

FAMILY COURT OF NOVA SCOTIA

Citation: *Nova Scotia (Community Services) v. L.M.*, 2018 NSFC 23

Date: 20180921

Docket: FPICMCA-105048

Registry: Pictou

Between:

Nova Scotia (Community Services)

Applicant

v.

L.M., A.P. and J.L.

Respondent

Editorial Note: Identifying Information has been removed from this electronic version of the judgment.

Judge: The Honourable Judge Timothy G. Daley

Heard: August 1, 2018 in Pictou, Nova Scotia

**Written
Decision:** September 21, 2018

Counsel: Andrew Melvin for the Applicant
Scott Brownell for the Respondent, L.M.
Shawn MacLaughlin for the Repondent, A.P.
J.L.(SR)

Introduction

[1] This decision concerns a request by the Minister of Community Services (“the Minister” and “the Agency”) to continue an order imposing supervision on the access of A.P. with his three stepchildren: K.M. (11 years old); J.M. (8 years old); and B.M. (7 years old); on the basis that A.P. has begun drinking alcohol again, has been violent with his wife, L.P., and the children, and therefore poses a renewed risk to the children.

Position of the Parties

[2] A.P. and L.P. oppose the Minister's position and ask the court to reinstate unsupervised access with those same children for A.P., thereby recommencing the process of reintegration of this family which was underway at the time of this application.

[3] J.L. is the biological father of J.M. and B.M., and has been a father figure to K.M. He did not file an affidavit or otherwise participate at the hearing of this matter, but was present throughout and supports the position of the Minister.

History of Parties and Prior Proceeding

[4] These parties were involved in a prior child protection proceeding which began in August 2015 when the Minister began an investigation of allegations of domestic violence, risk of physical harm, inadequate supervision, and emotional abuse. One of the key issues identified as a protection concern was A.P.'s excessive use and abuse of alcohol. Among other concerns identified was an incident in which A.P. and J.L. had a physical altercation with one another involving a knife which took place in front of the children. L.P. intervened, as did the child, K.M.

[5] In that matter, a supervision order was initially granted under the Children and Family Services Act (“the *Act*”) placing the children in the care of L.P. and A.P. That order remained in place until the matter was terminated on December 5, 2016. At that time, an order under the *Maintenance and Custody Act* was granted, placing all three children in the care of L.P. and A.P. Despite the termination, throughout the child protection proceeding A.P. refused to undergo any urinalysis testing for alcohol and did not regularly attend at programming with New Leaf, an organization that provides group counselling to men involved with domestic violence.

Current Proceeding

[6] This current proceeding began because of a single vehicle accident on April 1, 2017. On the evening of the accident, A.P. and K.M. were at the home of A.P.'s friend. A.P. was drinking, became intoxicated, got in the car with K.M., and attempted to drive home, at which time the accident occurred. This was a single car accident in which K.M. suffered minor injuries. K.M. told his mother that he had to wake up A.P. three times when they were driving home.

[7] No charges proceeded against A.P.

[8] During the subsequent investigation by the Agency, it became clear that A.P. began drinking shortly after the end of the prior child protection proceeding, and by the date of the accident, he was back to excessive consumption and abuse of alcohol.

[9] L.P. told the worker that K.M. was terrified that he was going to be in trouble for the accident, and that she felt that K.M. was trying to protect A.P. She said that K.M. tried to protect his father in the past. L.P. also reported that K.M. was worried that he and A.P. would be sent to jail.

[10] During the investigation, A.P. admitted that he is an alcoholic, that he had gone to Addiction Services to permit them to speak to the Agency, and that he understood the seriousness of the incident.

[11] L.P. told the Agency that she planned to stay in a relationship with A.P., but would leave him if he could not maintain sobriety. She said she was not afraid of A.P. and thought he would never hurt her. She said she didn't understand the reason for the Agency's involvement but was willing to participate in any case plan or services.

[12] This court granted an interim non-party supervision order on April 21, 2017 under which the children were placed with the maternal grandmother, J.P., and that order was confirmed at the completion of the interim hearing of May 15, 2017. L.P. resided in the home with her mother and the children, and her access was supervised by J.P. This arrangement transitioned to unsupervised access in the community on the condition that L.P. not allow contact between the children and A.P. J.L. had access with the children throughout the proceeding.

[13] A.P.'s access with the children was initially suspended and then reinitiated under supervision with a plan for slower reintroduction of K.M. with A.P. given the circumstances of the accident and on advice of psychologist Angela Ellsworth.

[14] On October 2, 2017, this Court found that the children were in need of protective services pursuant to sections 22 (2) (b), (h) and (i) of the *Act*. The children continued in the care and custody of J.P. subject to the supervision of the

Minister. L.P.'s access with the children continued unsupervised in the community. A.P.'s access continued to be supervised by J.P.

[15] By early January, L.P. and A.P. were permitted three overnight access visits with the children each week in their home. The Agency made this decision, acknowledging concerns about A.P.'s lack of participation in services, but believing that L.P. would act as a protecting parent.

[16] Throughout this proceeding, A.P. participated in random urinalysis testing and no alcohol was detected. Marijuana was detected and A.P. had disclosed his recreational use of this substance to the Agency early in the proceeding. A.P. did miss some random testing collections, and at one point testing was suspended to allow him to work to support the family.

[17] L.P. participated in services by attending individual counselling with therapist Lorraine Logan-Smith. In her report to the Minister of April 2018, Ms. Logan-Smith confirmed she did not consider it necessary for L.P. to continue with therapy. This was in part based upon L.P. informing her that A.P. had participated in services and demonstrated cooperation with those service providers. Ms. Logan-Smith also confirmed that L.P. told her that if A.P. had a relapse in his abstinence of alcohol, she would report this information to the Agency.

[18] A.P. was attending at New Leaf, but there were concerns that his engagement with that service was tapering off over time.

[19] At a review hearing on March 5, 2018, the order was continued. The access of L.P. and A.P. with the children, for three overnight visits per week, continued. There was a plan to reintegrate the children back into the home with L.P. and A.P. on a full-time basis, and that process was moving forward towards a termination of the Minister's involvement until mid-March of 2018.

[20] By mid- March 2018 it was understood that A.P. was attending at New Leaf, and there were some concerns about his engagement with that service of late.

[21] On April 17, 2018, J.A.M. brought K.M. to the Agency office at the request of social worker Tonya Jennings and during that interview, K.M. disclosed a series of concerning allegations to the Agency including that A.P. was drinking alcohol in the home, that he was verbally abusive, and had been physically abusive towards L.P.

[22] On April 18, 2018, social workers Kara Wood and Tonya Jennings made an unannounced visit to the home of L.P. and A.P. Only L.P. was present. She denied that A.P. was drinking to her knowledge and said there had been no drinking at the home.

[23] The social workers walked through the home. There were no alcohol bottles in the recycling containers. Tonya Jennings says there was a green storage cabinet with a removable top which contained two full Labatt blue beer cans and a case of 12 empty Busch beer cans inside the green storage cabinet. When asked, L.P. said the two beer cans belonged to a friend of A.P. whom she named. She again denied that A.P. was drinking. In a subsequent communication two days later, L.P. suggested that J.L. and his mother had been discussing with K.M. that they believe that A.P. was drinking, and this was why K.M. believed this to be true.

[24] When the same workers returned to the home on May 2, 2018, both A.P. and L.P. were home. When Tonya Jennings asked to look around the home, A.P. became very angry and said they could only look in the children's bedrooms and the refrigerator. He said they had no authority to search any other part of the house. When Kara Wood specifically attempted to request of L.P. permission to go to the sunroom where the drinking was alleged to have occurred, A.P. interrupted them and told Kara Wood to stop speaking to L.P., that he already told them they were not permitted look around the home, and he became increasingly agitated. He told them to leave the property and became increasingly loud and rude.

[25] During that visit, A.P. denied drinking alcohol. L.P. said she would allow A.P. to deal with the situation. Tonya Jennings says that she attempted several times to explain that if they were permitted to look around the residence and nothing was there, the Agency's concerns would be satisfied. A.P. refused to allow them to do so beyond the kitchen and refrigerator area and the children's bedrooms.

[26] During that visit, A.P. said to L.P. that she "did not have the balls" to tell the Agency not to come into the residence. When asked if she found the comment to be degrading, L.P. did not reply.

[27] As well, A.P. stated during that visit that Sterling Smith, counsellor with the New Leaf program, was "a piece of shit" and asked why Mr. Smith was at New Leaf.

[28] Ultimately, the workers left the residence before they could look in the sunroom or any other areas of the house.

[29] On May 3, 2018 Tonya Jennings went to the children's school and spoke with all three children together.

[30] In that interview, the children made many allegations. Among these were that A.P. was physically abusive to a J.M., verbally and emotionally abusive to the children on several occasions, that A.P. was drinking alcohol again while children

were in the home and, on at least one occasion, when A.P.'s other child was at the home for a visit. Many of these allegations cover the time after the automobile accident in April 2017.

[31] On May 4, 2018 social workers Kara Wood and Tonya Jennings met with L.P. and A.P. at the Agency office, and they provided their perspective on the various allegations made.

[32] In that discussion, A.P. said that he did throw up, but it was because he ate too much, and did not like to see food go to the compost.

[33] When asked why he did not allow the workers to enter the sunroom at their home, A.P. blamed Ms. Jennings for trying to "set him off". He felt he didn't need to let the workers in the home and now welcomed the workers to view the sun room.

[34] A.P. said that the children were lying and that he had not been drinking. L.P., blamed J.L. for putting ideas in the children's heads and said that the children would not want to go home if they were being abused or mistreated.

[35] Respecting the beer cans around the yard, A.P. admitted they were there but only because he had not cleaned them up yet. He said he was too depressed to do anything.

[36] To the allegation that A.P. had yelled at and physically harmed the children, he denied that he never chased any of the children and said he only yelled at one of the boys when they jumped behind a moving car.

[37] To the allegation that there were two bottles of beer in the sunroom, A.P. said he purchased an eight pack of beer for his friend, because that friend did not have any money.

[38] L.P. said that she believed the K.M. was trying to set up A.P.

[39] In response to a question about why A.P. would want beer around the home or people drinking in the home, he responded that beer was always around and he accepted that. He said that he could have beer in the house and not drink it.

[40] Respecting the substance wrapped in a towel that he said could explode, A.P. said it was a mixture of gas and motor oil and he said it could explode in an attempt to get L.P. to not smoke.

[41] After the interview of the three children in school, the Agency suspended A.P.'s access with the children.

[42] On April 22, 2018 Tonya Jennings conducted a joint interview of K.M. with Constable Collier of the RCMP and Tonya Jennings of the Agency. This interview was video recorded. Joint interviews were also conducted with the other two children, and they were likewise video recorded.

[43] In the interview of K.M., he again repeated the allegation that A.P. was drinking and was verbally and emotionally abusive. He also alleged that A.P. was physically abusive to L.P. the night before the motor vehicle accident. He said that A.P. was physically abusive towards B.M. on one occasion.

[44] In J.M.'s and B.M.'s separate interviews on the same day, neither of them make similar allegations to those made by them and K.M. in the interview with Tonya Jennings on May 3, 2018.

Admissibility of Children's Statements

[45] A central question in determining whether A.P.'s access with the children should continue to be supervised or not is the ultimate reliability of the children's statements outlined above. This is not the only evidence before the court which I must consider, but it is a significant part of the Minister's case on which she relies in seeking continued supervision for A.P.

[46] All of the statements by the children are clearly hearsay. The Minister seeks to admit them into evidence and to rely upon them for the proof of the truth of their contents. Such statements may be considered pursuant to s.96(3) of the *Act* which reads as follows:

96(3) Upon consent of the parties or upon application by a party, the court may, having regard to the best interests of the child and the reliability of the statements of the child, make such order concerning the receipt of the child's evidence as the court considers appropriate and just, including

...

(b) the admission into evidence of out-of-court statements made by the child.

[47] The Minister must first establish the statements meet the threshold test for admissibility. In this case, all parties have agreed that the statements do meet that threshold test, and the statements have been admitted for consideration by the court.

[48] The next stage of the analysis requires that I determine the ultimate reliability of these out-of-court statements by the children.

[49] In the decision of *Mi'kmaw Family and Children Services of Nova Scotia v. H.F.*, 2013 NSSC 310, Justice Forgeron considered the Agency's request for finding that three out-of-court statements made by a child were reliable for the truth of their contents. As in this case, the application for admission of the statements made pursuant to section 96(3)(b). Commencing at paragraph 49, Justice Forgeron found as follows:

49 Section 96(3)(b) of the *Act* was the subject of appellate review in **G.A. v. Children's Aid Society of Cape Breton-Victoria**, 2004 NSCA 52 (N.S.C.A.). In this decision, Hamilton J.A. noted the important distinction between criminal and child protection proceedings. She further held that the application of rigid formulas was not appropriate in the child protection context at para. 15, wherein the following was stated:

15 Bearing in mind the context and purpose of the trial judge's exercise of discretion to admit child hearsay pursuant to s. 96(3)(b) of the Act, I am not persuaded it is appropriate to impose any rigid formula for the receipt of such evidence. These are not criminal proceedings where the protections and concerns described in the governing jurisprudence such as **R. v. Khan** (1990), 79 C.R. (3d) 1 (S.C.C.), **R. v. Smith**, [1992] 2 S.C.R. 915 (S.C.C.), and **R. v. Starr**, [2000] 2 S.C.R. 144 (S.C.C.) necessarily arise. Here in the context of child protection proceedings, the discretion granted a trial judge to admit such evidence, whether or not the child in fact ever actually testifies in court, is found in s. 96(3)(b) ...

50 It is not necessary for me to consider whether necessity remains a factor to be proven in light of the specific wording of s. 96(3)(b) because the parties did not advance that argument. Necessity was admitted. Reliability was the sole battle ground. Further, and although I am directed not to apply rigid rules, I must nonetheless consider the issue of reliability in the context of the case law which has developed under the principled approach to hearsay.

51 The starting point of the analysis is the premise that hearsay statements are presumptively inadmissible: **R v. Couture**, *supra*, para. 85. The court has the discretion to nonetheless admit the hearsay statements if the agency proves admissibility through *indicia* of reliability: **R v. Couture**, para. 85.

52 This assessment of reliability involves a two stage process. The first stage, threshold reliability, was discussed and resolved previously. During the second stage, the trier of fact, in this case the court, must assess ultimate reliability based upon the totality of the evidence presented. In **R. v. Khelawon**, *supra*, the Supreme Court of Canada held that a functional approach should be adopted when determining factors relevant to the assessment of reliability. In particular, the court should focus on "the particular dangers raised by the hearsay evidence

sought to be introduced, and on those attributes or circumstances relied upon by the proponent to overcome those dangers:" para. 93. The presence of corroborating or conflicting evidence is appropriate to consider at both the threshold and ultimate reliability stage: paras. 4, 100.

53 Paciocco and Stuesser in the *Law of Evidence*, sixth edition, 2011, list factors that can be considered when determining the inherent trustworthiness of a statement, at p. 125, which factors include statements that are made:

- spontaneously,
- naturally,
- without suggestion,
- reasonably contemporaneously with the events,
- by a person who has no motive to fabricate,
- by a person with a sound mental state,
- against the person's interest in whole or in part,
- by a young person who would not likely have knowledge of the acts alleged, and
- whether there is corroborating evidence.

54 The authors also list safeguards surrounding the making of the statement that could expose inaccuracy or fabrications at p. 125 of their text, which provides the following list of questions:

- Was the person under a duty to record the statements?
- Was the statement made to public officials?
- Was the statement recorded?
- Did the person know the statement would be publicized?

[50] In determining the ultimate reliability of the out-of-court statements, I will adopt a more functional approach and I confirm that I have reviewed each of the statements carefully. I also confirm that I am not obligated to utilize a rigid formula when exercising the discretion to admit evidence under section 96(3) given the Court of Appeal decision in *G. A. v. Children's Aid Society of Cape Breton-Victoria*, 2004 NSCA 52.

[51] In order to properly assess and provide reasons for my decision with respect to each statement, I will include the various responses from the parties to the statements where they apply. This, I find, will provide the best context in which to examine the ultimate reliability of each statement in the context of all the evidence before the court.

Statement of K.M. on April 17, 2018

[52] On April 17, 2018, Agency social worker Tonya Jennings interviewed K.M. at the Agency office. This interview was not recorded by video or audio. Ms. Jennings testified that she conducted the interview using the Stepwise interview procedure. Ms. Jennings said that K.M. disclosed to her the following:

- The night before he and A.P. were in the automobile accident on April 2017, A.P. hit L.P., and she wanted K.M. to call the police, but A.P. prevented this.
- A.P. once kicked the chair over because of a fight between A.P.'s daughter and B.M. He said that A.P. had spit in B.M.'s face on one occasion.
- A.P. was always yelling in the home until about 11 PM, that he would yell that everyone was “fucking dumb” and that “someone fucking did it” which often did not make sense.
- A.P. would go to bed after yelling and drinking alcohol, but would keep arguing the next day.
- A.P. was drinking beer all the time, and the beer was called “Bush” and was in a blue and white can.
- A.P. was always in the sunroom of the home drinking beer and had spent the day there the previous Sunday.
- A.P. was getting “worse and worse”.
- His mother and A.P. told all the children not to look out into the sunroom when A.P. was there.
- There was a “green thing” in the sunroom in which A.P. had a cooler.
- A.P. had a friend from the local mill who would come drink with A.P. in the sunroom of the home.
- L.P. had checked his iPod and deleted pictures he had taken of empty beer cans left behind by A.P.. He offered to take pictures of the empty beer cans for the worker but was told it was not necessary.
- A.P. would fall asleep in the sunroom, would walk slowly, and would bump into things.
- A.P. had been drinking alcohol in the home since he and his brothers had been allowed to go there for overnight visits and that A.P. drank a lot.
- A.P. smoked something from a golden coil with a bowl and would also bend cans and use a lighter to light something in them.
- K.M. described a water pipe and made bubbling noises, and said A.P. used it in the house that they used to live in.
- A.P. asked him to lie after the accident of April 2017 and say someone else was driving the truck.

Statements made by K.M., J.M. and B.M. on May 3, 2018

[53] As noted earlier, Tonya Jennings conducted the interview of all three children together at their school on May 3, 2018. This interview is not recorded by audio or video. She did testify that she conducted the interview using the Stepwise protocol.

[54] In that interview, the children said the following:

- J.M. stated that A.P. was yelling all of the time. He said A.P. got angry if they woke him up in the morning.
- J.M. said that recently he and K.M. were talking and woke A.P. He said that A.P. threw them out of the house to wait for the bus, kicked J.M. in the leg and threw his shoes at him. He said L.P. would have let them back in the house, and she brought them their backpacks at the bus stop. He said this occurred a couple months prior, but after the car accident.
- K.M. said he witnessed this and was kicked out of the house without a coat.
- B.M. described an incident when A.P. grabbed him by his shirt and pushed him against the wall. He said he then threw him on the couch. B.M. said this occurred before the car accident of April 2017.
- J.M. said that he been told not to look into the sunroom and the children were not allowed to go into their mother's closet in the bedroom.
- J.M. described A.P. leaving the residence with something wrapped in a black towel. A.P. told everyone in the car that it could blow up and he put it in the sunroom. K.M. stated that this was drug oil, and he knew that because they taught him at school.
- K.M. said that a man had recently brought A.P. cocaine.
- J.M. said that A.P. drank every day and on the weekends out of blue, white, and grey cans; and he stated the word "Bush" was written on the cans. B.M. and K.M. agreed this was true. All three agreed that A.P. had been drinking since Christmas. K.M. stated he did not notice A.P. drinking until around Christmas.
- J.M. said that he asked A.P. what he was drinking on one occasion and was told it was Pepsi. When he told A.P. that it didn't look like Pepsi, A.P. became upset and mad.
- K.M. said that A.P. told him that if K.M. was 16, he would knock him out. K.M. said he ran out of the house. J.M. said he went outside with K.M. and hid in the neighbour's yard while A.P. was looking for them. There was no indication when this occurred.
- J.M. stated that A.P. threw up all the time and had done so that morning. K.M. said he had gone fishing with A.P. after school the day before, and A.P. threw up then. He said A.P. throws up a lot, including that morning.

- K.M. stated that A.P. came home very late the night before and he knew he was drunk because he fell over a tiny table. He said that when A.P.'s other child was at the home, he saw A.P. drinking beer in the sunroom.
- B.M. agreed that he saw A.P. drinking in the home all the time.
- J.M. indicated there were empty beer cans in the tires in the yard. K.M. said there were a lot of empty beer cans by the fishing hole.
- All three children stated that they spent a lot of time outside, because their mother told them to do that to get away from A.P. and his yelling.
- After B.M. and J.M. returned to their classes, the worker told K.M. she did not observe a lot of evidence of alcohol at the home, and K.M. replied, "they get rid of them quickly".

[55] The worker noted that during the interview, the children did not look at each other when answering her questions.

Joint Interviews of RCMP and Agency of April 22, 2018

[56] As noted earlier, Tonya Jennings and Constable Collier of the RCMP, conducted a joint video recorded interview of all three children on the 22nd of April, 2018. These interviews were conducted separately. Tonya Jennings testified that the purpose of the interviews was to investigate possible criminal behaviour.

[57] In his interview, K.M. said the following:

- Sometimes his mother gets mad at him for not taking his medication in the morning.
- A.P. likes to drink beer. A.P. got mad at everything that you do, "freaks out", yells, curses, and slams doors.
- He said the last fight they had was about a fishing lure. A.P. was yelling and cursing and threw all of worms in the water.
- A.P. got mad at J.M. and B.M. because they didn't listen, especially at bedtime when they run outside.
- A.P. had hurt his mother the night before the motor vehicle accident when he pinned her against the wall. She told him to call the police but A.P. would not let him.
- A.P. picked up B.M. during a fight and threw him down.
- A.P. had a yellow liquid and commented that it needed to be "cooked" right.
- K.M. says when A.P. drank his voice got deeper.

Assessment of Interviews of April 17, 2018 and May 3, 2018

[58] I will begin with the interview of K.M. on April 17, 2018 and the joint interview of all three children on May 3, 2018 at school. I first consider those circumstances and factors which affect ultimate reliability.

[59] First, the statements made by K.M. to Tonya Jennings on April 17, 2018, and the statements made by all three children together to Tonya Jennings, at school on May 3, 2018, were not made under oath.

[60] Second, there is no indication that Tonya Jennings discussed the distinction between truth and lies for these interviews.

[61] Third, none of these statements were audio or video recorded.

[62] Fourth, many of the disclosures made were not contemporaneous with the alleged events.

[63] Fifth, there is no way to assess if these statements were made spontaneously and naturally as they were not recorded and Tonya Jennings did not comment on the issue in her evidence.

[64] Sixth, I consider that the allegations made by K.M. in his interview of April 17, 2018 were, in some respects, inconsistent with the statements made by the three children in their joint interview at school on May 3, 2018, and the statement made by K.M. and each of his siblings in the joint interview with the RCMP on May 22, 2018. For example, K.M. did not disclose in his first interview the allegation made by J.M. that A.P. had thrown him and K.M. out of the home, kicked J.M.'s leg, and threw shoes at him.

[65] Similarly, K.M. did not disclose in his first interview the allegation of A.P. having something wrapped in a black towel which he told everyone in the car could blow up. In the interview of May 3, 2018, K.M. confirmed J.M.'s version of this event and described his understanding that this was drug oil.

[66] Likewise, K.M. did not disclose in the first interview what he said in the second interview about a man recently providing cocaine to A.P.

[67] K.M. did not disclose in his first interview the allegation by J.M. in the second interview that A.P. threw up a lot.

[68] There were also inconsistencies between the allegations made in the first interview of K.M. and the joint interview with the RCMP May 22, 2018. K.M. made many fewer allegations and did not repeat many of the more serious allegations regarding alcohol consumption made in the first interview. In this circumstance, I consider that this was a joint interview with the RCMP, the police officer took the lead in the questioning, she asked open-ended questions, and it was

clear that she was concerned with any criminal conduct, such as domestic violence, as opposed to exploring issues of alcohol consumption. I find that the purpose and focus of the interviews with the worker alone and the joint interview with the RCMP were quite different in purpose and process.

[69] Seventh, I consider that there is an allegation of the possibility of a motive for K.M. to lie or exaggerate many or all of the allegations made in the first interview with Tonya Jennings on April 7, 2018. L.P. said that K.M. tends to be a people pleaser and tells the adults what he thinks they wish to hear. She said that K.M. tends to stretch the truth and says things that he believes will get him what he wants. She said that K.M. has been through similar proceedings in the past, is mature beyond his age in regard to these matters, and tries to listen to conversations about these proceedings. L.P. said that during the child protection matter, K.M. made several demands for things he wanted and said that if he did not get them, he would tell the social worker negative or untrue things, including that his mother hit him.

[70] Finally, L.P. said that all three children tend to agree with one another, even if it is something they could not have seen or heard, or would not know about. She describes this as a “trickle-down effect”, suggesting that if K.M. says something, the younger children will agree. She said when K.M. says something, J.M. will repeat or put his own spin on it.

[71] J.A.M., the maternal grandmother, made similar allegations about K.M.'s truthfulness and habit of stretching the truth or exaggerating. She said he will occasionally say things and take them back. Put simply, she repeated the same allegations respecting K.M.'s reliability and truthfulness as his mother.

[72] A.P., likewise, said that K.M. likes to please adults and tell them what they wish to hear; he sometimes stretches the truth and says things that will get him what he wants. He described K.M. as mature, that he listens in on conversations about the proceedings, and that he recently learned in school about drugs as part of his education.

[73] Eighth, I consider the possibility of collusion among the children as well. There is some risk of this given that they live in the same home and have an opportunity to discuss the matters.

[74] I have also considered the circumstances that can support ultimate reliability.

[75] First, I consider that Tonya Jennings is a trained and experienced social worker who used the Stepwise interview technique, which generally requires the use of open ended, non-leading questions.

[76] Second, I consider that at least some of the allegations were reasonably contemporaneous with the events alleged, including the ongoing drinking and the verbal abuse.

[77] Third, I consider that there is nothing to suggest any of the children is of unsound mind and, though they are young, they would likely have knowledge of the acts alleged as they would have witnessed those stated in the interviews.

[78] Forth, I consider that there is some corroborating evidence for some of the allegations. Among these is the fact that A.P. admitted that he had been drinking since the end of the prior child protection proceeding up until the car accident in April 2017. More importantly, he admitted to drinking beer since the accident. His evidence varied somewhat between his affidavit evidence and his viva voce evidence at the hearing, but he did say that he had consumed beer on four to five occasions, drinking 3 to 4 beer each time. This provides some corroboration though A.P. says no beer was consumed in the home, specifically in the sunroom, and not to the extent alleged.

[79] Similarly, there is some corroborating evidence respecting alcohol in the home. When the worker attended the home for the first visit, she found a case of 12 empty Busch brand beer cans inside a green storage cabinet, the brand described by K.M., and two full beer cans of another brand. There were also empty beer cans on the property and a broken-down Busch beer box in a container in the home.

[80] Respecting K.M.'s statement of A.P. smoking something from a golden bowl, bent cans and used a lighter to light something in them, and that he used a water pipe which made bubbling sounds, there is minimal corroboration for this. A.P. denies the use of water pipe, coil or using cans to smoke anything, but he does admit to consuming marijuana, albeit outside of the home.

[81] Considering all the evidence before me, I find that there is no basis to infer collusion among the children. They are siblings and spent a great deal of time together. That fact alone does not support a collusion finding.

[82] Similarly, I do not find that K.M. had a motive to lie or mislead in this interview. This allegation was made by L.P., A.P. and J.A.M., and each of them have their own reason to mislead or lie respecting this issue. A.P. and L.P. are parties to the proceeding and have a consistent position, supported by J.A.M., that A.P.'s access should be unsupervised and that he does not represented a protection risk to the children.

[83] Respecting the inconsistencies of the statements made by K.M. in the three interviews he took part in and the inconsistencies between his statements and those of his siblings, while I certainly acknowledge that there were inconsistencies present, these were primarily in the form of absence of repetition of allegations. I find there are few inconsistencies in the sense of contradictory statements among the children, or by K.M. among his three interviews. There were consistencies of allegations to be found between K.M. and his siblings, particularly J.M.

[84] I am not surprised that K.M., a child of 11, would not repeat each allegation on three separate occasions. To the contrary, were he to do so, it may suggest that he had rehearsed his statements.

[85] Equally important is the context of each interview. The first was conducted with K.M. alone. The second was with the siblings, each of whom had input. I am not surprised K.M. did not repeat with precision all of the allegations made in his first interview during the group interview at the school. There is enough similarity of allegation among the children to reinforce the reliability of K.M.'s statements on the first occasion.

[86] Finally, the video statements, given during the joint interview with the RCMP, are of a different nature. They were led by the police officer, not the worker. Their purpose was to explore any criminal behaviour by A.P., or anyone else, and were not intended to explore protection concerns under the *Act*. I, therefore, do not find that the inconsistencies in the form of the failure to repeat the allegations from the first interview give rise to a serious concern regarding the reliability of the first statements made such that it should not be considered as a part of the evidence.

[87] In considering the statements made by the children in their joint interview at school on May 3, 2018, I consider the factors which tend to negate reliability as reviewed previously, including that the statements were not given under oath, they were not recorded either by audio or video, and there was no exploration of truth verses a lie. As well, as they were not recorded, and because Tonya Jennings did give evidence on the point, I cannot assess if the statements were made spontaneously or naturally.

[88] I also consider the inconsistencies between the statements made by K.M. in this interview and the first interview with Tonya Jennings. I have already discussed the fact that, in this interview, K.M. does not describe many of the allegations made in the first.

[89] I consider the worker used the Stepwise interview technique which avoids leading questions. I also consider the possibility of motive to mislead or lie and

have discussed that with respect to K.M. previously. There is nothing to suggest a motive to mislead or lie by the two younger children in the evidence.

[90] Likewise, there is no evidence to support a finding of collusion. There is the suggestion that J.M. tends to repeat what K.M. says and perhaps exaggerates or expands upon it. In considering this, I note that the first allegation made in the joint interview was from J.M. when he said that A.P. was yelling all the time. Similarly, J.M. was the first to describe several other allegations including asking A.P. what he was drinking, that A.P. throws up all the time (including that morning), that he was told not to look in the sunroom, the allegation of something being wrapped in a black towel which A.P. said was explosive, and that A.P. drank every day and on the weekends out of blue, white, and grey cans with the word "Bush" on them. I find this largely negates the allegation that J.M. follows the lead of K.M. making such statements.

[91] Respecting corroboration, there is some evidence. For example, a description of the beer drunk by A.P. is consistent with the empty beer cans found in the home by the worker. Similarly, the two full bottles of beer provide some corroboration of the statements of J.M. respecting A.P. drinking in the home.

[92] The allegation made by J.M. and K.M. that A.P. throws up a lot was admitted by A.P., though he says that this is due to a stomach condition and not related alcohol consumption.

[93] I find there is nothing in these interviews that would disqualify them from being considered as part of the evidence in this matter. They will be assessed in the context of all the evidence in this decision including their ultimate reliability.

Joint Interview Video Statement of K.M.

[94] In considering the joint interview of K.M. with the RCMP and Agency worker of May 22, 2018, I first consider the factors that would negate the ultimate reliability of this statement.

[95] First, the statement was not made under oath.

[96] Second, the disclosures made were not contemporaneous with the alleged events.

[97] Third, there were inconsistencies with the prior statements of K.M., generally in the form of omission. This was discussed earlier in this decision in relation to the other interviews and the statements in this interview.

[98] As well, there were some inconsistencies with the prior statement of J.M. at school and the statements of the other children generally. Specifically, there were

many omissions, including any specific allegations of alcohol abuse or consumption, abuse of children (other than the one incident before school), and of any abuse by A.P. against their mother.

[99] I recognize this interview was conducted by the police officer for the purpose of investigating the criminal allegations of violence.

[100] Forth, with respect to a possible motive to mislead, exaggerate, or collude with the other children, I have already discussed this with respect to the other statements, and all statements generally, and adopt the same analysis.

[101] I next consider the factors that favour the ultimate reliability of the statements.

[102] First, I note that this interview was video and audio recorded.

[103] Second, it was conducted by a police officer who is trained to conduct such interviews.

[104] Third, the issue of the difference between the truth and a lie was explored and the questions were open ended.

[105] Forth, there was never any suggestion that K.M. is not of sound mind.

[106] Fifth, the allegations made were generally those for which K.M. would have knowledge.

[107] Sixth, given the limited disclosure made in this interview, there is little corroboration to be found, other than the presence of two full beer bottles and empty beer cans in the home.

[108] Seventh, I did find, after reviewing the interview carefully, K.M. gave his statement spontaneously and naturally in response to the various questions put.

[109] Considering these various factors, this statement will be considered as part of the overall evidence and assessed for its ultimate reliability.

Joint Interview Video Statement of J.M.

[110] In considering the joint interview of J.M. with the RCMP and Agency worker of May 22, 2018, I first consider the factors that would negate the ultimate reliability of this statement.

[111] First, the statement was not made under oath.

[112] Second, the disclosures made were not contemporaneous with the alleged events.

[113] Third, there were inconsistencies with his prior statement, and those of K.M. and B.M., generally in the form of omissions. This was discussed earlier in this decision in relation to the other interviews and the statements in this interview.

[114] An important inconsistency in this statement was when J.M. failed to identify A.P. as someone he did not get along with. He did say he sometimes get along good with A.P. in contrast to his earlier statement.

[115] Forth, given the brevity of the statement and its content, there is very little to corroborate any of the allegations made. That said, the allegations were certainly those he would have knowledge of.

[116] I also consider circumstances which would support ultimate reliability.

[117] First, the statement was video and audio recorded.

[118] Second, it was conducted by a police officer who was trained to conduct such interviews. The questions asked were open-ended and not leading.

[119] Third, there was a discussion of the difference between the truth and a lie.

[120] Forth, after carefully reviewing the video and audio of the interview, I am satisfied the responses were spontaneous and natural.

[121] Fifth, there is no evidence that J.M. had a motive to fabricate the statement.

[122] Considering these various factors, this statement will be considered as part of the overall evidence and assessed for its ultimate reliability.

Joint Interview Video Statement of B.M.

[123] In considering the joint interview of B.M. with the RCMP and Agency worker of May 22, 2018, I first consider the factors that would negate the ultimate reliability of this statement.

[124] First, the statement was not made under oath.

[125] Second, the disclosures made were not contemporaneous with the alleged events.

[126] Third I agree with Tonya Jennings when she says that he appeared very nervous, and he did state that he did not remember what they had talked about the last time they saw each other.

[127] Forth, in terms of inconsistencies, B.M. said on two occasions that he gets along well with A.P. and fishes with him. He said that he feels good and happy around A.P. and his brothers get along with him as well. He says there was never a

time that he and his brothers did not get along with A.P. When asked if there was ever a time he felt unsafe, he replied that there was not. He repeated none of the allegations made in his prior statements during the joint interview of all three children in school.

[128] There is certainly a concern respecting consistency between the statement and the one given by B.M. as part of the joint interview at the school. B.M. is seven years old, and six at the time of the interview. He was nervous when he gave the statement.

[129] In his prior statement with his brothers, he said that A.P. grabbed him by his shirt and pushed him against the wall in an incident before the car accident of April 2017. He did not repeat that allegation here.

[130] In the context of the two interviews in which B.M. participated, I have some concerns respecting reliability and the possibility he was along with his brothers in the previous interview. I consider his young age and how the prior interview unfolded. While I have concerns as expressed, I will consider this statement as part of the overall evidence and assess its ultimately reliability in that context.

Cathy Grant

[131] Cathy Grant provided evidence in the matter. She is the Director of and a counsellor with New Leaf, a local program that provides group counselling and support for men involved in domestic violence. She was qualified in a voir dire as an expert in domestic counselling and has been a counsellor with New Leaf for 19 years.

[132] Ms. Grant confirmed that A.P. had been involved with New Leaf three separate times in 2012, 2016 and 2017.

[133] She said that in 2012, A.P. started the program well but then his attendance dwindled. She also said that he took no responsibility for the circumstances that brought him to New Leaf at that time.

[134] Ms. Grant said that the same pattern was followed in 2016 when A.P. only attended a few sessions and, again, took no responsibility for the circumstances that brought him to the program.

[135] Ms. Grant said that A.P. was different at the beginning of his involvement with New Leaf in April 2017. His attendance was regular and consistent, and

during the meetings he participated, occasionally becoming upset but usually showing himself to be humble.

[136] She recalled him saying that he had everything he wanted and he threw it away in the motor vehicle accident of April 2017. He repeated this again and again, and she was encouraged that he was gaining insight into his behaviour.

[137] She described one session in which he was abrupt, rude and angry, interrupting her, and talking over her. He attempted to dominate her in the conversation. The issue being discussed was the role that he played in his relationship. She said he was not willing to hear things that night.

[138] She testified in cross-examination that this was the only time that he had been inappropriate during a session, and she was not fearful of him. The next week A.P. apologized and was not disrespectful thereafter.

[139] Unfortunately, after that session, A.P. did not engage much further with the program and tended to shut down, and argued during sessions. He often complained about the Agency and the distances to services required during the child protection proceeding.

[140] Ms. Grant said that A.P.'s attendance became sporadic. Unfortunately, his tendency to minimize his responsibilities for the circumstances that brought him to New Leaf began to show again, and he became more argumentative and easily frustrated when challenged.

[141] A.P. attended at a case conference with the Agency prior to December 6, 2017, and as a part of her report before the court, Ms. Grant indicates that, though she was not present for the conference, she was made aware by another New Leaf counsellor, Stirling Smith, who was present, that A.P. was very disrespectful of Tonya Jennings during the conference and he was shocked by the behaviour.

[142] When A.P. attended for New Leaf group session on December 6, 2017, Stirling Smith brought up the issue of the case conference, and A.P. said that he hates Tonya Jennings, that he should never be anywhere near a person he hates, and that it was her fault that he was so mad at her, essentially saying she should have known that she should not be at the case conference. Cathy Grant described him as getting louder, angrier and upset as he had been in the past. A.P. reported that he had chest pains after the case conference and had to go to the hospital, because he thought he was having a heart attack.

[143] When confronted in that meeting about not engaging with services, including New Leaf, he admitted that he struggles with following through on things. That was the last group session A.P. attended.

[144] When asked about what A.P. struggles with, Cathy Grant identified alcohol, particularly alcohol consumption before the motor vehicle accident in April 2017. She said he has always struggled with this, and it's been a problem for him for a long time. She said that when he is not drinking, he is in a good frame of mind and he tries not to drink.

[145] In cross-examination, Ms. Grant agreed that A.P. had attended all but one session between April 5 and December 6, 2017, and that he stayed for the full sessions.

[146] Ms. Grant agreed that A.P. had taken responsibility for his role in the motor vehicle accident and he did not minimize it. When asked about A.P.'s position that he stopped going to New Leaf because he believe there was a pedophile in the group and he didn't want to be there with that man, she replied that to her knowledge there was no such person in the group and that men in the group tend to make harsh judgments about one another.

[147] She again confirmed that A.P.'s attitude deteriorated over time. He only talked of what happened to bring him to New Leaf at the beginning of his latest involvement and she was excited for him at the beginning. Unfortunately, he did not finish the program and had only taken the first steps.

Lorraine Logan Smith

[148] Psychologist Lorraine Logan Smith, provided evidence in the matter. She was qualified as an expert in psychology. She filed several reports which were introduced into evidence and provided viva voce evidence at the hearing.

[149] She testified that she provided therapy to L.P. over several months in 2017 because of a referral from the Agency. She worked with L.P. on the issue of her insight into the risk that A.P.'s alcohol consumption and decision-making presented for the children.

[150] The goal of therapy was to help L.P. achieve increased self-esteem, improved insight into the impact of family violence and alcohol abuse on her

children, a heightened ability to recognize healthy versus unhealthy relationships, and to take responsibility for her choices.

[151] Ms. Logan Smith reported that L.P. told her that she wished to remain in a relationship with A.P. provided he continued to abstain from alcohol abuse. She told Ms. Logan Smith that A.P. had been alcohol free since April 2017 and when asked what she would do if she discovered that A.P. had been drinking, L.P. told the therapist that she would report the information to her social worker at the Agency.

[152] L.P.'s last session with Ms. Logan Smith was December 18, 2017. In a report of April 25, 2010, Ms. Logan Smith says that in that last meeting, L.P. assured her that she would leave A.P. if he started to drink again.

[153] When asked why she recommended ending therapy, Ms. Logan Smith said that she had to schedule several sessions for L.P. in January and February of 2018 and all were missed. L.P. came into her office in February of 2018, without an appointment and said she was unable to attend because the Agency had not provided her with gas money to travel. Another appointment was set for March, rescheduled for later in March, and L.P. missed that appointment.

[154] She said she called the Agency at that time and her involvement came to an end because L.P. was not attending. She did feel that it was appropriate to stop given what L.P. was reporting to her. She understood from L.P. that A.P. was doing well. They were both seeing the children and there were no health or other concerns. She said that if she knew that A.P. was not participating in services and not doing well she would not recommend ending the therapy service.

[155] In cross-examination Ms. Logan Smith agreed that L.P. was showing increased insight and seemed committed to her children's safety. She agreed that it appeared that L.P. was doing her best to engage with services but that there were concerns about L.P.'s physical health during therapy.

Tonya Jennings

[156] Tonya Jennings, the long-term social worker for the Agency, provided evidence and by way of six affidavits and her viva voce testimony at the hearing.

[157] Ms. Jennings agreed in cross-examination that, but for the statements of the children, the family would be further along to reunification. The Agency still had

concerns regarding A.P.'s commitment to services falling away, his refusal to participate in testing, and that he was not seeing Carolyn Scott for therapy.

[158] She confirmed that there were no reports of any difficulties around the access between A.P. and L.P. and the children after the motor vehicle accident in April 2017. She also confirmed that when the children were placed back in the home with A.P. and L.P., the Agency was aware that A.P. was not engaging in services, specifically that he was not attending at New Leaf or with Carolyn Scott.

[159] Ms. Jennings explained that the Agency was relying on L.P. as a protective parent to ensure the safety of the children during and after reunification.

[160] In redirect, Ms. Jennings made clear that the Agency concern was a combination of the statements of the children alleging ongoing consumption of alcohol in the home and allegations of family violence, what the Agency saw as corroboration by the two full beers in the sunroom where the children said drinking took place, and the presence of the Busch beer box and cans consistent with the children's description of the brand of beer A.P. drank. When this was combined with the refusal by A.P. during the second home visit to permit the workers to enter the sunroom, it gave rise to the renewed protection concern by the Agency concerning A.P. and L.P.

J.P.

[161] J.P. gave evidence in the matter by way of affidavit and viva voce evidence at the hearing. She is the mother of A.P.. She said that since the car accident on April 1, 2017 she has acted as supervisor for the parenting time that A.P. has with his biological child S.P. Because of this, she had been able to observe A.P. several times per week since April 1, 2017.

[162] She said she not only sees A.P. during his weekly access with S.P. but also sees him at her residence and other days when he comes to help her. She said A.P.'s access with S.P. has been for full days on Sundays, as well as other visits.

[163] Her evidence was that she has never observed A.P. consuming alcohol or under the influence of alcohol since April 1, 2017. She said that prior to that date A.P. had a problem with alcohol consumption.

[164] She said she knows how A.P. appears, and what his demeanor is like, when under the influence of alcohol based on observing him many times in the past when he had a problem with alcohol. She said that since April 1, 2017 he has never exhibited any signs of being under the influence of alcohol. She says she has seen a big change in A.P. since that time. There have been no incidents or concerns respecting his access with his daughter. She has never had to end the access early and his daughter has never expressed any concerns regarding A.P.'s consumption of alcohol, hollering at her or around her or being abusive in any way.

[165] J.P. said that when S.P. was seeing her father for unsupervised weekend visits prior to May 2018 she was excited to go, never expressed any concerns regarding anything respecting A.P.'s behaviour or consumption of alcohol. She said that if any had been raised, she would have addressed it immediately.

[166] When asked in cross examination whether she would be surprised to learn that A.P. admitted to consuming beer 3 to 4 times since April 1 of 2017 she said that she was surprised but was not concerned. She says that she sees him too often to conclude that this amount of alcohol is a problem.

[167] Her evidence was that A.P. used to have an alcohol problem but he does not anymore. He never drank at her property and she, therefore, can't say how much he consumed before April 1, 2017. She says he is doing the best he can and is really trying.

[168] J.P. said that 7 to 8 years ago his drinking was really bad but prior to April 1, 2017 A.P.'s alcohol consumption was not as bad as it had been. She said that it had improved since his daughter was born.

[169] When asked about her evidence that she was a good support person for A.P. she said that she lives 40 minutes away and can only say that there is no alcohol consumed by A.P. at her home. Her support is in the form of supporting his access with the children. She admits she only knows what he tells her.

[170] When asked about any money she provides to him, she said that she pays A.P. small amounts to help her construct a gazebo and other small jobs, providing enough money for a pack of cigarettes.

J.A.M.

[171] J.A.M., L.P.'s mother and the maternal grandmother of the three children, provided evidence by way of an affidavit and viva voce testimony at the hearing.

[172] She said she has had custody of the children since May 15, 2017 at her home. She lives about 20 to 30 minutes away from L.P. and A.P. She said that L.P. has been coming to her home to spend time with the children each day. L.P. watches the children while she is at work and J.A.M. leaves for work at about 5 AM.

[173] J.A.M. said the children appear to be doing well and says that K.M. hasn't had any "episodes" recently at her residence. She said the children seem happy when they are with her, and she has no concerns with any of their behaviour. She said the children are asking to go home to A.P. and L.P.'s home residence.

[174] J.A.M. said the children have made no comments about A.P. yelling, drinking, or physically disciplining them.

[175] She said that she has dropped in at A.P. and L.P.'s residence many times without notice, usually after school or after K.M.'s hockey. When there, she has not seen A.P. drink alcohol, he hasn't smelled of alcohol, and she has not seen any signs of impairment.

[176] J.A.M. said the children appeared to enjoy their visits with L.P. and A.P. and have no complaints when they returned to her care. She said that none of the children have said anything to her about A.P. drinking while they were with him for access.

[177] As noted earlier, she said that K.M. does have a habit of stretching the truth or exaggerating. I will not repeat her evidence here.

[178] J.A.M. said that she did bring the children to the Agency office at the request of Tonya Jennings for an interview, but she did not do so because of any concerns she had. She was present for the interview but did not participate or say anything.

[179] She expressed surprise at many of the things said by the children in their meeting with Ms. Jennings as they had not shared any of those with her previously. She said she has told the children that if there is any drinking happening on their visits they can call her and she will pick them up at any time. She discussed a safety plan for the children where they can go to a neighbour's home as a safe spot but this has not occurred.

[180] J.A.M. said that she was aware from her own observations that A.P. had struggled with alcohol issues in the past. She went on to say that she has not seen any of these issues recently in her time with L.P. and A.P. She has not observed A.P. drinking alcohol, has not smelled alcohol on him and has not seen any signs of impairment.

[181] In cross-examination, when asked about A.P.'s admission that he had consumed alcohol a few times since April 1 2017, J.A.M. said that she would be concerned if the children were around at that time.

[182] When asked about K.M.'s comment that he only tells Ms. Jennings what she wants to hear J.A.M. agreed that K.M. could be concerned that either his mother or A.P., or both, would get mad at him for what he disclosed to Ms. Jennings. He, therefore, might have said that he just tells Ms. Jennings what she wants to hear to avoid any conflict.

[183] Respecting K.M.'s truthfulness, she described an occasion when he came into the house or a room and said that his grandfather said he was going to kill him and all of them. This was clearly not true, but she admitted that K.M. may have overheard this on television and misunderstood.

L.P.

[184] L.P. gave evidence in this matter by way of affidavit and viva voce evidence at the hearing.

[185] L.P. is the wife of A.P. and the mother of K.M., J.M. and B.M.

[186] L.P. said that she and A.P. continue to live together while the children reside with her parents. When the children are at their house she tends to be the disciplinarian and A.P. is the fun one.

[187] L.P. said that the reference by Ms. Jennings to the "green thing" in the sunroom is a brown wooden box where they store wood and cardboard. She admitted there were two full beer cans and a full box containing empty Busch beer cans at the time of the visit by the Agency to the home on May 10, 2018. She said they are all now gone.

[188] L.P. said the bottles of beer were from one of A.P.'s coworkers who drove him to work. A.P. had given him some beer in exchange for the drives. She said

that A.P. and his friend spent time hanging out in the sunroom. A.P. did not drink alcohol but rather drank Pepsi.

[189] To the suggestion that there is a cooler in the sunroom hidden inside a wood box, she denied this. She said there is a cooler in that room and has been there for very long time, but it is not inside anything.

[190] Respecting the beer box in the sunroom, she said that she doesn't know where it came from. She said she keeps cardboard to start a wood fire heating system in the home. She suggested the beer box could have been there from a long time ago or even from when they first moved in to the home. Her habit is to break down the boxes and throw them in the wood box.

[190] When asked in cross examination about the beer box in the sunroom, she admitted it was not a collapsed box, she had been using the wood box where the beer box was found for about three years and didn't see the beer box at any time.

[191] Respecting the allegations that A.P. is drinking she denied this and said that he has been with her nearly all the time since the proceedings started, except for when one of them is working. She said that though she started work in May 2018, prior to that A.P. was home with her the vast majority of the time.

[192] She also said that prior to her starting work in May 2018 neither of them were working and they didn't have any extra income to spend on alcohol.

[193] L.P. said that she goes to her mother's home on a regular basis, usually 4 to 5 times per week, and said that the children are with J.L. on the weekends. When she visits her mother's home she said that the children seem healthy and in good spirits and are doing well in school.

[194] L.P. described the children coming to visit 3 to 4 times a week at her residence but now that she is working, there is no regular schedule and they visit when her schedule allows. During those visits she said that the children have no issues with behavior and they seem to not want to leave at the end of the visit.

[195] She said that A.P. visits with the children at her mother's home and during those visits the children stick to A.P. "like glue". She said they don't pay a lot of attention to her during those visits and everyone seems to have fun. She said there are no issues, although the children seemed disappointed that they can't go fishing or to other activities as they used to. She said that the children always ask when they can come home with them again.

[196] Respecting K.M., she gave evidence of his truthfulness, attempts to manipulate her and his influence over his brothers. This was addressed earlier and I will not repeat it here.

[197] She denies that A.P. is yelling in the home until 11 PM at night. She said the children go to bed at 9 PM and they retire shortly thereafter. She said no one is up yelling at 11 PM. She said only if the children are not listening to her will A.P. raise his voice.

[198] L.P. said that she has never heard A.P. call any of the children "fucking dumb". The only incident she could recall which might be similar is when the children were throwing rocks onto the roof. She didn't recall exactly what A.P. said, but it was after the children denied doing anything at all.

[199] She denied that the children were ever thrown outside. She did say that K.M. and J.M. were fist fighting and she was trying to break them up but was unable to. A.P. came out of the bedroom and said "you're not going to kill each other in the kitchen" and told him to go outside. She said they both went outside willingly.

[200] L.P. denied deleting pictures of beer cans from K.M.'s iPod. She said that she looked at the iPod as she normally does to monitor the device and she took screenshot pictures of beer cans K.M. had been searching for on the Internet. She attached a copy of those screenshots to her affidavit.

[201] She variously denied seeing A.P. kick a chair, bump into things, and said that if A.P. was ever moving slowly, it was when he was stiff from work.

[202] In commenting on the second visit of the Agency workers to her home when they tried to search the residence and A.P. denied them, she said his comments to her were not degrading, were only a figure of speech, and she did not take offense.

[203] To the allegation that A.P. kicked J.M., she said A.P. did not kick anyone but he did kick a pair of sneakers towards the door. She said there was no contact between A.P.'s foot or any of the children. She denies ever seeing A.P. physically abuse the children or put his hands on them in a state of anger.

[204] To the allegation that A.P. yells all the time, she denied this. She said that A.P. only raises his voice when the children aren't listening to her. She said she tries to get them to put on their jackets but they usually fight with her about it and they prefer to wear heavy hoodie sweatshirts when it is cold.

[205] She denied any physical violence in the home between her and A.P. or A.P. and the children. She said she did not observe A.P. pushing any of the children against the wall.

[206] To the allegation that the children were told not to go into the sunroom, she agreed that they were told not to go in there sometimes. She said it is a room overlooking the lake with sliding glass doors and a large glass window as a wall. She said they tell the children not to go in there because that is where they smoke cigarettes in the winter.

[207] L.P. denied seeing A.P. consuming alcohol since April 2017. She said she has not smelled alcohol on him and has not seen any signs of impairment from alcohol since that time.

[208] To the allegation that A.P. possessed cocaine, she denied this and said that K.M. had recently learned about drugs at school, and that would be the only way he would know about cocaine.

[209] To the allegation of K.M. that he saw A.P. drinking alcohol on the weekends, she said this could not happen as the children usually go to J.L.'s home on the weekends. This includes the current arrangement where the children are with J.L. every weekend. She said this access arrangement has been a place for several years.

[210] She denied telling the children to get away from A.P. and says the children spend a lot of time outside and enjoy being out. She said since they don't have cable TV this is their main form of entertainment and play.

[211] Respecting the beer cans in the yard, she said they are there from a long time ago and haven't been cleaned up. She said they are in a pile with old tires.

[212] L.P. said the children have never expressed being uncomfortable with them during any visits and have never requested that they leave during those visits.

[213] L.P. says that none of the children had made any of the allegations put forward to the Agency to her at any time.

[214] In cross-examination she was questioned about a document known as a Statement of Facts presented to the Department of Community Services when seeking financial assistance. Without going through that evidence, I do not find this to be helpful in assessing the credibility of L.P. or A.P. and I have not given that evidence any weight.

[215] When asked about the motor vehicle accident, L.P. said that she believes that A.P. was drinking and that the alcohol caused the accident. She noted she did not see A.P. that evening.

[216] When asked about his drinking before the accident, she said that in March and April 2017 he was drinking a 15 pack of beer every two weeks or a little more. He was drinking around her and could have drank elsewhere as well.

[217] She admitted that they just completed a child protection proceedings at that time but she did not report his alcohol consumption to the Agency. She said this level of alcohol consumption was nowhere close to what he had been drinking prior but admits it was an error in judgment not to report this.

[218] When asked if she was choosing A.P. over the children and putting them at risk during that time, she denies this. She said that she saw the children every day, A.P. had done a lot of services in this proceeding and past proceedings, the children were home as much as possible, and as she was trying to keep the family together.

[219] Respecting her own services, she was questioned as to whether she was truthful with Ms. Logan Smith. She agreed her last appointment with her was December 18, 2018 and she reported that A.P. was attending services. When it was suggested that he stopped attending New Leaf after December 6, 2018 she simply said that she didn't know he was not going to return when she met Ms. Logan Smith. At the time of the meeting with Ms. Logan Smith, she believed A.P. was doing well.

[220] When asked about her statements to Ms. Logan Smith that she didn't attend for services in January and February 2018 because she wasn't given gas cards she clarified that these were provided late which affected her access to services. She agreed she had been provided gas cards to cover transport to services and access costs.

[221] When asked about her statement to Lorraine Logan Smith that she would leave A.P. if he began drinking again, she said she meant it. She said if he drank 15 beer over 18 months this would not be enough to cause her to leave as she would not see it as a significant problem. As well, he did not drink the beer around her or in the home. She knew that he didn't drink in the home because they were together almost 24 hours a day, seven days a week. On the other hand, if he was

drunk at a camp in the woods she could not control that. Her evidence was that if he were to drink in the home or drink around the children that would be her limit.

A.P.

[222] A.P. provided evidence in this proceeding by way of an affidavit and his viva voce testimony at the hearing.

[223] A.P. confirmed that prior to the children being placed with his mother on May 15, 2017 he and L.P. were seeing the children at their home on an unsupervised basis for three overnights per week, usually Mondays, Wednesdays and Thursdays. They would generally have the children from after school until 7 AM the next morning when they returned to school. He said things were progressing well.

[224] Since May 2018 his access with the children has been restricted and supervised. He described having limits in transportation to see the children from early May 2018 until the past several weeks when he was able to get to J.A.M.'s home for visits. When there, he said the visits go very well and the children are happy to see him. He said they pay more attention him than their mother.

[225] He said the children seem disappointed that he and L.P. cannot take them fishing or do other activities as they used to before the changes in May 2018. He said the children ask when they can go home again with them.

[226] A.P. addressed the services he is engaged with in this proceeding. He said he participated in urine drug and alcohol testing from early August 2017 to late November 2017. In total, there were 19 tests, and all were negative for alcohol. They were positive for marijuana, but he had disclosed smoking marijuana to the Agency early on.

[227] A.P. said that he attended counselling with Carolyn Scott for mid-June 2017 to approximately December 2017 for a total of seven sessions.

[228] He said that he attended 16 sessions with New Leaf from April 2017 to December 2017. He said he stopped attending in December 2017 for two reasons. First, he said there was a pedophile attending the sessions, and he didn't want to be there with him comparing stories.

[229] As well, during one of the last sessions with New leaf, A.P. said he had an issue with Stirling Smith who alleged that he had verbally assaulted Tanya Jennings at a case conference meeting.

[230] He also said that during the late spring and summer of 2017, he only attended seven of 14 sessions, as some of those sessions dealt with other addictions such as gambling and smoking which were not problems for him.

[231] A.P. said he also attended three sessions with Linda Boudreau of Addiction Services in the spring of 2017. He self-referred for the service after the motor vehicle accident in April 2017.

[232] As to alcohol consumption since the accident of April 1, 2017, A.P. said he consumed alcohol on 4 to 5 occasions, drinking approximately 3 to 4 beer each time. He said that none of these occasions were in the presence of the children or L.P. They did not take place in the home.

[233] A.P. acknowledged that he had a problem with alcohol in the past including frequent excessive consumption. He said that since the accident of April 1, 2017 he has not had any problem with alcohol and has not consumed alcohol frequently or excessively.

[234] Respecting the allegation that he was yelling until 11 at night in the home, A.P. said the children are in bed by 9 PM, and he and L.P. go to bed shortly afterwards. He did not yell in the home until 11 PM. On one occasion he raised his voice a bit to support L.P. when she was trying to discipline one or more of the children.

[235] He denied using the phrase "fucking dumb" at any time.

[236] A.P. denied consuming alcohol in the presence of the children since April 1, 2017. He does say that prior to that date he consumed some Busch brand beer and speculates that may be what K.M. was referring to. He said K.M. would have seen him drinking Busch beer prior to April 1, 2017 but not after.

[237] Respecting the sunroom, he says that he and L.P. sit in the sunroom to relax and smoke there in the winter. He denied drinking beer there since April 1, 2017. The children are not allowed in the sunroom during the winter because that is where they smoke. In the summer, they smoke outside.

[238] He denied hitting L.P. and denied that she requested that K.M. call the police. He denies any physical violence in the home.

[239] A.P. denied kicking a chair over but does say his daughter S.P. and B.M. did get in a fight in the basement. There are no chairs in the basement that he could have kicked over. The only chair there is a heavy easy chair that could not be kicked over even if one tried.

[240] Regarding the allegation that he spit in B.M.'s face, he denied this.

[241] Respecting the allegation that there is a green thing in the sunroom in which he had a cooler, he denied this. He said there is a brown wood box with a cushion on top that you can sit on in the sunroom but there is no cooler in it.

[242] To the allegation that the children have been told not to look in the sunroom when he and L.P. are there, he said this is not correct. They have been told not to enter the sunroom when L.P. and he are smoking there. He says the glass doors that separate sunroom from kitchen means the children can look in in any event.

[243] To the allegation regarding him smoking from a golden coil with a bowl or bent cans or a bong, he denies this though he admits he does smoke marijuana joints.

[244] Regarding the beer found in the sunroom, he said that a friend, who is also a coworker, drove him back and forth to work for a couple weeks when he worked at a local sawmill in April, 2018. The friend also delivered a load of firewood to A.P.'s residence. A.P. purchased an eight-pack of Labatt's Blue beer to thank him. He said he did not drink with this friend and that the beer was for his friend as thanks.

[245] He said that his friend drank two of the beer at his residence, took four of the beer with him and left two full beer at A.P.'s residence for the next time he was there. He said K.M. was not there when his friend drank the two beers at the home. He said that same person was at the home previously and drank Pepsi and smoked when K.M. was present and he may be recalling that.

[246] Respecting the allegation that A.P. has fallen asleep in the sunroom, he denied this saying that he and L.P. go to bed early in any event. He denied bumping into things. He did say that when he walked slowly it would be when he

was working at the sawmill and he would be sore and stiff. He described heavy work at the sawmill and that he was not used to this physical work.

[247] Respecting the motor vehicle accident on April 1, 2017, A.P. denied telling K.M. to lie about the accident. He said that he waited at the accident scene for 40 minutes for the RCMP to arrive and went straight to them to tell them it was his vehicle. He said that if he wanted to suggest that someone else was driving the vehicle he had time to leave the scene before the RCMP arrived. He said he took responsibility for the accident.

[248] Respecting the alleged fight between K.M. and J.M., he said that they were fist fighting that morning and L.P. tried to break them up and could not. He said that he told the children that they were not going to kill themselves in the home and if they were going to fight they had to go outside. He told them to get their jackets, shoes, and book bags and go out. He said he did not kick them out nor did he throw anything at them. He said most mornings they do fight before going to school. He denied it was snowing that day. He flatly denies any physical discipline of the children whatsoever.

[249] Respecting the allegation of having an explosive item wrapped in a towel in the vehicle, he said this refers to a mixture of gas and chainsaw oil for his chainsaw. He said they were at his father's residence and his father gave him a glass jar with that mixture in it and a separate glass jar with chainsaw oil only in it. He referred to it as being a gas and that it could blow up in an effort to get L.P. to stop smoking.

[250] A.P. denied any use of cocaine and said K.M. would know about drugs from education at school. He denied that cocaine was purchased for him and said he does not use cocaine.

[251] Respecting the allegation that he drank Busch brand beer in the home since April 1, 2017 he flatly denies this. He did say that he drank the beer years ago and the children may be thinking of that time.

[252] To the allegation that K.M. said that the drink A.P. was consuming did not look like Pepsi and A.P. became very upset, threatening if he were 16 he would knock him out, A.P. denied this. He repeated that there has never been any physical discipline towards the children and no threat of same. He denied that K.M. and J.M. fled the home and hid from him.

[253] Respecting the allegation that he throws up frequently, he said when he does so it is because of indigestion. He described having heartburn and he will sometimes throw up as a result. In his earlier statement to the Agency worker he said that he overeats to avoid waste and that is why he throws up.

[254] A.P. denied falling over a tiny table when he was drunk. He denied that the children are sent outside to avoid him but said they go outside of their own choice.

[255] A.P. agreed with J.M.'s statement that there are beer cans in the yard. He said this refers to cans near tires from his truck. The tires were placed where he had thrown beer cans prior to April 1, 2017 and the cans are still there. Similarly, the beer cans by the fishing hole are still there but were put there prior to April 1, 2017.

[256] To the allegation all three children prefer to be home when A.P. is not there, he said all three children have been happy to be in the home when he is there and he has a good relationship with each of them.

[257] To the allegation that he and L.P. had gotten rid of any evidence of alcohol quickly after the first visit by the Agency workers, A.P. denies this as there was no alcohol to get rid of.

[258] A.P. admitted that he made an inappropriate comment to L.P. when the Agency workers attended for the second visit and agrees he should have said something different but he only used it as a figure of speech and did not intend offense. He says he and L.P. have a good and stable relationship and respect each other very much.

[259] Respecting the second visit to the home by the Agency workers on May 2, 2018 he was present and agreed that he told the workers they could only look in the fridge, cupboards and children's rooms. He believed they had no reason to look further as they had only been there two weeks prior.

[260] A.P. confirmed that his visits with his daughter S.P. have gone very well and have been expanding up until early May 2018 when they were restricted because of these allegations.

[261] Consistent with the evidence of L.P., his mother and mother-in-law, A.P. says K.M. likes to please people and tell others what they think they want to hear. He says that K.M. tends to stretch the truth to get what he wants. He said K.M. is

very mature and often tries to listen in on conversations about the proceedings. He said that J.M. and B.M. look up to the older brother and will often mimic what he does and repeat what he says.

[262] In cross-examination A.P. denied having anger issues. He then confirmed leaving an angry voicemail for an Agency worker regarding the taking of S.P.Linds into care. He also admitted that he had been involved in a fight with J.L. involving a knife but claimed it was an isolated incident.

[263] Respecting the issue of whether he would have money to purchase alcohol, A.P. admitted he had worked on and off for the last few years for his mother, father, and uncles including construction of homes and garages. Some periods of employment were from December 2017 and March 2018 and December 2016 to March 2017. He also agreed he had worked at the local mill for two weeks ending in April 2018.

[264] Respecting drug testing, A.P. agreed that he refused drug testing in the prior proceedings, and in the current proceeding did many, but refused to participate in two tests. Those tests began again after April 1, 2017.

[265] When asked about marijuana, he said he smokes 2 to 3 joints per week which cost \$10-\$15 every two weeks. He said he doesn't know where the money comes from but that work provides some income for this. He said he has never driven while under the influence of marijuana.

[266] Respecting driving while impaired by alcohol, he admitted that he did so twice. In each case, there was a collision and the police were involved. He denies ever driving under the influence otherwise.

[267] When discussing his work with Carolyn Scott and her reports attached to his affidavit, he said he accepted her reports. In Carolyn Scott's report of August 25, 2017, she said in part

A.P. presents as engaged and sincere with respect to his participation in therapy sessions to date. It is hoped that A.P. will be able to continue to attend therapy sessions every other week in order to continue to focus on skills acquisition as the misuse of substances is often related to maladaptive coping with emotional dysregulation and cognitive distortions.

[268] In her report of October 31, 2017, Carolyn Scott said in part

It is positive that A.P. has continued to remain engaged in therapy sessions and to attend group sessions through New Leaf to address interpersonal conflict and stressors. He has reported that he feels more positive in terms of the situation and he seems more confident with respect to maintaining his sobriety. Recently, it was discussed that it is unlikely that he would be successful in drinking socially in future given his admitted historical difficulties concerning the consumption of alcohol and therefore abstinence is recommended.

[269] A.P. testified that he understood the statements from Carolyn Scott but did not follow the advice. He did not maintain his abstinence and stated that he does not agree with Carolyn Scott's opinion. He said he stopped seeing Carolyn Scott due to transportation problems.

[270] He agreed that from the New Leaf reports before the court, he had good attendance from April to July 2017, fair attendance from July to November 2017 and poor attendance from November to December 2017.

[271] In cross-examination A.P. admitted to being an alcoholic. He admitted to having consumed beer on several occasions in varying amounts over the last 15 months and, despite admitting that he is an alcoholic, says he has no problem with alcohol now.

[272] When questioned on the letter dated May 5, 2017 from Addiction Services, attached to his affidavit, he agreed that a detox program was recommended and he did not take part in it. He agreed that an Addiction Early Recovery Program was recommended and he only took part in half of the sessions. He agreed that it was recommended he attend Alcoholics Anonymous and said he went a couple of times but then did not maintain contact. He did attend the 2 to 3 individual therapy sessions with the addictions counsellor as recommended.

[273] He also admitted that, despite saying in his affidavits that he consumed beer 3 to 5 times since April 1, 2017, he was unsure of the number of times.

[274] He also said that he was not hiding his consumption of alcohol from his wife but admitted he didn't tell her and that this amounted to hiding it from her.

[275] When questioned on what was found in the home during the first search, A.P. confirmed that there was concern that he was drinking Busch brand beer in the sunroom and a Busch brand beer box and empty cans were found in the sunroom.

[276] He agreed that it was alleged that he drank beer in the sunroom and two full cans of beer were found there.

Analysis and Decision

[277] Considering all of the evidence before me, and having considered the issues of credibility, the law, and taking into account the burden on the Minister to establish, on a balance of probabilities, that the requested order is necessary, the least intrusive alternative, and in the best interests of children, I find it reasonable, necessary and in the best interests of the children to grant an order continuing the placement of the children, and the supervision of the access for A.P. and L.P., at the discretion of the Minister. I do so for the reasons that follow.

[278] The core of the allegations against A.P. and L.P. is that A.P. has returned to drinking to excess and has done so in the home since the motor vehicle accident of April 1, 2017. The Minister argues that this alone presents a risk to the children given the history of A.P. and the family. As well, the related allegation is that he has been violent towards L.P. and the children and that L.P. has failed to disclose any of these circumstances to the Agency and has, thereby, not acted as protecting parent.

[279] I find A.P.'s history with respect to alcohol consumption and participation of services is clear. As far back as 2012 alcohol consumption and abuse was a core issue in each of the three child protection proceedings in which he was involved. In the first two proceedings he refused to participate in services. He developed no insight into the risks associated with his alcohol abuse.

[280] In this matter alcohol consumption remains a central issue. A.P.'s admission that he began drinking again shortly after the termination of the last child protection proceeding is further evidence that he had no insight into the risk to that point.

[281] The fact that he drank and drove with K.M. in the car on April 1, 2017 and had an accident, which could have seriously injured or killed the child, is further evidence of lack of insight.

[282] After the motor vehicle accident of April 1, 2017 I accept that A.P. was remorseful and took responsibility for his part in that accident. He clearly had consumed excessive amounts of alcohol and put K.M.'s life at risk. In his

discussion with Cathy Grant of New Leaf it appears that he had insight at the time that something had to change.

[283] Despite this, and consistent with his pattern of initially engaging with some services and then drifting away, his engagement declined again. The evidence I accept is that A.P. attended at New Leaf regularly for a few months, then reduce his attendance over time until he found an excuse not to attend. He blamed Sterling Smith for his own behavior and claimed that a pedophile was in the group and he would not participate further.

[284] Similarly, he did little to work with Carolyn Scott, failing to complete his services with her. He also rejected that it was necessary for him to remain abstinent from alcohol, both pulling away from services and drinking again, and by his rejection at the hearing of Carolyn Scott's conclusions. Ms. Scott makes clear in her report letter noted earlier, "it is unlikely that he would be successful in drinking socially in future given his admitted historical difficulties concerning the consumption of alcohol and therefore abstinence is recommended".

[285] A.P.'s view of alcohol and his ability to control his consumption was also clear in the evidence when he testified that he has consumed beer on several occasions since the automobile accident. He admitted he is an alcoholic and, despite the opinion of Carolyn Scott, continued drinking. This is also consistent with his behaviour and comments at New Leaf. I find that A.P. does not believe that he had a serious alcohol problem despite all the history confirming that he does and he demonstrates a pattern of denial, minimization, and continued consumption despite professional advice and the risks.

[286] This hearing was triggered by the statements made by the children, primarily K.M., respecting A.P. and his consumption of alcohol and domestic violence since the automobile accident. While I do not accept all of the statements made by each of the children in their various interviews, I find enough credible evidence, particularly those statements for which there is corroboration as noted, to accept that A.P. was consuming alcohol in the home, and by his own admission outside of the home, since the automobile accident in April 2017.

[287] As discussed earlier, the inconsistencies among the children statements are largely ones of omission. I also find that the claim that younger children follow K.M.'s lead was largely displaced in the interview at the school when J.M. took the lead in making many of the allegations before anything was said by K.M.

[288] The fact that the children did not repeat many of the allegations made when they participated in the joint interview conducted by the RCMP and the Agency does not, in my mind, negate the credibility of the statements made earlier. As discussed, the purpose of the joint interviews with the RCMP was quite different than the interviews of the Agency. The joint interviews focused on criminal behaviour and were not focused on the protection concerns raised in this matter. It is not surprising that there was not a wholesale repetition of the allegations made by the children in those joint interviews.

[289] I am also not persuaded that the fact that the children described having good relations with A.P. and not expressing the same fears of A.P. as they had in earlier interviews negates the credibility of those earlier statements. I accept that the children can have a generally good relationship with A.P. while still expressing serious concerns, as they did in the early interviews, regarding his behaviour when drinking alcohol in the home.

[290] Given the interest that A.P. and L.P. have in these proceedings, and the corroborating evidence of beer and empty beer cans in the sunroom, and the refusal to allow a search of the home and the second occasion, I am lead to conclude that their evidence denying alcohol consumption in the home A.P. is not credible. The consistency in the children's statements that A.P. was drinking Busch beer and the finding of a case of empty Busch beer cans and two full cans of another brand in the sunroom is persuasive. A.P.'s refusal to allow the workers to enter the sunroom on the second visit to the home adds to the credibility of the children's statements.

[291] With respect to the evidence of J.A.M. and J.P., I accept that they have not observed A.P. intoxicated or consuming beer either in their homes or in the A.P. and L.P. home. But their opportunity to observe was limited. I accept that there were unannounced visits but the evidence reveals that those were not frequent. A.P.'s visits with the children under supervision would be a time when he would not consume alcohol or be under the influence. Therefore, I find their evidence to be credible but of limited value in this circumstance.

[292] There are some statements of the children, such as K.M.'s claim regarding use of a bong, a golden bowl, bent cans, and cocaine that I find are not credible and may be based on things he has learned at school. I also accept the evidence of A.P. that the item wrapped in a towel and transported in the vehicle was as he described it, gas and chainsaw oil and not related to any drugs. I find his explanation to be credible.

[293] That, I find, does not negate the credibility of the remainder of the statements. Courts are entitled to accept parts of the evidence of a witness and reject other parts in an assessment of credibility. Overall, I find the concerning statements made by K.M. and his brothers respecting A.P.'s recent consumption of alcohol in the home since the motor vehicle accident and his behaviour of abuse towards the children and the mother are credible in all the circumstances.

[294] To the evidence of L.P. and A.P. that the children would never see A.P. drinking on the weekends because they were with J.L., it was L.P.'s evidence that the children were "usually" with J.L., meaning at least some weekends they would be at home and could observe. As well, even if they were with J.L. each weekend, they would return on Sunday and would have an opportunity to observe at that time.

[295] I will note that, with respect to the allegation that J.M. was kicked by and had shoes thrown at him by A.P. has been appropriately responded to by A.P. and L.P. I find their evidence that this was part of an argument between the two older children in which both adults intervened and that A.P. did not kick directly or intend to cause any harm to J.M. in that incident to be credible.

[296] On the other hand, I do accept the evidence in the statement of K.M. that A.P. pushed L.P. against the wall, was yelling a great deal within the home, physically assaulted B.M., and did attempt to hide his consumption of alcohol in the sunroom of the home after the motor vehicle accident.

[297] In finding that A.P. has consumed alcohol to excess in the home and elsewhere and that has lead to incidence of verbal and physical abuse within the home towards his wife and the children since the automobile accident on April 1, 2017, I consider the following circumstances.

[298] A.P. admits he is an alcoholic and has consumed beer on several occasions, and in varying amounts, since the automobile accident. He is not sure how often he has done so.

[299] A.P. admitted that he began drinking again shortly after the termination of the prior child protection proceeding that began in 2016. L.P. said he drank a 15-pack of beer over 2 weeks and may have consumed more elsewhere.

[300] He has been advised by a psychologist that abstinence is the way forward and he rejects this advice.

[301] His engagement with services through Carolyn Scott and New Leaf tapered off over time and he reverted to his behaviour of looking to blame others for his circumstances. This is consistent with his past behaviour of returning to drinking throughout three child protection proceedings.

[302] A.P. did not follow much of the advice of Linda Boudreau of Addiction Services including the recommendation to attend detox, his failure to complete the Addiction Recovery program, and his failure to engage with Alcoholics Anonymous.

[303] The discovery of two full Labatt beer bottles and a case of empty Busch beer cans in the sunroom is consistent with the statements made by K.M. and the other children in the interviews. I do not find credible the evidence of A.P. and L.P. that the Labatt's beer was there because of a friend, and I do not find credible the statement by each of them that the empty beer cans have been there for long time and were not consumed since the motor vehicle accident.

[304] I consider as well that, when the workers returned to the home for a second visit when A.P. was present, they explained that if nothing was found they would be prepared to move forward with reconciliation of the family. A.P.'s reaction in allowing a search of the kitchen area and the children's rooms only and his refusal to allow entry the sunroom strongly suggests to me that he was doing so to prevent discovery of more alcohol in that location. While I might understand the reluctance of anyone to allow search of their home in other circumstances, given the context of the child protection proceedings and the confirmation by the worker at the time that if nothing was found they would move to reunite the family, I find it inexplicable that A.P. would refuse the search is requested unless it was to avoid detection of alcohol.

[305] To the issue of ability to purchase alcohol, A.P. and L.P. suggested they would not have the money to do so. Yet there is the evidence of A.P. that he worked from time to time for family and at a sawmill for a time and I find he had income which could be used to purchase alcohol as he had marijuana.

[306] I also have concerns that L.P. has a history of tolerance for A.P.'s drinking until the Agency becomes involved. She testified that she knew that A.P. was

drinking shortly after the termination of the prior child protection proceeding and did not report this to the Agency. She admitted this was a mistake.

[307] As well, when asked about his current admitted consumption after the motor vehicle accident, L.P. did not seem concerned, saying it would only be an issue if he drank at the home or in the presence of the children. This reflects a longstanding pattern of tolerance of A.P.'s drinking until it gets out of hand. She does not have any insight into the fact that abstinence, as described a Carolyn Scott, is required for A.P. There's no evidence that she is been done anything to dissuade A.P. from continuing to drink in the past or currently.

[308] For all those reasons, and taking into account the burden of proof on the Minister on the balance of probabilities and considering the best interests of the children as set out in section 3 (2) of the *Act*, I find it necessary and in the children's best interests to continue the current placement and supervision of access for both A.P. and L.P. at the discretion of the Minister.

Daley, J.F.C.