

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Green v Green*, 2022 NSSC 164

Date: 20220610

Docket: SFH No. 1201-071597

Registry: Halifax

Between:

Kelsey Green

Applicant

v.

Heidi Green

Respondent

Judge: The Honourable Justice Theresa Forgeron

Heard: May 30 and 31, 2022 and June 2, 2022

Decision: June 10, 2022

Counsel: Kelsey Green, Applicant, self-represented

Heidi Green, Respondent, self-represented

By the Court:

Introduction

[1] Kelsey Green and Heidi Green are divorced spouses and the parents of three children. Mr. Green and the children have an estranged relationship. To re-establish a healthy parenting dynamic, the corollary relief order itemized the therapeutic interventions and goals which each party and the children were to accomplish. Ms. Green undertook and completed the therapeutic goals. The children undertook and completed the therapeutic goals. Unfortunately, Mr. Green opted not to do so. Given Mr. Green's failure, his relationship with the children has not improved. Indeed, it has deteriorated.

[2] Given the current circumstances, what parenting arrangements are in the children's best interests?

[3] For his part, Mr. Green bemoans the current court order. He states that the children do not spend enough time with him. Mr. Green expressed concern about the present and long-term effects that the current parenting arrangement has and will have on the children.

[4] In contrast, Ms. Green states that it is in the children's best interests to vary the current order because Mr. Green:

- Failed to abide by the parenting provisions and safety precautions stipulated in the court order.
- Failed to participate in the ordered therapy.
- Failed to gain any insights about how his behaviours contribute to his poor relationship with the children.
- Failed to recognize the children's feelings.
- Failed to gain skills to parent and support the children in a manner consistent with their emotional well-being.
- Failed to gain skills to manage his anger, frustrations, and fears in a healthy manner.

- Failed to gain skills to effectively communicate with her and professionals in a nonconflictual and respectful manner.
- Failed to co-operate in arranging passports so that the children can travel to New York in the summer.

[5] Further, Ms. Green states that rather than making the necessary parenting changes, Mr. Green “doubled down” on his campaign to gain control and power by refusing to accept responsibility and by lashing out at anyone who refused to adopt his narrative. Ms. Green states that the children need stability and peace. From her perspective, this can only be achieved by a variation of the parenting provisions of the CRO.

Issues

[6] In this decision, I will answer the following questions:

- What is the status of the therapeutic interventions ordered in the CRO?
- Did Ms. Green prove a material change in the circumstances?
- What parenting order is in the best interests of the children?

Background Information

[7] To better appreciate the circumstances of the children and the parties, I will provide an overview of their extensive litigation history before the trial and appeal courts. This overview does not examine litigation in the Provincial Court or offer any detailed description of the parties’ extensive engagement with police, school, and child protection authorities.

Commencement of Divorce Proceedings and Interim Arrangements

[8] On July 22, 2018, the parties separated after Mr. Green was physically violent to Ms. Green: para 8, 58, 59, 78 of the divorce decision. Ms. Green secured temporary orders under the *Domestic Violence Intervention Act*, 2001, c 29.

[9] Arrangements were made for Mr. Green to have parenting time with the children. Issues soon arose when the children began to resist contact with their father.

[10] On December 18, 2018, Mr. Green initiated divorce proceedings and applied for an interim parenting order. Ms. Green was served in January and filed an Answer on January 29, 2019.

[11] On July 3, 2019, the parties reached agreement on the interim parenting arrangements and an interim consent order issued. Ms. Green was granted primary care, with specified parenting time to Mr. Green. The children were also ordered to participate in services with a psychologist selected by Mr. Green. Mr. Green retained Dr. McAfee. Dr. McAfee worked with the children and the family until December 2019. Dr. McAfee withdrew her services after Mr. Green became frustrated with the process because his expectations were not being met.

[12] In mid-December 2019, Mr. Green filed a motion to determine the Christmas parenting schedule. Another judge rendered an oral decision and an interim order issued. Mr. Green was authorized to take the children to Quebec for a ski trip provided their paternal grandfather attended. Unfortunately, the grandfather did not attend the ski trip which compounded the already challenging parenting issues.

[13] On February 26, 2020, Mr. Green filed a contempt motion alleging that Ms. Green was not following the interim parenting order. Ms. Green disagreed and alleged that Mr. Green did not abide by the December 2019 parenting order. The contempt applications were scheduled and then adjourned by another judge.

[14] At various times between the separation and the divorce hearing, police and child protection authorities engaged with the family. Matters reached a crisis point in the summer of 2020 when the police provided the mother with a panic button because of the volatile situation.

[15] Given the allegations and issues, a parental capacity assessment was undertaken by psychologist, Shelia Bower-Jacquard who delivered a 123-page assessment.

Divorce Hearing

[16] The parties' high conflict divorce trial was held on October 26, 27, 28, 29; November 3 and 6; and December 17, 2020. At the time of trial, the parties were each represented by capable legal counsel. Contested parenting issues were the focus of the trial. In addition to Ms. Bower-Jacquard, evidence was received from the parties; a psychiatrist from the mood disorder clinic who had treated Mr.

Green; a counsellor; a coach; the paternal grandfather; three police officers; the mother's sister; and a psychologist who worked with the children. Further, other evidence was entered by consent, including business records from police and child protection authorities, and a statement of facts about Dr. McAfee's involvement. Dr. McAfee was no longer a practicing psychologist and was unable to testify at trial.

[17] At the conclusion of the trial, I delivered an interim variation decision and order, followed by a final, written divorce decision dated February 16, 2021 and reported at *KG v HG*, 2021 NSSC 43.

[18] In the divorce decision, I made extensive findings of fact. In so doing, I specifically rejected Mr. Green's claim of parental alienation: paras 55 to 64 and 84 to 87. Further, to alleviate the serious parenting concerns, I ordered the parties and the children to participate in therapy, with defined and specified goals, as outlined in paras 104 to 114. The parties were given seven months to successfully complete the therapy, after which I would review the parenting plan. If the therapeutic goals were achieved, a more typical parenting arrangement would be ordered. The review was scheduled for September 27, 2021.

Appeal Attempts

[19] Mr. Green strenuously objected to both the interim variation order and the divorce decision. He filed an appeal of both. In addition, Mr. Green sought a stay of the interim variation order.

[20] Mr. Green's motion for a stay was denied by decision reported at *Green v Green*, 2021 NSCA 15. Mr. Green's appeal of the interim variation order was also denied by order dated June 16, 2021, and bearing number CA503028.

[21] Further, Mr. Green was not successful in his attempt to appeal the divorce decision and corollary relief orders. Because Mr. Green did not file his appeal on time, he sought an extension. The Court of Appeal denied his motion for an extension by decision reported at *Green v Green*, 2021 NSCA 61. Mr. Green's subsequent appeal to the Supreme Court of Canada was also denied at *Green v Green*, [2021] SCCA No 454 (File No: 39991).

Costs Decision

[22] On April 29, 2021, I issued the costs decision, which is reported at *KG v HG*, 2021 NSSC 142.

Emergency Motions

[23] On May 26, 2021, Mr. Green filed an emergency motion. ACJ O’Neil was not satisfied that the evidence justified an emergency hearing and thus dismissed the emergency motion.

[24] On September 15, 2021, Mr. Green filed another emergency motion, which was dismissed by ACJ O’Neil for the same reasons as the previous motion.

Adjournment of Review and Recusal Motion

[25] The review scheduled for September 27, 2021, contemplated at paras 112 to 114 of the divorce decision, did not proceed. The hearing was next rescheduled to December 6, 2021. That hearing also was rescheduled because Mr. Green filed a recusal motion. December 6th was reassigned for the contested recusal motion. The review hearing was rescheduled to January 31, 2022.

[26] In anticipation of the hearing to determine the recusal motion, Mr. Green asked the court to issue subpoenas to compel the attendance of two social workers, ACJ O’Neil, and his judicial assistant. This motion was heard by Justice Keith who denied subpoenas for ACJ O’Neil and his judicial assistant but allowed the subpoenas for the two social workers. Justice Keith’s decision is reported at ***KG v HG***, 2021 NSSC 335.

[27] The December 6th recusal motion did not proceed as hoped. After hearing from his first witness, Mr. Green asked to adjourn because his second witness was unavailable to testify. The adjournment was granted. The recusal motion was rescheduled and concluded on January 19, 2022. I denied Mr. Green’s recusal motion by decision dated February 1, 2022, and reported at ***Green v Green***, 2022 NSSC 30.

Motion for State-Funded Counsel

[28] The January 31st review hearing was rescheduled until after I decided the recusal motion. Further, Mr. Green also filed a motion for state-funded counsel. The motion for state-funded counsel was scheduled for February 24, 2022. Mr. Green was directed to file financial information prior to the hearing.

[29] Mr. Green did not file the financial information as directed. He requested an adjournment during the February 24th appearance. An adjournment was granted. The motion was rescheduled to March 31, 2022. Mr. Green asked to adjourn a

second time. His request was denied, as reported at *Green v Green*, 2022 NSSC 105. Mr. Green did not appear for the motion hearing. The hearing proceeded in his absence. I denied Mr. Green's motion for state-funded counsel, as reported at *Green v Green*, 2022 NSSC 106.

Variation Applications

[30] The review contemplated in the divorce decision was rescheduled to May 30, 31, and June 2, 2022. In addition to the review, both parties asked to vary the provisions of the CRO. Their variation requests were scheduled to be heard in conjunction with the review hearing.

[31] For his part, Mr. Green asked for the following relief:

- To require the Green family to attend and participate in Ms. Gottlieb's Turning Points for Families (TPFF) in New York state, USA, for reunification therapy for severe parental alienation or for an unreasonably disrupted parent-child relationship, all of which would be at Ms. Green's expense.
- To comply with the suggested order drafted by the TPFF and as outlined in Mr. Green's submissions.
- Upon the successful completion of the TPFF therapeutic intervention, to vary the CRO (Parenting) to a 50/50 parallel parenting schedule, inclusive of Mr. Green being granted final decision-making over medical matters, parenting and scheduling, and public health decisions; and financial penalties for the children's failure to attend parenting time.
- To order that each parent pay 1/3 of the costs of the children's first university degrees.
- To change my previous division of assets and costs decisions.
- To order costs in his favour.

[32] In contrast, Ms. Green asked for the following relief:

- To vary various parenting provisions of the CRO (Parenting) and to replace those clauses with a provision stipulating that Mr. Green contact Ms. Green, with as much notice as possible, to suggest parenting times and proposed

activities with the children, and a provision requiring Ms. Green to confirm each child's response and availability.

- To confirm the need for the children to always have their phones with them during the children's parenting time with Mr. Green.
- To ensure all costs orders are paid before any subsequent applications are heard.
- To have sole decision-making on matters related to the children's passports and international travel.
- To order costs in her favour.

Pretrial Conference and Evidentiary Rulings

[33] On March 21, 2022, in anticipation of the upcoming hearing, I sent a letter to the parties. Included in this letter was a Notice to Appear for the pretrial conference scheduled for April 20, 2022. The letter further provided directions about materials and a memo about evidentiary issues that had to be filed before the pretrial conference. I provided the following directions concerning Mr. Green's plan to admit the reports of Dr. Miller and Dr. Harman and to relitigate certain issues:

The first Notice to Appear is for a pretrial conference scheduled for *April 20, 2022, from 10:30 to 11:30 am*. This conference will be in-person. Before this conference, you must file a memo addressing the following:

...

- Whether either party has the **right to relitigate the decisions made on the parenting, property division, and costs issues** as determined in the divorce decision and CROs. **You must file a memo confirming your position on or before April 13, 2022. Your memo should contain any law upon which you rely to support your position.**
- Whether the **proposed evidence of Dr. Steven Miller dated September 10, 2021, and Dr. Jennifer Harman dated September 30, 2021, should be admitted** into evidence during the hearing. You must file a memo setting out your position on the admissibility of these reports - whether I should receive and consider the reports as part of the evidence during the May hearing. One of the points that you should address is whether the reports of Dr. Miller and Dr. Harman are about facts or

opinion, or both, that are already ruled upon in the divorce decision of February 2021. **You must file a memo confirming your position on or before April 13, 2022. Your memo should contain any law upon which you rely to support your position.**

[34] On April 13, 2022, Ms. Green filed a memo setting out her position as required. Mr. Green did not file a memo. Mr. Green did not seek an extension of time to file his memo.

[35] On April 20, 2022, Mr. Green advised that he was now represented by Godfred Chongatera. After locating Mr. Chongatera, the pretrial conference was held. Mr. Chongatera was granted an extension to file submissions until April 22, 2022.

[36] On May 2, 2022, I issued a written decision on the evidentiary issues reported at *Green v Green*, 2022 NSSC 120. In this decision, I summarized my evidentiary rulings as follows:

[46] I will not admit either the evidence of Dr. Miller or Dr. Harman. To do otherwise would result in an abuse of process. Mr. Green cannot relitigate issues that are *res judicata*. Mr. Green cannot engage in a collateral attack of my divorce decision. The finality of my divorce decision must not be compromised in such a manner.

[47] In addition, the reports of Dr. Miller and Dr. Harman have limited probative value because they contain opinion evidence about matters already litigated and decided. Further, Dr. Miller's report is a critique report, while Dr. Harman's report is an academic summary. Neither proposed expert met, interviewed, or tested either party or the children. Further, neither expert had the wealth of evidence before them that was available to me as the trial judge.

[48] Finally, I have no jurisdiction to set aside my previous findings, rulings, or conclusions on the parenting, property, and costs issues.

Adjournment Request

[37] Mr. Green asked me to adjourn the review and variation hearings. I denied his request by written decision reported at *Green v Green*, 2022 NSSC 126.

Review and Variation Hearing

[38] The review and variation hearing proceeded as scheduled on May 30 and 31, and June 2, 2022. Neither party was represented. At the outset of the hearing, Mr.

Green indicated that he would not be proceeding with his variation application. Therefore, the hearing required significantly less time than was scheduled.

[39] During the hearing, Ms. Green and two therapists testified – Dr. Susan Potter and Heather Kent. Mr. Green cross-examined the therapists. Mr. Green, however, did not testify. Additionally, Mr. Green did not call the witnesses that he previously indicated that he would call.

[40] At the start of the hearing, notwithstanding his previous experience giving evidence and participating in numerous hearings as a self-represented litigant, Mr. Green attributed his decisions not to testify or call witnesses to his lack of training in the law and unfamiliarity with court processes. From a strategic perspective, however, Mr. Green’s decision not to give evidence enabled him to avoid answering questions about his lack of participation in the court-ordered therapy, his post divorce conduct, his knowledge of the whereabouts of the missing passports, and his lack of cooperation with Ms. Green’s international travel plans.

[41] Both parties provided written and oral submissions. Mr. Green outlined his position at the outset and at the conclusion of the hearing. Ms. Green provided her submissions at the conclusion of the hearing.

Analysis

[42] **What is the status of the therapeutic interventions ordered in the CRO?**

Position of the Parties

[43] Ms. Green states that she and the children successfully achieved the court-ordered therapeutic goals as confirmed by their therapists.

[44] Ms. Green notes that Mr. Green did not complete the therapeutic goals. Ms. Green states that although Mr. Green participated in therapy with Daisy Coleman, it is clear from her report that Mr. Green substituted his therapeutic goals for the court-ordered goals. Ms. Green consented to the admission of Ms. Coleman’s report despite the fact that Mr. Green did not call Ms. Coleman as a witness as I previously directed.

[45] Mr. Green did not provide evidence on this issue.

Therapeutic Requirements of Divorce Decision and CRO (Parenting)

[46] To establish a healthy father-child relationship, I ordered the parties and the children to participate in therapy with defined objectives. I outlined the rationale for the therapy in the divorce decision:

[104] It is in the best interests of the children to order therapeutic interventions, based on many, but not all, of the recommendations of Ms. Bower-Jacquard. As was recommended, the selected therapists should have experience with high conflict parenting, family violence, and estranged relationships. Therapeutic intervention must focus on the father, mother, and children.

[47] I ordered Mr. Green to participate in therapy for the following specified purposes:

[105] The order will state that the father must engage with a therapist for the following stated purposes:

- To gain insight into how his past and current behavior contributes to his strained relationship with the children, including issues surrounding his strong beliefs, rigidity, need to control, and temper.
- To gain insight into how the children perceive and rate his anger in comparison to his own perceptions.
- To recognize that the children's feelings are valid and that their feelings are not a by-product of the mother's negative influence.
- To become attuned to the needs and feelings of the children based on their unique temperaments, their lived experience, and their stage of development.
- To gain skills to earn the children's trust and to parent and support the children in a manner consistent with their emotional well-being.
- To recognize his own confirmation biases and to gain skills to reduce confirmation bias in his thought process.
- To gain skills to manage anger, frustrations, and fears in a healthy fashion.
- To gain skills to effectively manage his own negative feelings and his feelings towards the mother.
- To gain skills to communicate effectively with the mother and other professionals in a nonconflictual and respectful manner.

[48] I also ordered Ms. Green to participate in therapy for the following specified purposes:

[106] The order will provide that the mother must engage with a therapist for the following stated purposes:

- To gain insight into how she is contributing to the parenting conflict by sharing her negative beliefs about the father with the children and by having the children negotiate parenting time with the father.
- To gain insight into how her past behaviors and messages interfered with the children's relationship with the father.
- To recognize her own confirmation biases and to gain skills to reduce confirmation bias in her thought process.
- To gain skills to communicate effectively with the father in a nonconflictual and respectful manner.
- To gain skills to support the children in their distress and as they establish a positive relationship with the father.
- To gain skills to effectively manage her negative feelings about the father in a healthy fashion.

[49] I ordered the children to participate in therapy to provide them with a safe environment to express their feelings, learn coping skills, and manage their connection with their father. Family therapy would only be introduced if Mr. Green made sufficient therapeutic progress and if the children's therapist held that it was appropriate to do so:

[109] The purpose of the children's therapy is to provide a safe environment where the children can express their feelings and can learn skills to cope with the parenting conflict and to manage their connection with the father.

[110] Therapeutic family counselling was also recommended by Ms. Bower-Jacquard. **I agree that joint therapy will be beneficial if the family dynamic improves. If the father, however, continues to be resistant, joint counselling will likely be counter productive.** I share Ms. Bower-Jacquard's concern about creating false hope which could lead to further discouragement in the children. **Family counselling will thus only occur if the following two conditions are met:**

- The father's therapist confirms that the **father is making sufficient progress** to meaningfully participate in family therapy; and
- The children's therapist confirms that it **is appropriate for the children** to participate. [Emphasis added]

[50] In addition, I imposed disclosure logistics and directed the parties to make good faith efforts when engaging in therapy. Then, I specifically remarked that if Mr. Green was not willing to make the necessary changes, there was little likelihood that his relationship with the children would improve:

[111] To ensure the completion of the desired outcomes, consent must be provided to enable all therapists to communicate with each other and any other family supports. Further, to ensure the therapists have the necessary background information, the order will state that all therapists must be provided with a copy of this decision and a copy of the Bower-Jacquard parental capacity assessment.

[112] **It is essential that the parties make good faith efforts when engaging in therapy. The parties, especially the father, have much to accomplish. If the father is not willing to make the necessary changes, there is little likelihood that his relationship with the children will improve. The outcome is within the father's control.** [Emphasis added]

[113] The parenting conflict has raged on for more than two years. Although therapeutic interventions are both necessary and appropriate, it is not in the children's best interests to be engaged in therapy indefinitely. Therefore, the parties will have seven months to conclude the therapeutic goals. If they are successful, then a more typical parenting arrangement will follow. The father should note, however, that a typical parenting arrangement does not necessarily mean shared parenting. A typical parenting arrangement often means less than 40% of the children's time. The father should focus on the quality and not the quantity of his parenting time.

[114] The scheduling office will arrange a thirty minute conference in about seven months. The father and the mother will file, with the court and each other, a report from their therapist, two weeks in advance of the conference outlining the status of the party's progress. The mother will file a similar report from the children's therapist. If the parties complete the therapeutic goals earlier than seven months, then an application can be filed to secure an earlier conference date.

Decision

a) Ms. Green's Therapy

[51] I find that Ms. Green made concerted and good faith efforts to meaningfully participate in the court-ordered therapy. On August 19, 2021, Ms. Green's therapist, Heather Kent, filed a report in which she confirmed Ms. Green's attendance at, participation in, and completion of the court-ordered therapy.

[52] In her report, Ms. Kent indicated that Ms. Green “demonstrated excellent commitment to therapy” and “was highly motivated to engage” in therapy and to “integrate adaptive strategies to better the situation, and gain new insight and skills to support herself and the children”. Ms. Kent methodically explained how each therapeutic goal was processed. She then confirmed that Ms. Green demonstrated new insight and understanding of each therapeutic goal.

[53] After reviewing each of the goals, Ms. Kent stated that it was her clinical finding that Ms. Green successfully completed the therapeutic intervention by “increased self-reflection and insight, personal growth, and effective communication skills towards her children and in necessary interactions with Mr. Green.”

[54] I accept the evidence of Ms. Kent and Ms. Green on this issue.

b) The Children’s Therapy

[55] I find that the children successfully completed their court-ordered therapy with Dr. Susan Potter. In her report dated September 13, 2021, Dr. Potter stated:

- She was only able to resume meeting with the children when the Nova Scotia Board of Examiners allowed her to do so. Mr. Green had filed a complaint against her with the Board. Once the Board provided their consent, she resumed meeting with the children.
- No diagnosis of mental health disorder was warranted for any of the three children.
- She provided supportive therapy in keeping with the CRO directives.
- The children were coping very well because the court granted them control over their interactions with Mr. Green.
- The children expressed concerns about some of their interactions with Mr. Green, including Mr. Green’s unexpected taking of one of the children to the hospital; Mr. Green’s refusal to engage with the children unless his specific plans were followed; Mr. Green’s refusal to allow the children to take their presents from his apartment; and Mr. Green’s refusal to modify vacation plans so that the children could comfortably and safely attend.
- The children did not want to participate in family therapy.

[56] Further, by letter dated August 11, 2021, Dr. Potter advised Mr. Green's therapist that she did not recommend family therapy because Mr. Green had made "very limited" therapeutic progress and because the children did not want to participate.

[57] I accept the evidence of Dr. Potter.

c) Mr. Green's Therapy

[58] I find that Mr. Green did not successfully complete the court-ordered therapeutic objectives. I make this finding for two primary reasons. The first relates to the report of Daisy Coleman, Mr. Green's therapist. The second relates to Mr. Green's conduct post divorce.

[59] First, in her report dated September 10, 2021, Ms. Coleman does not confirm that Mr. Green successfully concluded the court-ordered therapy. Rather, Ms. Coleman stated that when engaging with her, Mr. Green "willingly participated in creating therapeutic goals for himself." The divorce decision and CRO (Parenting), however, obligated Mr. Green to participate in therapy for the purposes which I ordered. Mr. Green's personal therapeutic goals were irrelevant to the court-ordered process. In addition, Ms. Coleman did not provide confirmation that the nine listed therapeutic goals were successfully achieved by Mr. Green. Mr. Green provided no evidence on the issue.

[60] Second, Mr. Green's post divorce conduct, including the following illustrative examples, confirms that the court-ordered therapeutic goals were not achieved:

- Issues surrounding Mr. Green's strong beliefs, rigidity, and need to control have not dissipated or even reduced since the divorce was granted. For example, Mr. Green did not stop perseverating on his alienation theory, contrary to para 87 of the divorce decision. Instead, Mr. Green now moderates a parental alienation blog where he often posts negative comments about Ms. Green; Mr. Green repeatedly accuses Ms. Green of alienating the children when arranging parenting time and in court submissions; and Mr. Green repeatedly voiced his alienation narrative when communicating with police and child protection authorities.
- Mr. Green has limited insight into how his past and current behavior contributes to his strained relationship with the children. Mr. Green wants to

control all aspects of his parenting time with the children in contravention of the CRO (Parenting) and contrary to the needs of the children. For example, Mr. Green insists on the children attending his apartment. The children usually want to meet in public. Rather than bending to meet the needs of the children, Mr. Green will forgo parenting time. Further, the children were not comfortable spending more than two weeks in Ontario on a vacation with Mr. Green and the paternal family. Mr. Green wanted the children to be with him for four weeks. Rather than bending to meet the needs of the children, Mr. Green refused to change his vacation plans. Thus, the children did not vacation with Mr. Green.

- Mr. Green does not recognize or validate the children's feelings. Mr. Green is unable and unwilling to prioritize the children's emotional needs. Instead, Mr. Green views all from his own perspective; he focuses on his own emotional needs. For example, one of the children didn't want Mr. Green to coach her basketball team or attend the game. Mr. Green insisted otherwise. The child therefore closeted herself in the locker room with one of her coaches. The child was crying and upset. Rather than leave, Mr. Green held his ground and remained outside the locker room for the balance of the game. Further, although Mr. Green and his family provide the children with Christmas gifts, Mr. Green does not allow the children to take their own presents home. Rather, the presents must remain in Mr. Green's apartment.
- Mr. Green has done little to regain the children's trust. For example, without warning or permission, he took one child to the IWK emergency room for a physical and then a mental health check, omitting to advise staff of the provisions of CRO (Parenting). In addition, he continues to complain to child protection and police authorities because of his fixed belief that Ms. Green is alienating the children. Therefore, the children were subjected to more interviews with police and child protection authorities, some of which occurred when the children were with their friends or while the children were in school.
- Mr. Green has no insight into his own confirmation biases. He views all from the lens of his firmly held belief that he is the victim of parental alienation and of coercive controlling violence at the hands of Ms. Green. These beliefs are false. These beliefs are not grounded in the evidence. These beliefs are the product of Mr. Green's imagination and inability to assume responsibility for his own conduct.

- Mr. Green has not gained skills to manage anger, frustrations, and fears in a healthy fashion. He resists personal accountability. Instead, he blames others for his own faults and failings.
- Mr. Green has not gained skills to communicate effectively with Ms. Green and other professionals in a nonconflictual and respectful manner. For example, Mr. Green disparages Ms. Green on his blog. In addition, he unsuccessfully tried to have a peace bond issued against Ms. Green who only communicates through a Parenting App in conformity with the CRO (Parenting). Further, Mr. Green has sued professionals involved in his case.

Summary

[61] In summary, I find that Ms. Green and the children successfully completed the court ordered therapy while Mr. Green elected not to do so.

[62] Did Ms. Green prove a material change in the circumstances?

[63] A review hearing does not require proof of a material change in circumstances, while a variation proceeding does. Section 17 (5) of the *Divorce Act*, RSC 1985, c 3, (2nd Supp) states that before I vary a parenting order, I must be satisfied that “there has been a change in the circumstances of the child since the making of the order”. I am so satisfied. As reviewed in the previous issue, Mr. Green neither completed the court-ordered therapy nor did he affect the necessary parenting changes. As a result, his relationship with the children did not improve; instead, it has deteriorated even further.

[64] The current court order is no longer in the best interests of the children.

[65] What parenting order is in the best interests of the children?

Passport and International Travel

[66] I will first address the passport and international travel issue. Pursuant to clauses 3 to 5 of the CRO (Parenting), Ms. Green was granted sole decision-making on all matters involving the children’s health, education, and general welfare, and without any obligation to consult with Mr. Green. Despite these provisions, the government requires more explicit wording to allow Ms. Green to obtain a passport for the children in the absence of Mr. Green’s consent. Mr. Green has not signed the necessary papers even though he had ample time to do so.

[67] I find that it is in the best interests of the children to have passports and to be able to travel internationally with Ms. Green or any group or person approved by her. The following clause will be added to the decision-making provisions of the CRO (Parenting):

- Heidi Green is granted sole decision-making on all matters associated with obtaining or renewing the children's passports and with the children's international travel. Kelsey Green's consent or signature is not required for a passport to be issued for each of the children. Kelsey Green's consent or signature is not required for each of the children to travel internationally. Only the consent and signature of Heidi Green is required for a passport to be issued for each of the children. Only the consent and signature of Heidi Green is required for each of the children to travel internationally.

Communication

[68] Mr. Green did not abide by clauses 7 and 8 of the communication provisions of the CRO (Parenting). Clause 7 states, in part, that when communicating with the other, neither party "will communicate about their own feelings or their own theories about why the children are acting or responding as they do or why the other parent is acting or responding as they do." Clause 8 states that as long as communication remains respectful, Ms. Green is required to provide Mr. Green with updates about the children. Neither provision was followed by Mr. Green as Mr. Green often discussed his false claims of alienation and coercive controlling violence which he states were perpetrated by Ms. Green. Further, Mr. Green sought a peace bond against Ms. Green solely based on her communication through the Parenting App.

[69] I therefore vary the communication provisions of the CRO (Parenting). Ms. Green is no longer required to provide updates to Mr. Green in the face of both his failure to follow the court order and his disrespectful and oppositional conduct. Mr. Green's conduct causes stress and increases conflict, neither of which is in the children's best interests.

Therapeutic Interventions

[70] Because Ms. Green and the children successfully completed the court-ordered therapy while Mr. Green did not, clauses 12 and clauses 14 to 22 are deleted from the CRO (Parenting). Clause 13 will remain as Mr. Green's obligation continues.

Parenting Time and Guidelines for Parenting Time

[71] Mr. Green has not observed either the letter or spirit of the CRO (Parenting). His relationship with the children has deteriorated since the divorce was granted. Mr. Green did not complete the ordered therapeutic interventions. He did not adhere to the respectful communication obligations. He did not follow the safety protocols stated in clause 23 of the CRO (Parenting), such as those related to a support person for the children or the exercise of parenting time in a public space.

[72] The children's best interests are no longer being met by the CRO (Parenting). I therefore vacate clauses 23 to 29 of the CRO (Parenting) and order the following in their place:

- Kelsey Green must make requests for parenting time by communicating with Heidi Green through the Parenting App. Each request must indicate the proposed date, time, place, and activity plan associated with his parenting request. Kelsey Green must not communicate about any other matter, including his beliefs about parental alienation or coercive and controlling behavior. If he does, Heidi Green is not required to respond to Kelsey Green's requests.
- Kelsey Green will have parenting time with the children at the sole discretion of Heidi Green. Heidi Green has sole authority to approve or deny Kelsey Green's parenting requests, which approval or denial will be communicated to Kelsey Green through the Parenting App. Heidi Green has sole authority to set terms, conditions, and restrictions on Kelsey Green's parenting time with the children, which terms, conditions, and restrictions will be communicated to Kelsey Green through the Parenting App. Kelsey Green must abide by the terms, conditions, and restrictions stated by Heidi Green when he exercises parenting time with the children.
- Kelsey Green's parenting time with the children must occur in a public space, and will not include overnights or visits outside the Halifax Regional Municipality, unless Heidi Green specifically agrees otherwise as evidenced by her written communication to Kelsey Green through the Parenting App.
- Kelsey Green must permit the children to keep their cell phones with them at all times while he exercises his parenting time.

- Kelsey Green must immediately return the children to Heidi Green if one or more of the children so requests.
- Kelsey Green must apply for and receive leave of the court before any variation application or any other application or motion is processed.

Conclusion

[73] Although Ms. Green and the children successfully achieved the therapeutic goals ordered in the CRO (Parenting), Mr. Green did not. As a result, Mr. Green's estranged relationship with the children has deteriorated even further. It is thus necessary to vary many of the provisions of the CRO (Parenting) in the best interests of the children. The children require peace and stability after nearly four long years of an arduous and all-consuming court battle. Unfortunately, peace and stability can only be achieved by further restricting Mr. Green's parenting time, as provided in this decision. There is no other viable path forward.

[74] It is also in the children's best interests to have passports and to be able to travel internationally with Ms. Green or with groups or individuals approved by Ms. Green. The CRO (Parenting) is clarified so that Ms. Green's sole authority to make such decisions is confirmed.

[75] In addition, given the extent of police and child protection referrals, I will forward each of these authorities a certified copy of this decision and consequent order so that they are aware of the terms of the new order for enforcement purposes.

[76] Further, Ms. Green is to provide written costs submissions by June 17, 2022; Mr. Green is to provide his response by June 27, 2022.

[77] Finally, the court will draft the order.

Forgeron, J