

CANADA / JUDGMENT

H.J. v. P.J.

2020 BCSC 179

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Supreme Court of British Columbia

DECIDED

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2020 BCSC 179 H.J. v. P.J.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

H.J. v. P.J.,

2020 BCSC 179

Date: 20200212

Docket: E45666

Registry: New Westminster

Between:

H.J.

Claimant

And

P.J.

Respondent

Before: The Honourable Mr. Justice Verhoeven

Oral Reasons for Judgment

Counsel for the Claimant:

I.G. Gibson

The Respondent Appearing in Person:

P.J.

Place and Dates of Trial:

New Westminster, B.C.

January 6-10, 2020

January 13,14; 16-17, 2020

January 20-23, 2020

Place and Date of Judgment:

New Westminster, B.C.

February 12, 2020

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I. Introduction

- [1] There are, broadly, two issues in this family law case. The first has to do with parenting of the two children of the marriage, and the second has to do with property and financial issues.
- [2] As I explained on the final day of trial, the first part of the decision will be rendered orally. The second part of the decision, having to do with the financial matters, will be released in written form at a later date.
- [3] The parenting issues relate to the two teenaged children of the parties. I have asked that they be present for delivery of the oral judgment. This case is all about them, and in my view, as I will explain, they are mature enough to hear from me directly. I am pleased to see that they are here today, and I thank them for attending.
- [4] For purposes of these oral reasons, for convenience, I will refer to the parties as the mother and the father, or by their first names, P. and H., and I will also refer to the children by their first names. The names will be anonymized for purposes of a transcript.

II. Background

- [5] The mother, H., is the claimant. The father, P., is the respondent. They met in late 2001. They were engaged in early 2002, and were married August 17, 2002, at Surrey, BC.
- [6] At the date of their marriage P. was 28 years of age, and H. was 27. For purposes of these reasons, I will refer to the date of separation as October 1, 2013, as this is the date the parties have agreed to in their pleadings. According to P., following separation they attempted reconciliation from February 10 to June 20, 2014. H. characterizes this differently. She says they did not attempt to reconcile. She calls this a "cooling off period." In any event, whatever it was, it ended June 20, 2014.
- [7] The parties have two children: a son, I., born November 30, 2003, and a daughter, H., born August 14, 2005. At separation, I. was nine years of age, and H. was eight. I. turned 10 shortly after the separation.
- [8] Other than a few short, supervised visits, P. has not seen the children since June 21, 2014, and has had no real contact with them. They have been completely estranged for several years now.
- [9] He seeks an order for participation of the parents and the children in a reunification therapy and counselling program. H. supports attempts at reestablishment of a positive relationship between the children and their father, with the assistance of counselling. However she contends that any parenting time between P. and the children should only occur with the consent of the children. She contends that any program for reunification therapy should be paid for solely by P. and should be subject to appropriate mechanisms including reporting to the court and court supervision.
- [10] P. has been continuously seeking parenting time since the parties separated. Court orders have been unsuccessful in helping to achieve this. By the time the parties attended a judicial case conference on September 12, 2014, P. had not seen the children for nearly three months, apart from one visit at a Dairy Queen restaurant, supervised by H.'s mother, during July. The visit was brief. The children told their grandmother they did not want to attend. They told her that they did not want to talk to a bully. P. says H. was fine, but I. was reserved, and cut the visit short. Clearly there were serious problems.
- [11] At the JCC, the parents consented to an order that they would attend with a family counsellor for the purpose of re-establishing P.'s relationship with the children, to re-establish his parenting time with the children, and to improve the co-parenting relationship between the parties. However H. insisted that access be supervised. It took time for the supervised access and for counselling to be arranged. Master Keighley made an order December 23, 2014 providing for "supervised contact" on certain specific dates, and on every Sunday for two hours, at a restaurant or other location as agreed upon by the parties. The order also provided for counselling with Mr. Robert Finlay, and ordered that H. and the children participate in counselling as directed by the counsellor. In effect, the order was for

re-integrative therapy.

- [12] However, by then, as I will explain, the alienation of the children from P. was already deeply entrenched. The visits the children had with their father pursuant to the court order went very poorly. The children were unwilling to visit with their father. They had to be forced into doing so. They refused to engage with him in any meaningful way. A handful of supervised visits occurred. By March 1, 2015, the children refused to exit the vehicle for the access visits.
- [13] Mr. Finlay met with the children for counselling purposes a number of times in early 2015. H. refused to schedule any further visits after March 1, 2015. Mr. Finlay's efforts were discontinued in mid-March 2015. The parties differ as to exactly why the Finlay counselling and re-integration program was abandoned. P. says that Mr. Finlay could not continue with the program unless P. was having parenting time with the children. H. says that P. refused to pay for any further counselling. It is not necessary that I resolve this issue as it no longer matters.
- [14] On December 4, 2015, Mr. Justice Truscott ordered resumption of supervised access on specific dates in December 2015 and January 2016. The visits were as unsuccessful as they had been previously, and were discontinued after January 10, 2016. As a result, P. has had no visits with the children since January 10, 2016.
- [15] For various reasons, efforts to bring the matter to trial in a timely way were unsuccessful. Both parties were unrepresented at various times. Trial dates were set in 2016, 2018, and 2019. Adjournments resulted in the trial finally commencing before me January 6, 2020. At trial, P. was self represented, and H. was represented.
- [16] Although in June 2015 H. applied for the appointment of an assessor under s. 211 of the Family Law Act, S.B.C. 2011, c. 25 [FLA], no such appointment was made until 2017, when by agreement of the parties Dr. Michael Elterman was engaged. There ought to have been a court order appointing Dr. Elterman. Neither party takes any issue with admissibility of his report and his evidence. I accept that his report and evidence has the same effect as if it were made pursuant to an order of the court.
- [17] Dr. Elterman's report was issued October 7, 2017, more than two years prior to the commencement of trial. Adjournments of the trial resulted in the report and evidence being somewhat stale by the time of trial. Nevertheless, as I will explain, I found Dr. Elterman's report and evidence helpful.

III. Report and Evidence of Dr. Elterman

- [18] Dr. Elterman is a professional psychologist who is very experienced in conducting the type of assessment he has done in this case. I have relied on his evidence in several previous cases. As in the past, in this case I found his evidence thorough, fair, and insightful.

[19] A summary of the most salient portions of Dr. Elterman's report and evidence is as follows:

- a) P. says that he wants to resume a normal relationship with the two children. H. says that there needs to be counselling to address the children's issues before parenting time can be considered;
- b) H. alleges that there were incidents of domestic violence between the parties. She asserted that P. needed counselling for his anger, and that the children had witnessed physical violence and experienced inappropriate discipline by P.;
- c) P. noted that there were financial struggles between the parties during their relationship. He accused H. of domestic violence directed at him, and denied doing so himself;
- d) I. was 13 years of age when interviewed by Dr. Elterman. He told Dr. Elterman that he did not like his father because he was rude, had used vulgar language with himself and his sister, and had hit his mother. His father would punish him by yelling, treating him badly, and pulling his ears. He described his mother in only positive terms. He described his father as a bully. He denied that his father loved the children;
- e) H. recalled her father yelling at her mother and the children, and being rude to her mother;
- f) P. alleges that the children have been negatively influenced and alienated against him by H. She denies this, and maintains that the children can report experiences that they have had and witnessed with their father that would explain the positions that they have taken about not seeing him;
- g) He noted that at the same time as H. says she really wants P. and children to have a relationship, she will make negative comments such as "he never really had a relationship with his children";
- h) Both children see their mother as passive, too nice, and that they need to stand up for her and protect her;
- i) While P. largely denies and minimizes the incidents of domestic violence described by H. and the children, Dr. Elterman suspects that there was more of this taking place than he acknowledges, but from the limited number of examples that the children gave, this type of incident was not common;
- j) He accepts that P. had a good and close relationship with the children previously, but unfortunately what the children remember are things that happened when the relationship between the parents was deteriorating rapidly near the end;
- k) The children have picked up on their mother's need for protection and her attitude towards their father as the aggressor, and herself as the victim;

- l) The position of the children in wanting to protect their mother, and their attitudes toward their father, have become crystallized over time. Unfortunately, the children have no familiarity with if or how P. may have changed since they last had meaningful parenting time with him;
 - m) So much time has passed that the children's perceptions of their father have become crystallized and are at the point of a one-dimensional narrative rather than a real recall of what he is like as an individual. The children's views of their father may be out of date;
 - n) Remedial efforts involving counselling should have been more aggressively pursued back in 2014. The only way the children are going to be able to understand who he is now and hear his apologies or explanations is if there is contact; and
 - o) There is an urgent need for re-integrative therapy.
- [20] Dr. Elterman provided a supplementary letter giving further detail about the availability of re-integrative counselling groups in Vancouver. He noted that there were elements of alienation. Notably, the children's refusal to have contact with their father was not commensurate with what took place between P. and the children prior to losing contact. A new set of problems arises from the long period of estrangement since the loss of contact.
- [21] At trial, Dr. Elterman confirmed that there was alienation in this case of P. from the children, although he inclined to the view that the alienation was not intentionally caused by H.

IV. Judicial Interview of the Children

- [22] With the consent of both parties, I interviewed the children privately, in court. By the time I interviewed them, I had heard a substantial volume of the evidence, including the evidence of Dr. Elterman.
- [23] I provided the parties with an overview of the interviews the following day.
- [24] My interviews confirmed that both children are completely estranged from their father. They both said that they do not want a relationship with him. I., in particular, was emphatic about that. He went so far as saying that he resented his father's efforts to remain a part of his life, and his mother's support of that. He stated that he had a busy life and had no time for seeing counsellors. Both children were utterly rigid in their views. Neither would accept that there could be a possibility that a relationship with their father could be to their benefit, and notwithstanding their mother's wishes. It is clear that their opinions have crystallized, just as Dr. Elterman said, based upon their perceptions formed several years ago.

V. Discussion - parenting Issues

- [25] The marriage was unhappy, for the most part. Both parties accuse the other of regularly demeaning and belittling them. There were consistent financial pressures. P.'s income was modest throughout, and apparently insufficient to support the comfortable middle-class lifestyle that both parties seemed to expect for themselves and their children. Irresponsibly, P. fell seriously behind in filing tax returns and in payment of income taxes. CRA began garnishment of his commission income. The financial pressures increased.
- [26] After the marriage, the parties resided with P.'s parents in a rented house in Richmond until November 2002. From 2002 to 2006 they lived in various rented basement suites in Surrey and Delta. In order to save money, the parties and their children moved into the home of P.'s parents and family in 2006, where they remained until April, 2007. They moved out and resided in a basement suite, from April 2007 to September 2010. In September 2010 they moved back in with his parents, into a suite in his parents' home, again to save money. They stayed there until October 1, 2012. H. was unhappy at living in P.'s parents' residence. The parties moved to a rented townhome where they resided from October 1, 2012 to October 1, 2013, the date of separation.
- [27] H.'s text messages to P. on October 2, 2013, the day after they separated, show how unhappy she was living in P.'s parents' home. On October 1, 2013 she demanded that P. move out. He went to live with his parents, sister and brother. On October 2, H. texted him, saying among other things "You went to live with the people who abused us" and "You made us all live in that abusive home I have proof [of] all that."
- [28] P.'s sister Ms. L. resided in the parents' family home for five years until September 2013. She described a variable, fragile relationship between H. and P.'s family. At times when H. and P. were not getting along, and arguing, H., P. and children would remain in their separate suite, and the remainder of the family would not see the children.
- [29] While the marriage may have been fundamentally unhappy, a number of witnesses testified that, at least externally, the parents were able to get along reasonably well and the children appeared to be happy. Both parents were actively engaged with the local elementary school, including its Parent Advisory Committee (PAC). The children were doing well in school, and were active in sports and extracurricular activities. Several witnesses testified to many happy family activities and get-togethers and celebrations.
- [30] The children have continued to excel academically, and in sports and other extra-curricular activities.
- [31] There was an incident some years before they separated involving pictures on the wall in P.'s parents' home that continues to loom large in the memory of H. and both children. There was some argument between the parents about the pictures. H. says P. was angry and pushed her against the glass picture frames on the wall, in the presence of the children. Glass in the picture or pictures was broken. She also accuses him of punching her. She left

the residence for two days. She alleges there were other incidents of domestic violence as well.

- [32] P. denies ever physically assaulting H. There is no corroborative evidence. However Dr. Elterman concluded that P. probably downplays the degree of aggression that he displayed, and I accept this. I also accept that as Dr. Elterman says, these incidents were not common.
- [33] I accept that there were instances of inappropriate discipline as well.
- [34] P. pulled I.'s ear on some occasions, as discipline. I. remembers this. H. told her mother and Dr. Elterman that in 2014 her father forced her to sit in the garage, in the dark, for a long period of time, and frightened her, as discipline. Dr. Elterman commented that if this occurred, it would be inappropriate parenting. At trial P. downplays these incidents.
- [35] At the same time, I accept that H. also was physically aggressive towards P. at times, and could be angry and volatile, as he alleges. P. was generally a credible witness at trial. I have less confidence in H.'s credibility. She acknowledged having a poor memory. This could be fair, but in some instances I formed the distinct impression that she was asserting no memory in order to avoid conceding facts.
- [36] H. acknowledges inappropriately exposing the children to the marital conflict on one occasion, in particular. After their separation, on the evening of December 17, 2013 she took the children to P.'s office. P. was not present. She was let in to the office through the front door, with the children. She was yelling angrily about alleged infidelity on P.'s part. According to the witness, she ripped a picture of herself and P. off the wall, took the picture out of the frame, and tore it in half, in front of the children. The children were present and were quiet and looked afraid. At trial, she acknowledges this behaviour and states that she regrets the episode.
- [37] H. acknowledged to Dr. Elterman that she spanked the children on some occasions.
- [38] The central opinions of Dr. Elterman are that (1) prior to separation P. had a good relationship with the children, and that (2) their refusal to have any contact with him is not based on reality. I accept these opinions.
- [39] There is plenty of evidence that P. and the children once had a good relationship. This fact is supported by the collateral references P. provided to Dr. Elterman. I heard from some of the same collateral references at trial, and other witnesses as well on this point.
- [40] Consistent with her comments to Dr. Elterman, at trial, H. minimized and downplayed P.'s pre- separation relationships with the children, in saying things like "he never really had a relationship with the children" and he was "always absent at work".
- [41] However, P. gave detailed and credible evidence as to the numerous activities he shared with the children. He testified to taking the children to school, participating in school activities, going to sporting events, family outings to places such as Science World, Stanley Park, Grouse Mountain, Vancouver Aquarium, Cultus Lake, White Pine Beach, the White Rock

Pier, and many other activities. I accept P.'s evidence that he was an active and engaged father and reject H.'s evidence that he never really had a relationship with them. P. was working, H. was not. In such circumstances it is expected that the at-home parent will spend much more day-to-day time with the children and that the other parent's time with the children will be intermittent and variable. This is a normal, typical pattern.

- [42] No doubt, the children were exposed to a considerable amount of conflict between their parents, particularly as the relationship between the parents deteriorated. Sadly, this is anything but unusual when marriages are breaking down.
- [43] However, there was no reason why either parent's relationship with the children should not have continued after the separation.
- [44] Remarkably, by mid December 2013, only two-and-a-half months after the separation, the children were avoiding contact with their father, and allegedly expressing fears about him, and he was no longer seeing them.
- [45] The situation was partially restored for some weeks or even months in the spring of 2014 during the "reconciliation" or "cooling off" period, but that did not last. It appear that the alienation was firmly cemented by mid-2014.
- [46] Based upon my review of the large body of evidence heard at trial, and the report of Dr. Elterman, in my view two factors came together at around the time of separation which resulted in severe alienation of the children from their father.
- [47] Firstly, H. enlisted the children as allies to her side in the conflict. At the time of separation the parents were communicating through text messages. H.'s text messages are really quite revealing. What emerges is that she was seeking allies on all fronts, including the police, the school community, friends, and most notably, the children. She was also focused upon building a case.
- [48] On October 2 she says: "I have entire community behind me". "I will be going to the office to reach out for help from my friends". Many more examples are found in her text messages from mid-November 2013. The parties were having arguments about finances that began November 13. P. was denied access to the children from November 13 to November 25, 2013. During that time H. sent text messages saying among other things:
- "kids do not lie"
 - "they want nothing to do with you"
 - "you have bullied me and the kids enough"
 - "I have school community and women centres Gurdwaras standing behind me"
 - "I am going to RCMP"
 - "taking kids for their statement too"

- "kids do not wish to see you"
- "kids have handwritten letters stating why they do not wish to see you"
- "my kids will talk in courts"
- "we will stand united"
- "judge will listen to the kids at the end of the day"
- "you cannot bully us any longer"
- "[I.] says he wishes you were not his father"
- "we say no to you together united!"

And many others.

- [49] A vivid demonstration of the sudden fracturing of P's relationship with the children occurred on December 19, 2013, at the school Christmas concert.
- [50] A few days prior to this, the parents had an argument, resulting in P's contact with the children being stopped. The incident in which H. made a scene at P's office in the presence of the children occurred only a few days before this.
- [51] P. attended the school Christmas concert. After H. (his daughter) finished her performance, P. tried to hug her in the hallway. She refused to hug him and pushed him away. P. attempted to speak to the mother. She called the police, who attended the school.
- [52] The second significant factor that led to the alienation is that P's contact with the children was cut off, initially at various times, and soon after, completely.
- [53] Since June 2014 H. would only allow supervised parenting. There was never any need for supervised parenting.
- [54] As Dr. Elterman says, there has been a role reversal in that the children are taking care of their mother's emotional needs. As they see it, she gets taken advantage of by other people. The children see themselves as protectors and supporters of their mother, as victim, against their aggressive, bullying father. Any perception that their mother has been mistreated or that their mother cannot stand up for herself is likely something that draws them both into a protective mode.
- [55] The children have had no meaningful contact with their father since they were 8 and 10 years of age. As Dr. Elterman explained, P. has had no chance to repair the relationship with the children. He has had no opportunity to demonstrate that he is not the bad person that they have come firmly to believe he is. He had no chance to demonstrate that he has changed, and that he loves them.

- [56] This is not to say that the fault lies entirely with H. As noted, Dr. Elterman accepted that P. probably downplayed the degree of aggressiveness that he displayed towards H. and the children prior to separation.
- [57] However, there was no basis for suggesting that P. might be violent towards the children. There was no history of violence towards the children. H. suggested that P. had problems with alcohol. At trial she could provide no real evidence of this. Numerous witnesses at trial testified to the effect that P. has no problem with alcohol. She suggested that she was concerned that P. might abscond with the children to the U.S. There was no basis for this concern either.
- [58] P. continued to attempt to see the children at school. This may have been unwise in the circumstances.
- [59] P. attended the school Christmas concert again the following year on December 15, 2014. Somehow the children became aware that their father was in the auditorium. They refused to exit the vehicle. H. called the police. The police interviewed the children the following day. One can only imagine how this experience would have affected their perceptions.
- [60] At that time H. reported to the police that she had been assaulted by P. the prior year, on October 1, 2013, when they were separating. The police initiated proceedings to obtain a peace bond against P. The Crown did not proceed. I do not accept that he assaulted her on that occasion.
- [61] As mentioned, on December 23, 2014 Master Keighley made an order for supervised contact on certain specific occasions, and an order for counselling and therapy through Bob Finlay. As I said there were a few supervised visits at restaurants. They were complete failures.
- [62] I accept that in 2015 H. was encouraging and even demanding that the children see their father, but it was too late. The children were determined to refuse to interact with P. These efforts were doomed to fail.
- [63] I. described the visits in this way to Dr. Elterman:
- I. says that the last time he saw his father was at supervised visits. He was 12 at the time and they had a few visits until they stopped. He says that there were about 10 visits. He says that the visits were at the White Spot near panorama in Surrey. His father would try to talk to them but he did not reply to his father. He says "me and my sister agreed not to talk to him".
- [64] Circumstances were made even worse by financial problems post-separation. H. was of the view that P. was deliberately withholding financial support and using finances as a weapon against her. She had no clear picture of P.'s actual financial resources. Conflict over finances continued. The financial support provided by P. was inadequate. The children were involved in this aspect of the conflict as well, as demonstrated by I.'s comments to Dr. Elterman about this.

- [65] In my view, had the parents engaged in a true shared parenting arrangement from the outset in 2013, in all probability the rupture in the children's relationship with their father would not have occurred.
- [66] If this matter had been before me in 2014 or 2015, drastic measures could have made sense. For example in *J.A.F. v. J.J.F.*, 2016 BCSC 300, (a case P. relies on here) I ordered implementation of a reunification therapy program, with consequential orders for interim sole custody to the alienated father. In a subsequent decision, indexed at 2018 BCSC 84, I noted that dramatic, positive changes had occurred: para. 59. The positive trend continued. In my most recent decision in the same matter, indexed at 2019 BCSC 507, I ordered joint custody, joint guardianship, and equal parenting time on a week on/week off schedule. Therefore, in some cases, what may be seen to be drastic measures may be justified, and can be successful. That was a case of severe alienation, too.
- [67] As I have said, the children are now severely alienated from their father. I use the word alienation in the sense that the refusal to have contact or a relationship with him is not justified by actual facts. Their attitudes are unreasonable.
- [68] At trial Dr. Elterman stated that he tended to see the alienation as unintentional, because on one level H. wanted a relationship between P. and the children, but on another level, she undermined the relationship.
- [69] I think this view is somewhat charitable. It is a nice question as to whether the alienation was intentional or not. In my view, H. should have foreseen the natural consequences of enlisting the children as allies in the conflict, and portraying P. negatively to them. This conduct together with denial of ongoing regular access at the critical time resulted in the alienation that has occurred.
- [70] At this point, I accept that H. sincerely desires that the children develop a relationship with their father. Since 2014 she has consistently supported third-party intervention through counselling or therapists to attempt to repair the situation. However, at the same time, she has insisted that contact should only occur with supervision, and that professional intervention is required. These stipulations have proven to be insurmountable barriers.
- [71] In 2014 or even 2015, strong actions to change the situation might have had some chance of success. The last chance for success by way of court orders may have ended with the termination of Mr. Finlay's services in early 2015.
- [72] Dr. Elterman warns that another two-and-a-half years have gone by since his assessment was conducted. The children are now teenagers. He says that with teenagers, if you push too hard, you create a power struggle. You may simply entrench the situation. There is only so much control that parents can exert. He says that the prospects for success of re-integration therapy would likely have diminished with time. There is a likelihood that little can be done. He stated that he did not know whether the children's attitudes have softened or hardened since his assessment was done. Based upon my interviews of the children, their attitudes

have clearly hardened, not softened.

- [73] In this case, too much time has gone by for the type of approach exemplified in *J.A.F. v. J.J.F.* In my view no court order compelling the children to attend re-integrative therapy would be effective at this point. It is simply too late for that. Coercive efforts in the past have been unsuccessful. If coerced, through a court order, the children would simply refuse to cooperate and whatever hope may possibly remain (if it does) would end.
- [74] Counsel for H. cited several cases in which the courts have come to the conclusion that coercive orders would be ineffective or even counterproductive. These cases include: *O'Connell v. McIndoe*, (1998), 166 D.L.R. (4th) 653 (C.A.); and *K.L.S. v. K.M.S.*, 2017 BCSC 1315.
- [75] In my view the present circumstances are tragic for all concerned. H. sincerely desires that the children have a relationship with their father. She was often emotional during her testimony in describing her efforts to have the children see their father, and her sincerity in denying that she did not want that to occur. The children, particularly I., now only resent their mother's efforts. H. seems to have been heavily influenced by her older brother, at all times.
- [76] P. has been grieving, depressed, and frustrated, for years. His continual efforts to remedy the situation through the courts they have been singularly unsuccessful. H. is also very unhappy about the situation. She sincerely desires change. I feel a great deal of sympathy for both parents, and for the other members of the family.
- [77] The grandparents and other family members are also grieving and saddened by the present situation.
- [78] However, the only consideration under the FLA is the best interests of the children.
- [79] As I said, I asked the children to be present today. They are old enough to hear my words and reflect upon all of this. As I have explained, both parents have made mistakes in the past. At present, the children do not recognize that it is in their best interests to have a relationship with their father. I am convinced that P. is not the abusive, unloving bully that the children came to believe long ago. The children should hear from their father in person. I am confident that if they gave him a chance, things could be repaired.
- [80] Otherwise, as they mature, and perhaps go on to have their own families, their loss would only grow, and could become multigenerational.
- [81] Dr. Elterman is not against trying to repair the situation through re-integration therapy, even now.
- [82] If engaged, I expect that Alyson Jones (the counsellor the parents agree to) would quickly be able to determine whether there is any prospect of success. This was the view of Dr. Elterman.

- [83] I therefore urge the parties to engage Alyson Jones in re-integrative therapy, but make no court order to that end.
- [84] I urge the children to give the process a fair chance.
- [85] Neither parent has any financial resources. Their incomes are both very modest. Neither party can afford any significant expense. P.'s parents are prepared to fund reintegrative therapy. P. proposes that he pay the cost of the therapy, I gather by way of a loan to him from his parents. He seeks an order that the cost of the therapy may be recovered from H. As she has no financial resources, and no prospect of that, I decline to make any order that the expense be recoverable from her.

VI. CONCLUSION - PARENTING ISSUES

- [86] The present reality is that the children are under the exclusive care and control of their mother. P. remains a legal guardian under the terms of the FLA. From a practical point of view, it is best that H. have sole custody of the children, pursuant to the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.) [DA], H. will solely exercise the parental responsibilities under s. 41 of the FLA, except that P. is granted joint parental responsibility under s. 41(j) for requesting and receiving from third parties health, education or other information respecting the children. If P. exercises parenting time, then pursuant to section 42 of the FLA he will exercise parental responsibilities of making day-to-day decisions affecting the children and having day-to-day care, control and supervision of the children during his parenting time.
- [87] These parenting orders are subject to variation pursuant to the terms of the DA and FLA, should circumstances change.

"Verhoeven J."

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