parenting time, schooling, payment of third-party expenses, and other issues. She suggested that she now realizes the importance of respecting such orders. However, during the trial, the sheriffs reported to the Court that the respondent was frequently harassing the claimant's witnesses, even after warnings from the Court. After an allegation that the respondent had rammed the claimant's counsel's vehicle in the parking lot, I imposed restrictions requiring sheriff supervision of the respondent during breaks and when leaving the courthouse.
- [77] After the completion of the trial, MCFD pursued child protection measures resulting in a change to the parenting arrangements for the child. On January 13, 2023, MCFD contacted the claimant and asked that he not return the child to the respondent. By the middle of the following week, the claimant was advised by MCFD to keep the child in his primary care.
- [78] On February 9, 2023, a Presentation hearing commenced in the Provincial Court with Judge McKimm presiding. Pursuant to section 33.2(2) of the Child, Family and Community Service Act, R.S.B.C. 1996, c. 46, Judge McKimm ordered the following:
- a) The respondent's access with the child will be at the discretion of the Director of Child Family and Community Development's (the "Director").
 - b) The child will remain in the care of the claimant.

- c) The respondent and the claimant will ensure the child attends Happy Valley School on a regular basis.
- d) The respondent and the claimant will ensure the child attends all scheduled and necessary medical/dental appointments and will follow through with any recommendations from professionals.
- e) The respondent and the claimant will attend and follow through with programs and services required by the Director and meet with the Director to mitigate MCFD concerns.
- f) The respondent and the claimant will allow the Director to visit and inspect the home and meet directly and privately with the child at any time, whether scheduled in advance or not, as often as the Director deems necessary to ensure the safety and well-being of the child.
- g) If the respondent or claimant breaches any of the terms of this supervision order, the Director may take more intrusive measures.

[79] The claimant was advised by MCFD that he would longer be required to have his parenting time supervised.

[80] In early March 2023, the claimant was served with the Director's application for a protection order. The Provincial Court child protection process is ongoing. Given the primacy of the Provincial Court parenting orders obtained by MCFD, I temporarily stayed the issuance of my reasons until there was greater clarity about the status of those proceedings and the position of the parties, including MCFD: *R.P. v. British Columbia (Director of Child, Family and Community Services)*, 2015 BCSC 2302 at para. 26, citing *R.J.R. v. British Columbia (Children and Family Development)*, 2014 BCSC 860 at para. 70; *W.N. v. C.G.*, 2012 BCCA 149 at paras. 75-76. Later, when the parties and MCFD indicated that they did not oppose the issuance of my reasons, I lifted that stay.

III. ISSUES

[81] The claimant sought various orders in relation to parenting time, responsibilities and child support, as set out in Appendix A. These were largely resisted by the respondent.

IV. ANALYSIS

A. Introduction

[82] The appropriate parental time and responsibilities allocation is governed by the best interests test set out in s. 37 of the FLA.

[83] The dominant issue in the present case is whether the claimant sexually abused the child.

[84] Justice Shergill in *T.A.O. v D.J.M.*, 2021 BCSC 1704 described the proper approach to such allegations:

[288] In *J.S. v. S.S.*, 2018 BCSC 355 at para. 186, I summarized the two-stage analysis which the court must embark on when assessing the impact of alleged sexual touching on the best interests of a child. I must first determine whether in fact sexual touching has occurred. Facts supporting this finding must be proven on a balance of probabilities. If I determine that it is not possible on the evidence to make such findings, then at the second stage of the inquiry, I must consider whether there is a real risk that sexual touching of the child has occurred or might occur in the future.

[85] Before applying this test however, I address the credibility of the witnesses.

B. Credibility and Reliability

[86] In *Bradshaw v. Stenner*, 2010 BCSC 1398, aff'd 2012 BCCA 296, the court summarized the test for the assessment of credibility as follows:

[186] Credibility involves an assessment of the trustworthiness of a witness' testimony based upon the veracity or sincerity of a witness and the accuracy of the evidence that the witness provides. The art of assessment involves examination of various factors such as the ability and opportunity to observe events, the firmness of his memory, the ability to resist the influence of interest to modify his recollection, whether the witness' evidence harmonizes with independent evidence that has been accepted, whether the witness changes his testimony during direct and cross-examination, whether the witness' testimony seems unreasonable, impossible, or unlikely, whether a witness has a motive to lie, and the demeanour of a witness generally. Ultimately, the validity of the evidence depends on whether the evidence is consistent with the probabilities affecting the case as a whole and shown to be in existence at the time.

[Emphasis added; citations omitted.]

[87] Reliability concerns the accuracy of the witness's testimony and involves concepts such as the ability to accurately observe, recall, and recount the events at issue. A witness who is credible may be unreliable: *Celones v Chandra*, 2023 BCSC 38 at para. 112.

[88] I did not note any credibility problems with the claimant's evidence. He gave his evidence in a calm, straightforward manner. He showed remarkable restraint in the face of very serious allegations made against him. I did not identify any material inconsistencies in his evidence.

[89] Similarly, the evidence from the claimant's parents (mother, stepfather and biological father), Ms. St. Pierre-Braiden, and an MCFD team leader Diane Fownes, did not raise any credibility concerns.

[90] The claimant's friend, B.T., was clearly angry with the respondent, but this was understandable given the evidence that the respondent's mother sent to B.T.'s wife alleging that B.T. was cheating on her. Although B.T. was agitated, I did not find any inconsistencies in his evidence, and I accept it.

[91] Turning the respondent's witnesses:

- a) I accept that the respondent was generally trying to be truthful. Nevertheless, I have concerns about her credibility and reliability. For example, I find it strange that while the respondent was adamant that the alleged abuse occurred, she was willing to bargain with the claimant over several issues including overnights and schooling. It seems contradictory to risk her child's safety with someone who, according to her, is a child abuser, simply to ensure that the child goes to a Francophone school. This casts doubt as to whether the respondent truly believed the Disclosures. Further, I have serious concerns about her reliability. Her fixation on paedophilia has blinded her to the true state of affairs. She clearly wanted to convince the Court of the claimant's paedophilia at all costs. As she herself put it, "This is the hill I'm willing to die on".
- b) I have concerns about the truthfulness of the evidence provided by the respondent's mother, S.I. The respondent acknowledged that these concerns were legitimate, even went so far as to suggest that S.I.'s evidence be rejected in its entirety. S.I. was aggressive and hostile on the stand. She showed herself willing to tell obvious untruths. In particular, she asserted that she said, "Ce n'est pas gentil" or "That's not nice", notwithstanding that it is clear from the video that she said, "Il n'est pas gentil" or "He is not nice". Given her credibility problems and the extent to which she was clearly trying to lead the child to particular disclosures, I place little weight on her evidence.
- c) I also have concerns about the evidence of the respondent's father, L.I. He reverted far too quickly to "I don't remember" answers to many questions that could have damaged his daughter's position, even in relation to events that happened in the relatively recent past. He was also argumentative.
- d) I have no concerns about the credibility of the respondent's friends J.F. and A.P. The limitation on the weight of their evidence is driven by other factors, as discussed below.

C. Did the Claimant abuse the child?

[92] Only the claimant and the child were present for any alleged abuse. The claimant has vehemently denied any misconduct.

[93] In relation to the child's evidence, the preliminary issue that must be addressed is what use I can make of the hearsay Disclosures made by the child.

[94] *R v. Khan*, [1990] 2 S.C.R. 531, is the leading case on the admissibility of hearsay evidence of a child in a sexual assault context. In this case, the accused was a doctor and the child was a patient at the time of the assault, was 3 years old. While the mother was waiting in the examination room, the child and the accused were alone in his private office. After the examination, the mother noticed a wet spot on the sleeve of her daughter's clothing. The mother had a conversation about the visit and the child described an incident which would amount to a sexual assault. At trial, the conversation was excluded as inadmissible hearsay. The Ontario Court of Appeal ordered a new trial, holding that the trial judge had erred. The

accused appealed and the Supreme Court of Canada upheld the Court of Appeal's decision.

[95] The Supreme Court of Canada discussed the need for flexibility when it comes to the interpretation of the hearsay rule to permit the admission in evidence of statements made by children to others about sexual abuse: Khan at para. 26. The court held that hearsay evidence from the child on crimes committed against the child is admissible, "provided that the guarantees of necessity and reliability are met, subject to such safeguards as the judge may consider necessary and subject always to considerations affecting the weight that should be accorded to such evidence": Khan at para. 35.

[96] The traditional approach to hearsay is further altered by statute. Section 202 of the Family Law Act, S.B.C. 2011, c. 25, [FLA] states as follows:

Court may decide how child's evidence is received

202 In a proceeding under this Act, a court, having regard to the best interests of a child, may do one or both of the following:

- (a) admit hearsay evidence it considers reliable of a child who is absent;
- (b) give any other direction that it considers appropriate concerning the receipt of a child's evidence.

[97] In T.A.O., the court discussed the proper approach to a child's hearsay evidence in light of this statutory provision:

[109] Section 202 of the FLA grants this court the discretion, having regard to the best interests of the child, to admit hearsay evidence that it considers reliable, of a child who is absent. There is no necessity requirement for the exercise of this discretion, though it is met in proceedings such as this, by virtue of the fact that it would be potentially harmful for children to testify in an acrimonious proceeding: N.J. v. S.J., 2018 BCSC 2352 at para. 10.

[110] Hearsay statements of children are also admissible at common law, under the principled exception to the hearsay rule: N.J. at para. 10 and D.A.M. v. D.M.T., 2013 BCSC 359 at paras. 22-26.

[111] In N.J. at para. 14, Justice Brundrett helpfully summarized the factors established in P.V. v. D.B., 2007 BCSC 237 for assessing the reliability of hearsay evidence of children. Those factors include: "timing of the statement; demeanour of the child; personality of the child; intelligence and understanding of the child; absence of motive of child to fabricate; absence of motive or bias of the person who reports the child's statement; spontaneity; statement in response to non-leading questions; absence of suggestion, manipulation, coaching, undue influence or improper influence; corroboration by real evidence; consistency over time; and statement not equally consistent with another hypothesis or alternative explanation".

[98] In L.M. v K.M., 2022 BCSC 689 at paras. 283-286, the court also set out a comprehensive analysis:

- a) the evidence of a child's disclosures of abuse may be admitted for their truth under the principled exception to the hearsay rule;
- b) in the family law context, s. 202 of the FLA provides that in a proceeding under the Act, having regard to the best interests of a child, the Court may "admit hearsay evidence it considers reliable of a child who is absent", indicating that the only criterion is reliability;
- c) threshold reliability must be established before an out of court statement can be admitted for its truth, and if admitted, assessed for its ultimate reliability;
- d) all relevant factors must be considered, including the presence of supporting or contradicting evidence; and
- e) there are two types of reliability: (1) procedural reliability, which is established where there is no real concern about the truth or accuracy of the out of court statement because adequate procedural safeguards were present at the time it was made, and (2) substantive reliability, arises from the circumstances in which the statement came about or was made.

[99] The claimant did not dispute that the Disclosures met the test for threshold reliability. However, the claimant argues that there are many factors that should cause the court to give the various Disclosures minimal weight. I agree. Specifically:

- a) In terms of the First Disclosure, I find that there is a more reasonable alternative explanation, that being that the child said that she "watched" the claimant's penis, rather than "washed" his penis. The claimant explained how the child had an opportunity to "watch" his penis. I fear the respondent's overreaction to this First Disclosure and the discussions in front of the child flowing from this misunderstanding, may have stimulated the cascading series of disclosures thereafter. I find that the claimant and her family likely started imprinting the concept of abuse on the claimant, perhaps inadvertently, as explained by Dr. Snell. This initial concern causes the reliability of each of the subsequent disclosures to also be undercut.
- b) In terms of the Second Disclosure, (1) it did not occur spontaneously, but only in response to a direct question from the respondent; and (2) the strange transition from a discussion of abuse to a discussion of the claimant being mad at his mother (regarding which there is no corroboration) illustrates that the child's evidence cannot be accepted in its entirety given her age and lack of sophistication.
- c) The first two Disclosures about abuse allegedly taking place in the claimant's first home are undercut by the child's later evidence to the RCMP that any abuse happened after the claimant's move to his new home.

- d) In relation to the Third Disclosure, there is little specificity in terms of when the disclosure was made and what questions were asked leading up to it. Furthermore, the fact that the child had a secret is not in and of itself a disclosure of sexual abuse. The claimant offered a more reasonable alternative explanation, that being that she was referring to his secret alarm code.
- e) Looking cumulatively at the Disclosures through to December 28, 2021, it is notable that:
 - i. the child did not make a disclosure of abuse when asked more carefully about the allegations by authorities;
 - ii. the 2021 police interview would have been closer in time to the incidents of abuse than the later disclosures;
 - iii. The respondent herself continued to assert to the claimant that she did not believe the allegations made.
- f) In relation to the Fourth Disclosure on December 28, 2021, its weight is seriously undercut by (1) my findings regarding the respondent's mother's credibility, (2) the leading nature of the questioning, and (3) the failure to consider the potential for alternate explanations. The respondent's mother leapt immediately to an assumption of abuse because the child scratched and sniffed between a Barbie doll's legs. What of the possibility that the child was simply curious what the doll smelled like?
- g) In relation to the Fifth Disclosure, the respondent's mother was clearly convinced of the fact of abuse by the claimant and as explained by Dr. Snell, the child would likely have picked up on that belief. Further, the whole scenario was designed by S.I. to obtain a Disclosure, severely undercutting its reliability, particularly when coupled with her credibility problems.
- h) In relation to the Sixth Disclosure to L.I., what could be a stronger signal to the child that her grandfather was seeking an abuse disclosure than the decision to question the child using a book regarding abuse?
- i) For all but the Seventh Disclosure made to the RCMP, the witnesses reporting the statements had no training as to how best to ensure that evidence from a child is accurate.
- j) As for the Seventh Disclosure to the RCMP, although the quality of the questioning was much higher, I still find its weight to be undercut by the concerns noted above. Further, when viewed in its entirety and in its full context, the interview's support for the abuse allegation is reduced:
 - i. The child was told by the respondent before the interview that if she told what was going on, the child would not need to see her father again, clearly signalling what outcome the respondent wanted.

ii. The child did not know where the abuse occurred, other than it was in the respondent's new house. However, this contradicts the respondent's evidence that the abuse commenced while the claimant was in his old house.

iii. The child did not know when the abuse occurred, either in terms of dates or time of day.

iv. The child did not know how often the abuse occurred.

v. The child did not know when the claimant told her the alleged secret.

vi. More generally, the child's ability to recall past events is clearly compromised. She did not remember that her maternal grandmother had given her a Barbie, even though it happened only three weeks prior. She did not remember her disclosure to her maternal grandfather, even though that was only one week prior. She explains not being able to recall details around one latter disclosure by saying "it was really long [ago] " But many of the incidents of abuse all occurred much further into the past.

vii. The child did not recall to whom she had made earlier disclosures.

viii. The child did not raise the "scratching and sniffing" abuse allegation.

ix. The child initially said that the claimant only "tries" to have her touch the claimant's penis. Later the child denies having touched the claimant's penis.

x. The child initially said that the claimant touched her vagina, but then later says she did not know if anybody has touched her private parts.

i. Notwithstanding her training, there are several points where the officer's questions approach the line towards leading. For example, when asked whether there is anyone she feels unsafe with, the child initially replies "I don't know". The officer then follows up with "Do you feel safe or unsafe with daddy?".

k) In relation to the Eighth and Ninth Disclosures, while I do not doubt the credibility of the respondent's two friends, I find that the child would have been asked the same questions so often that her story of abuse would be fixed in her mind. In relation to the Ninth Disclosure, the fact that the respondent was present would likely have encouraged the child to make an abuse disclosure.

l) As for the Tenth, Eleventh and Twelfth Disclosures, I note again on the fixation and entrenchment of the child's evidence as grounds to reduce their weight.

[100] Specifically applying the factors outlined by Justice Brundrett in N.J, I make the following findings:

a) Timing of the statements: There is no indication as to when the instances of abuse occurred relative to the Disclosures. Obviously the greater the time gap, the greater the potential for the child's evidence to be inaccurate.

- b) Demeanour of the Child: The child was calm throughout the Disclosures rather than showing any obvious signs of distress. I note this with the caveat that I place little weight on this given the risk of stereotypical reasoning i.e. that there is a common recognized manner for a victim to respond to a sexual assault.
- c) Personality of the Child: While the child showed some distress during certain transitions, the child has generally been able to function well with the claimant, and is a happy child overall.
- d) Intelligence and understanding of the child: The child appears to be reasonably intelligent for her age. However, her age, intellectual capacity, vocabulary, and recall was nonetheless clearly limited. Using the language from L.M., I am not in a position to say that she is "especially advanced". Furthermore, I cannot say that the child "had no trouble expressing herself or understanding what she was being asked". There were certainly points of confusion across the various Disclosures.
- e) Absence of motive of child to fabricate: While there is no obvious motive on the part of the child to fabricate, as Dr. Snell notes, there is a risk that the child may have been motivated to speak poorly of her father after picking up on tension and hostility that her mother and her grandmother felt towards her father.
- f) Absence of motive or bias of the person who reports the child's statement: The respondent had an incentive to magnify the potential for abuse in order to maximize her parental time with the child, as did her friends and family.
- g) Spontaneity/Coaching/Absence of Suggestion/Manipulation/Undue Influence/Statement in response to non-leading questions: As noted above, in the case of several Disclosures, there were leading or suggestive questions posed to the child. I accept and agree with the unchallenged assessment of Dr. Snell that there was coaching, even if this was inadvertent. In the words of Dr. Snell "It must be noted that questioning a young child is a delicate matter; it is relatively easy to implant responses that the child believes are wanted. Young children are particularly sensitive to the status and power of their interviewers and may comply with what they think the interviewer wants to hear instead of speaking the truth. Young children are highly suggestible and will provide responses they sense are wanted, particularly so with a loved caretaker". I conclude that Dr. Snell's report should be given substantial weight even though she did not interview the child. Her explanation for not having done so is reasonable.
- h) Lack of Corroboration by real evidence: There is no real evidence supporting the abuse allegations.
- i) Consistency over time: There are problems with consistency as between the Disclosures, and indeed even within the last RCMP Interview. For example, the child's evidence migrates between allegations of washing the father's penis, to merely touching it, to the claimant trying to have her touch his penis.

- j) Alternative explanations: There are alternate explanations for many of the alleged abuse allegations. For example, it is possible that:
- i. the child "watched" not "washed" the claimant's penis;
 - ii. the child was confused by the claimant's washing the child, or changing her diaper;
 - iii. the claimant may not have cleaned the child properly or may have cleaned her too roughly; and
 - iv. the "secret" may simply have been the claimant's secret alarm code.

[101] Other factors upon which I base my conclusion that there was no abuse are as follows:

- a) the claimant was a credible witness, and as such I give his denial of any abuse substantial weight;
- b) there is no evidence that the claimant has ever shown any paedophiliac tendencies;
- c) as noted by Dr. Snell, the respondent is excessively sensitive to allegations of paedophilia. This may be understandable given that she was the subject of abuse while a child, but this obsession casts some doubt on the reliability of her suspicions; and
- d) the evidence suggests that the respondent has always been reluctant to allow the claimant more parenting time, particularly overnights. According to B.T. this reluctance began even before the child was born.

[102] Finally, I find comfort in the conclusions reached from the approach of courts in similar cases:

- a) L.M.: Although the court concluded that abuse had occurred in this case, the following aspects make it distinguishable:
 - i. the extent of reported masturbatory behaviour on the part of the child was far greater than in the present case;
 - ii. the child in the present case has not expressed the same extent of aggressiveness or emotional volatility;
 - iii. the child in this case offered far less detail as to the nature of the sexual acts;
 - iv. I have more significant concerns about the mother's reliability and credibility in this case than was the case in L.M.;
 - v. I find it likely that the respondent and her family spoke negatively about the claimant, which was not a finding made in L.M.;
 - vi. the Disclosures here were less spontaneous; and
 - vii. the Disclosures here were less consistent.

- b) T.A.O: In this case, the court concluded that there was no abuse. I note the following parallels to the present case:
- i. there were inconsistencies in the disclosures, as here;
 - ii. as here, there was no evidence that any "humping" was indicative of sexual abuse (para. 294);
 - iii. the alleged abuser was able to provide alternative explanations, as here (para. 303);
 - iv. the s. 211 report writer concluded that it was less probable than probable that the abuse occurred, as here (para. 157);
 - v. the court in T.A.O. has the same concerns about the parent reporting the abuse. The court found that "when [the child] repeated the butthole comment the following day, Ms. O. seized on it, and in the words of Dr. Elterman, she "allowed herself to think the worst of Mr. [M.] rather than seeing symptoms and behaviours as ambiguously as they objectively present". When Ms. O. shared [the child's] comments with her mother, E.H. saw it as confirmation of her own extremely negative views of Mr. M. Thus, rather than being the voice of reason, E.H. reinforced Ms. O.'s conclusion that Mr. M. must have touched N. inappropriately. The previously forgotten humping behaviour that [the child] had displayed as a child took on new meaning and was re-interpreted by the respondent and her mother as objective evidence that Mr. M. had sexually abused [the child]." (para. 293);
 - vi. there were inconsistencies in the child's reporting, as here (para. 296);
 - vii. the court concluded that the child was repeating the disclosures based on the reaction received, as here (para. 297);
 - viii. the witnesses who reported the disclosures were largely aligned with the mother making the allegations, as here (para. 299);
 - ix. the court found that there were concerns about coaching, as here (para. 300); and
 - x. the court was concerned that much of the questioning of the child was leading, as here (para. 301).
- c) T.E.A. v. R.L.H.C., 2019 BCSC 1042: The court concluded that there was no abuse in this case. Again, there are several parallels:
- i. there were credibility problems with several of the witnesses alleging abuse (para. 94);
 - ii. there was evidence of coaching (para. 94);
 - iii. there was a concern about possible alienation from the alleged abuser (para. 115);
 - iv. there were concerns that the spouse advancing the allegations suffered from personality disorders (paras. 139-147, 157);
 - v. there were credible alternate explanations provided (para. 168); and

vi. the s. 211 author did not find any safety concerns for the children while in the alleged abuser's care. Furthermore, the expert noted as follows:

[105] Dr. England opined that allegations of abuse which are made in the absence of abuse taking place can cause a child to believe that a parent has been or is being abusive to them. This can lead to destruction of a significant attachment relationship for the child, just as it would if the parent had in fact been abusive. In Dr. England's opinion, the primary need for the children is to be protected from any behaviours, both direct and indirect, related to Ms. A. making unsubstantiated allegations regarding Mr. C.

d) A. v. B., 2010 BCSC 566: The court concluded that there was no abuse in this case. Again, there are several parallels:

i. the counsellor had used suggestive materials such as the book, *The Secret of the Silver Horse*, which might lead a child into blurring fantasy into reality (paras. 13, 27, 48-49);

ii. the statements were not consistent and there were many comments that could only be described as being nonsensical (para. 47); and

iii. the child was asked numerous leading questions and the interview technique employed by an officer included suggestion, manipulation, and influence (para. 50).

[103] As well as concluding that the alleged abuse did not occur, I also conclude that there is no real risk of future abuse by the claimant: T.A.O. at para. 288.

D. What are the appropriate parenting time and parental responsibility arrangements given this finding on the abuse?

[104] Other than the allegation of paedophilia, which I have rejected, no other factors suggest that the claimant is not a good parent.

[105] The situation vis a vis the respondent is more complex. Let me begin by stating that, for all the respondent's difficulties, I do not question the love she has for her daughter. I also do not doubt that, disregarding her misguided pursuit of the abuse allegation, she wants what is best for her daughter.

[106] I conclude that the respondent has the capacity to care for her daughter. Dr. Snell agreed that the respondent is a warm and loving parent.

[107] That said, there are concerns about the respondent's ability to ensure that the best interests of the child are met, and to protect the child from harm:

a) The respondent has failed to provide the required or recommended vaccinations for the child, and has failed to provide proper dental care; D.M. v S.J., 2019 BCSC 850 at para. 84; Bilmer v. Mottaghian, 2022 BCSC 2216 at paras. 63-74.

- b) The respondent has been violent in the past, both with the claimant and with other partners. Furthermore, her demeanour during the trial, including her treatment of the witnesses and the claimant, shows a concerning lack of control. Of greatest concern is that some of the violence occurred in the presence of the child: FLA, s. 37(g); C.E.D. v. C.L.L., 2014 BCPC 34 at paras. 57, 93-94; J.B. v J.P., 2018 BCSC 2521 at paras. 46-48.
- c) There is a risk that the respondent is suffering from a series of personality disorders, as noted by Dr. Snell: R.K.B. v. R.S.B., 2020 BCSC 2172 at paras. 52-56; J. D. N. v G. M. D, 2022 BCSC 506 at paras. 34-36.
- d) The respondent has shown poor judgment in sending pornographic videos and naked or near-naked pictures of her child to the claimant. Her efforts to obtain and distribute images for her neighbour also call her judgment into question.
- e) The respondent has shown a willingness to violate court orders whenever they clash with her own opinion.

[108] In response to these concerns, the claimant proposes restrictive parenting time for the respondent. His proposed plan does not allow for a single overnight with the respondent and requires private supervision at all times, at the respondent's expense.

[109] By the close of the trial, the respondent did appear to express genuine remorse for her behaviour and states that she now realizes that she was trapped between her "mother's neurosis and [the claimant's] ambition".

[110] It must also be acknowledged that:

- a) until the recent child protection orders issued, the child has spent the vast majority of her life with her mother,
- b) disregarding the abuse and alienation issues, the child generally flourished under the respondent's care.

[111] Where does that leave us in terms of establishing a parenting time regime that respects the best interests of the child?

[112] Considering all the factors in s. 37 the FLA, I find that the child's best interests would be best served with the parties sharing the parenting time, but with the claimant having ultimate decision-making powers.

[113] Although perhaps overly optimistic, I am hopeful that the comprehensive reasons provided herein will encourage and allow the mother to accept that the claimant is not an abuser, and that her daughter is best served having substantial time with both parents. There is admittedly a serious risk that this objective will not be achieved, given that the respondent has shown so little respect for court decisions and orders in the past. Nonetheless, to maximize the child's contact with both parents, I have chosen to put substantial faith in the respondent. As Shergill J. concluded in T.A.O, "It is my fervent hope that these reasons for

judgment will serve as a wake up call to [the mother]" (at para. 328).

[114] I also attempt to craft a structure that will avoid the need for the claimant to spend much more money filing applications to enforce court orders already in place.

[115] In crafting the structure below, I also place substantial weight on Dr. Snell's recommendation that there be at least a trial of a 50/50 parenting arrangement on a 2/2/3 schedule. However, as Dr. Snell recognized, the benefit of this structure is dependent on the respondent ceasing her campaign against the claimant. As such, there must be strict protocols put in place in order to minimize the further risk of harm to the child, which includes minimizing interaction between the parties, either in person or over key decisions.

[116] I make the following orders:

- a) The respondent must refrain from speaking in the child's presence about any past alleged abuse by the claimant. For the time being, I find that this term is adequate to control the respondent's harmful conduct. I do not find that court supervision of the respondent is necessary. Beyond her fixation on the abuse allegation, the respondent has been a good mother.
- b) The 2/2/3 parenting time schedule recommended by Dr. Snell will be established. Such a schedule will largely eliminate the need for the parties to interact during transitions, at most will happen through drop-offs and pick-ups at school by each parent alone. The parties have leave to propose holiday sharing terms in the final form of order. Failing agreement, the court may be asked for further directions.
- c) Subject to the parenting time schedule above, for at least the next two years, the claimant will be given sole parental responsibility for all matters in s. 41 of the FLA, save for item (j). Again, this will minimize the need for interaction between the parties. After two years, the respondent has leave to apply to revert to shared responsibilities.
- d) Given the risk that the respondent may violate any new court orders, I provide a summary tool for the claimant to address any failings. Unless otherwise agreed by the parties, there will be a "comeback hearing" at 9 a.m. on a mutually agreeable day the week of August 21, 2023 via MS Teams. If the parties agree that the orders made herein have been respected, they may adjourn this hearing generally. If there have been any breaches, either party may file affidavits outlining those breaches four business days before the hearing, and the responding party may file responsive affidavits two business days before the hearing. If I conclude at the comeback hearing that the respondent has not followed the court orders made herein, it is likely that I will put in place the claimant's parenting time proposal outlined in Appendix A.
- e) I will remain seized of this matter generally in order to maintain consistency. However, if an issue arises that is so urgent that the parties are unable to secure an attendance before me in a timely manner, they may request that the matter to be heard in regular chambers.

E. What is the appropriate child support award?

- [117] The claimant suggests that the going forward child support award be based on an attributed income to the respondent of \$52,000 based on the extrapolation of \$25/hour position to a full-time position.
- [118] The respondent did agree in cross-examination that she had the capacity to make \$25/hour. However, I find that it is unfair to attribute to her a full year earnings at this level given that she has not earned this amount in the recent past, and she is not working currently. The respondent does not have any post-secondary education. The claimant's proposal does not consider the negative effects of the potential personality disorders identified by Dr. Snell. My own assessment of the respondent during the course of the trial is that her difficulties could well impinge on her ability to secure and maintain a full-time position.
- [119] I find that a more appropriate figure to use for the purposes of the going-forward child support calculation is the \$27,201 the respondent earned in 2021.
- [120] Based on a \$27,201 income figure for the respondent, and \$72,000 for the claimant, and considering that I have provided for a 50/50 parenting time split, my calculation of the child support payable pursuant to the Federal Child Support Guidelines, SOR/97-175 [Guidelines] is as follows: \$686 per month from the claimant and \$240.22 from the respondent, with an offsetting amount payable to the respondent of \$445.78 per month. If there are any mathematical difficulties with this calculation, the parties may address them as part of settling the trial order.
- [121] I also direct that the parties exchange income tax assessments by June 30 of each year in order to facilitate the determination of any necessary adjustments in accordance with the Guidelines.
- [122] In terms of past child support, the respondent suggested that certain agreed amounts had not been paid. The claimant did not speak directly to this issue. For sake of completeness, I confirm that any earlier agreed or ordered amounts should be paid.

F. Police enforcement

- [123] The claimant seeks a police enforcement clause. In *Visser v. Visser*, 2022 BCSC 1198, the court stated:
- [149] In *Patterson v. Powell*, 2014 ONSC 1419 [Patterson], Justice Pazaratz provided a comprehensive analysis of the issue of police assistance clauses:
78. If a judge anticipates future disputes or non-compliance, the court may wish to remain seized of the matter, and establish a framework to quickly deal with disputes -- including contempt proceedings -- to ensure that the parties clearly understand expectations and consequences.

79. In the absence of ongoing judicial intervention, and serious consequences for disobedience of court orders, long-term police enforcement clauses may prove to be both ineffectual and potentially counter-productive. Non-compliant parents are unlikely to be influenced by repeat police visits to their homes; but children are likely to be deeply (and negatively) influenced.
80. As Justice Quinn recently commented in a footnote in *Stirling v. Blake*, 2013 ONSC 5216 (Ont. S.C.J.):

When parties involve police in their access disputes, they might as well climb onto the roof of their house, straddle the peak, and, with outreached arms, proclaim to the heavens that they have failed as parents and as human beings.

- [150] While police assistance clauses are not to be granted lightly, I am satisfied by the evidence before me, including Ms. Byrne's conduct in failing to deliver the children to Mr. Visser on numerous past occasions and involving the police during an exchange of the children, that pursuant to s. 231(5) of the FLA, this is a case where a police assistance clause is justified.
- [151] In my view, the police assistance clause should have a specific focus and not be open-ended.
- [152] Therefore, I order that in the event Ms. Byrne fails to deliver all of the children by 11:00 a.m. on Sunday, July 24, 2022, to Mr. Visser's home by ensuring that they enter the front door of his home, then police officers from the Ridge Meadows RCMP Detachment are directed to apprehend the children and take the children to Mr. Visser in accordance with ss. 231(5) and (6) of the FLA.
- [153] Despite the history and the evidence before me, I am confident that Ms. Byrne will comply with this court's order. Ms. Byrne has considerable parental authority over the children and she is now called upon to use it. Ms. Byrne assured me during her submissions that she will comply with the court's order.
- [154] I agree with Pazaratz J.'s comments in *Patterson*, that where future conflicts may arise, a judge ought to seize herself. Therefore, I am seizing myself of all future applications in this proceeding for a period of 12 months.
- [124] In the present case, I do not find that it is appropriate to impose such a clause, but I am prepared to revisit that issue at the comeback hearing.

G. Contempt, Court Order Breaches and Fine

- [125] The claimant seeks a single \$5,000 fine for the respondent's many breaches of the court orders imposed in this case, either under ss. 230-231 of the FLA, or as punishment for contempt.

[126] The respondent freely admitted to her contempt and breaches, but asks only that any punishment be fair given that she says she was acting in good faith in an effort to protect the child.

[127] I find that a single fine of \$5,000 is a reasonable penalty in the circumstances, particularly given that the claimant could have sought a far greater fine on a "per breach" basis: A. N. v A. M. N, 2021 BCSC 2228 at para. 44.

H. Counselling and Parenting Coordinator

[128] The parties and the child are clearly in need of assistance. I generally adopt Dr. Snell's recommendations in this respect:

- a) I order the parties to engage with a Parenting Coordinator for a minimum period of two years post final order
- b) I order that the child attend psychotherapy for a minimum of two years with a registered child psychologist or otherwise credentialed, experienced child therapist, once a week for a six-month period, followed by twice-monthly sessions for another six months.
- c) I order that the claimant and the respondent attend regular psychotherapy sessions for at least twelve months, at least twice a month for six months and once a month for the next six months.
- d) The cost of the Parenting Coordinator and psychotherapy shall be shared by the parties in proportion to their income.

I. Status of other orders

[129] I confirm that all the other interim court orders made in this matter are no longer in effect.

V. CONCLUSION

[130] In summary then, I order that:

- a) the respondent refrain from speaking in the child's presence about any past alleged abuse by the claimant;
- b) a 2/2/3 parenting time schedule be established;
- c) subject to the parenting time schedule above, for at least the 24 months, the claimant be given sole parental responsibility for all matters in s. 41 of the FLA save for (j);
- d) the claimant pay the respondent an offset amount of \$445.78 per month for child support;
- e) the parties exchange income tax assessments by June 30 of each year in order to facilitate the determination of any necessary adjustments in accordance with the Guidelines;
- f) the respondent is fined \$5,000 for her breaches of various court orders;
- g) the parties engage with a Parenting coordinator as outlined above;

- h) the child attend psychotherapy for a minimum of two years as outlined above; and
- i) the claimant and the respondent attend psychotherapy for a minimum of twelve months as outlined above.

[131] In relation to costs, I encourage the parties to come to an agreement. Failing agreement, they may make written submissions on the following schedule:

- a) Claimant's Submission: Within 60 days of this judgment;
- b) Respondent's Response: Within 30 days of receiving the Claimant's Submission; and
- c) Claimant's Reply: Within 10 days of receiving the Respondent's Response.

"The Honourable Mr. Justice Branch"

APPENDIX A: ORDERS SOUGHT BY THE CLAIMANT

1. An Order that the Respondent have primary parenting of the child
2. An Order that the Claimant have sole parenting responsibilities of all parenting responsibilities listed under section 41 of the Family Law Act, with the exception of 410), which should be a joint responsibility.
3. An Order that the Respondent be held in contempt as she has willfully breached numerous Orders in this matter and wrongfully denied parenting time to the Claimant.
4. An Order that the Respondent's parenting time be professionally supervised, daytime parenting, to take place twice a week, once after school for a period of 3 to 4 hours and once on a Saturday or Sunday for a period of up to 6 hours, with the exception of one weekend each month where the Respondent will have two after school visits for a period of 3 to 4 hours each, so that the Claimant can have an uninterrupted weekend with the [the child].
5. An Order that the Respondent be solely responsible for the cost of the professional supervision.
6. An Order that should the court order any unsupervised parenting time to the Respondent, the parties also be ordered to engage with a Parenting Coordinator for a minimum period of two years post final order, with the cost of the Parenting Coordinator to be shared equally between the parties.
7. An Order that upon the Court being satisfied that the Respondent is wrongfully denying parenting time with the child to the Claimant, an order pursuant to s. 231(4) of the Family Law Act that any police officer within British Columbia, including a member of the Royal Canadian Mounted Police, will apprehend the child, and take the child to the Claimant.

8. Further Orders pursuant to sections 230 and 231 of the Family Law Act, in order to enforce any Order made and/or provide a remedy to the Claimant for past breaches of Orders on behalf of the Respondent and/or to provide a remedy for the Respondent's contempt; it is respectfully submitted that a fine will not sufficient given the Respondent's history of neglecting to pay for costs that she was ordered to pay for.
9. An Order for child support, and that the Claimant have an income imputed to her of \$25.00 per hour, which when working full time, is \$52,000.00, for a monthly payment of \$488.00 per month.
10. An Order for costs, including special costs.

APPENDIX B: KEY EXTRACTS FROM 2022 POLICE INTERVIEW

MG: Right now? Okay, do you sleep at daddy's house?

Child: No.

MG: No? How come?

Child: Because he (indec) because he, be', because he's bad.

MG: Oh, he's bad? Okay, can you tell me about that?

Child: Yea. Because he, because he touches, he's tries me to wash his penis

MG: Can you tell me about that?

Child: He just tries to wash it in the bathtub.

MG: He tries to wash it in the bathtub? Okay. Can you tell me more about that?

Child: I just need to play with his penis and he doesn't let me sleep over either, at my house.

MG: Oh, so he tries to, but you play with his penis?

Child: Yea.

MG: He tries you play with the penis?

Child: Yea.

MG: Okay, and how does that happen?

Child: He just tries me to play with his peni'.

MG: Okay, and how do you play with it?

Child: I don't trust him.

MG: Okay, can you tell me more about that? Why is he bad?

Child: Because he doesn't let me sleep over.

MG: He doesn't let you sleep over where?

Child: At my house.

MG: Okay. Okay. Do you know why you're here today?

Child: Because he, my daddy touches me. Because he doesn't let me sleep over.

MG: Okay, 'cause he doesn't let you sleep over?

Child: Yea.

MG: Okay. And how, and you said daddy touches you?

Child: Yea he touches me.

MG: Yea? Where does daddy touch you?

Child: He just touches me right here.

MG: Right there? And what is that called?

Child: Vagina.

MG: Vagina. Okay. And how does he touches, touch your vagina?

Child: (Indec) like that, I think.

MG: Okay, and can you tell me when did he do that?

Child: I don't know, because it's long ago.

MG: It was long ago?

Child: I think so

MG: You think so?

Child: Yea.

MG: Okay. And where were you when daddy was touching you? In the vagina?

Child: (Indec) in, in the new house. But he sold the other house.

MG: It was just you. Okay, and where in the house were you when he was touching your vagina?

Child: I was just don't know because (indec) I think it was a long time but I don't know.

MG: You think it was a long time but you don't know?

Child: Yea.

MG: Okay. How many times did it happen?

Child: Uh, I don't know.

MG: Okay. And you said something about uh, playing with daddy's penis?

Child: Yea.

MG: When did that happen?

Child: I just don't know. (Indec) because it was a very long time.

MG: You don't know because that was a very long time ago?

Child: Yea.

MG: Okay. Do you remember what house that was in when you played with daddy's penis?

Child: It was in the new house.

MG: You were just in the new house? Do you remember where? Were you outside, were you inside?

Child: I don't know.

MG: Okay. Have you told anybody else about dad touching your vagina?

Child: I just do' don't know.

MG: You don't know?

Child: (Indec).

MG: Okay, have you told anybody else about touching daddy's penis?

Child: I just don't know.

MG: No? Okay. So when daddy gets you to touch his, or play with his penis. Does daddy have pants on?

Child: I don't know.

MG: You don't know? Okay, that's alright. So have you ever, have you ever touched daddy's penis?

Child: No

””

MG: No? Okay, can you sit up again for me? I'm having a hard time hearing you. So h' has anybody touched your private parts?

Child: I don't know.

MG: Yea? Who's told you to keep a secret?

Child: Daddy.

MG: Daddy? 'Kay, can you tell me about that?

Child: (indec) just tell to keep a secret

MG: He just tells you to keep a secret?

Child: Yea.

MG: Okay, and what is the secret?

Child: He just tells me to, to, to not go to police.

MG: To not go to police?

Child: Yea.

MG: Okay, and why does he tell you that?

Child: I don't know.

MG: You don't know? When did he tell you the secret?

Child: I just don't know either.

MG: Yea.

Child: -a new one.

MG: Can you tell me about your Barbie doll?

Child: I don't know.

MG: You don't know? Does she have a name?

Child: Yea.

MG: Yea, what's her name?

Child: I just don't know.

MG: You just don't know? Oh okay. Who gave you the Barbie doll?

Child: One of my friend.

MG: One of your friends?

Child: Yea.

MG: Okay. Did Yumi come home with a Barbie doll as well?

Child: No.

MG: No? Okay. So your friends gave you the Barbie?

Child: Yea.

MG: Okay. So I, uh, I heard that when you got the Barbie doll that you were lifting up the skirt and the shirt on the Barbie doll.

Child: Yea.

MG: Yea, can you tell me about that?

Child: I don't, just don't know about that.

MG: You don't know?

Child: Yea.

MG: Okay. Were you touching the Barbie doll?

Child: Yea I was touching.

MG: Yea, where were-

Child: I play with them.

MG: You play with them? Where were you touching the Barbie doll?

Child: I just don't know.

MG: You just don't know? Okay. It's alright. I also heard that you were reading a, a, a book called my body, what I say goes.

Child: Yea.

MG: Can you tell me about the book?

Child: I just forgot because we, it was really long.

MG: No? Alright. So you told me also that um, daddy touches your vagina. Does that happen inside or outside the house?

Child: Inside.

MG: Inside the house?

Child: Yea.

MG: Okay, can you tell me what room in the house?

Child: I don't know.

MG: You don't know? Okay. Do you remember what time of day it was? Was it nighttime, was it daytime?

Child: I don't remember.

MG: You don't know? Is there anybody that you feel unsafe with?

Child: I don't know.

MG: Okay. Do you feel safe or unsafe with daddy?

Child: Unsafe I think.

MG: Unsafe you think?

Child: Yea.

MG: 'Kay. So when you said that daddy wants you to play with his penis how does that make you feel?

Child: I don't know.

MG: You don't know? Does it make you feel good or bad?

Child: I don't know.

MG: You don't know? Okay. So these things that you're telling me about dad. About dad touching your vagina. And you playing with his penis. Would that, how, how often would that happen when you were staying with daddy? Was that every day? Was it sometimes?

Child: I just don't know.

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Prepared on 25 October 2026 · Esheria