Date: 2014 07 02
Docket: S 1 DV 2011 104149

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

CYNTHIA ANNE SPARVIER

Petitioner

-and-

MAURY PAUL SPARVIER

Respondent

MEMORANDUM OF JUDGMENT

[1] The Petitioner and the Respondent separated in 2011. They are the parents to two boys, A., aged 9, and T., who is 12. They have shared custody of the boys since they separated, on a week-to-week rotation. This has been by an informal agreement. There is no custody order in place.

[2] The family has lived in Yellowknife since 2008. The Petitioner is employed as a parole officer with the Correctional Service of Canada. The Respondent is a member of the RCMP. The Petitioner has secured a transfer to a correctional facility near Innisfail, Alberta and she wants to move there with the boys. She also wants to change the *de facto* custody arrangement, regardless of whether she moves to Alberta or stays in Yellowknife, so that the parties will have joint custody, but she will have primary day-to-day care of the children and the Respondent will have access on weekends.

[3] The Respondent opposes the proposed move and he wants the shared custody arrangement to continue. If the Court grants the Petitioner an order allowing her to relocate with the children, he will move to Alberta as well. He does not currently have a position lined up in Alberta.

[4] Both parties seek a Divorce Judgment.

BACKGROUND

[5] The parties met in Saskatchewan. They moved to Westaskawin, Alberta in 1999 and they lived there until 2004. They both worked in the corrections field. Both children were born in Alberta.

[6] The Respondent was accepted into the RCMP training program ("Depot") in Regina, Saskatchewan in 2004 and so the family re-located. They moved into a house on a property belonging to the Petitioner's parents near Lanigan, Saskatchewan. The Petitioner was on parental leave at the time. She lived there and cared for the two children while the Respondent was at Depot in Regina. The Respondent was able to join the Petitioner and children on most weekends.

[7] When the Respondent completed his training, the family relocated to St. Paul, Alberta. The Respondent worked nearby in the community of Saddle Lake. The Petitioner was unable to find suitable work in St. Paul, but eventually secured a position in Lac La Biche, Alberta. This entailed a significant commute, however.

[8] In 2006 the Petitioner was offered work in her field in Drumheller, Alberta. She moved there with the children and the Respondent remained in St. Paul, commuting to Drumheller during his time off. This arrangement was difficult. The Petitioner was trying to balance full-time work with child-rearing. The Respondent was there when he could be, but he was not there all the time. The Petitioner was also suffering from depression for which she sought treatment. The Respondent supported her in this and participated in the counselling with her.

[9] The Petitioner testified that the Respondent was having an affair with another woman while he remained in St. Paul. The Respondent denies this ever happened.

[10] The Respondent tried to get a transfer to Drumheller so he could join the family permanently. He was unable to secure a position there, so in 2007 the parties decided the Respondent would take an unpaid leave of absence from work and join the family in Drumheller. He was home with the children as a full-time parent for about seven months.

[11] Both parties were able to secure employment in Yellowknife and so moved here in 2008. The Petitioner continued to work in the corrections field and the Respondent continued his work as a member of the RCMP. He worked shift work to start, but eventually secured a position with regular "business" hours, Monday through Friday.

[12] The children have each attended school in Yellowknife since kindergarten. T. is described as a "gentle giant" who is quiet and kind. He is involved in Scouts and Taekwondo, and he plays guitar. He has a reserved nature and therefore, he is not quick to make friends.

[13] A. is an avid hockey and soccer player. He is involved in Scouts as well. From the descriptions given by his parents and others who testified, he has an outgoing personality.

[14] There were no significant academic concerns identified with respect to the children.

[15] From the evidence it appears both the Petitioner and the Respondent are very engaged and involved with their children and their activities.

[16] The parties' separation occurred in June of 2011. It was relatively orderly, although they did experience some difficulties at the beginning. These included a statement by the Respondent that he would break the windows and doors of the house if the Petitioner changed the locks and an incident where the Petitioner told the Respondent she thought about shooting him with a nail gun. The parties fought over a print when they were physically moving from the matrimonial home after it sold. It appears these things were said in highly charged and emotional contexts shortly following the decision to separate.

[17] The Petitioner also testified that the Respondent was following her as well as Joe MacIntosh, an individual with whom she had commenced a new relationship, for a period of time after the parties separated, until the summer of 2012. She reported this to the RCMP after which she said the offending conduct stopped. Mr. McIntosh also contacted the RCMP about his concerns that the Respondent was following him. He testified the conduct stopped shortly after he brought it up with the RCMP.

[18] The parties have each had serious relationships since the separation. The Petitioner started dating, and eventually moved in with, Mr. MacIntosh following shortly after the separation in 2011. They are no longer together, Mr. MacIntosh having moved out in February of 2014, but they remain friends. The Petitioner testified that Mr. MacIntosh will not be moving to Alberta with her.

[19] The Respondent is in a relationship with Pamela Weeks-Beaton. They do not live together; however, their relationship appears to be a very serious one.

[20] The two boys have had some difficulty adjusting to the separation, which has manifested itself in certain behaviors. Specifically, A. was "shutting down"

and T. was having outbursts. Accordingly, they were referred by the school and the Petitioner to Monica Kreft, an art therapist who works at their school. She has been providing therapy to them since 2011.

[21] The children were represented in these proceedings through the Office of the Children's Lawyer. Understandably, neither child testified, but their views were expressed by their counsel and through the evidence of the Petitioner and Ms. Kreft. T. has expressed a preference to live with the Petitioner on a full-time basis and have access visits with the Respondent. Should his mother move, he wishes to go with her. A. has not expressed a preference.

[22] The boys have their own bedrooms in each of the Petitioner's and Respondent's homes. Each has a set of clothes at both homes. They have regular contact with the Respondent when they are with the Petitioner and *vice versa*.

[23] Given the current arrangement, neither party pays the other child support. They share the expenses for extracurricular activities equally. The Respondent testified that if he has to travel for work, he gives the Petitioner an opportunity to take the boys over that time. The Petitioner has typically been able to accommodate this; however, when she once asked the Respondent to assist in the added expense that taking the boys for extra time entails for groceries, he told her to go to the food bank. The Petitioner has not asked since.

[24] The boys go from one parent's to the other's a weekly basis. When the Petitioner and the Respondent first separated, this happened on Sundays, but the children had some issues settling into the Petitioner's home on Sundays and so they changed the transition time to Mondays after school. The intention was to give them a day of school in between their time with each parent to adjust before going to the other's home. The Petitioner feels the children continue to experience difficulties with the transition, but the Respondent does not.

[25] The Petitioner gave evidence that while the children are at her home, they are responsible for helping out with the dog and cleaning their rooms. She monitors their homework, although she described this as somewhat challenging because they are not regularly given homework by their teachers. One of the most important rules in the Petitioner's home is that if either child registers in an activity, they must see it through until the end. The Petitioner feels there are more rules in her home than in the Respondent's. She believes structure and clear rules are very important. There was no evidence provided about her approach to discipline, but there was certainly no suggestion that there were any concerns about it.

[26] The Respondent testified about his approach to discipline. He described it as consequence-based and he has never used corporal punishment with the children. He also testified that he does not typically raise his voice, but sometimes he finds he has to do so to get the children's attention. He does not know how different his methods are than the Petitioner's.

[27] The Respondent described one incident where he lost his temper and swore at the boys. He explained that it is important as a member of the RCMP to ensure he and his family members take steps to minimize security vulnerabilities that may attach to his job. Accordingly, one of the rules he has at his home is that the boys are not to open the door for anyone if he is not there. One day T. opened the door while the Respondent was out and the dog escaped. The Respondent said he raised his voice and swore at the boys when he discovered this because he was afraid for them. In his testimony he stated he knew he scared T. and probably A. as well. He said that sometime later, he had a calm discussion with the boys about what happened and he initiated another conversation about it more recently.

[28] The Respondent acknowledged there are differences between his parenting style and the Petitioner's, as well as different rules in the two homes. There was, however, very little evidence about the extent of these differences. The Respondent said he agrees with most of the parenting choices the Petitioner makes.

[29] The Petitioner feels the children's interests would be best served if she was permitted to move them to Alberta with her. It is also her view that it would be in their best interests if, regardless of where the Petitioner and Respondent are living, that they have joint custody, with her having primary day-to-day care and the Respondent exercising access, rather than continuing with shared custody.

[30] The Petitioner testified about the proposed relocation. She has wanted to move from Yellowknife since the parties separated in 2011. She stated that staying here was never a long term plan for the family, even before the separation. The position into which she would transfer in Alberta does not represent a promotion and her base pay would stay the same. She would lose some income as she would no longer qualify for an isolated post allowance; however, she anticipates her cost of living would be lower.

[31] The Petitioner also stated that while she could see the downside of moving for the children, there would also be advantages. Specifically, she would be closer to her extended family. Her sister is an hour away from Innisfail and her parents continue to live just outside of Lanigan, Saskatchewan. She would be closer to the Respondent's family, who live in Regina, Saskatchewan. T. would be closer to his best friend, who moved to Sherwood Park, Alberta, last year.

[32] The children currently attend Catholic school in Yellowknife. According to the Petitioner, there is a Catholic school system in Innisfail and the Petitioner proposes that if she moved, she would register the children there. She also said she would talk to school counsellors and others at the proposed school to ensure the transition went as smoothly as possible. She would take steps to facilitate continued counselling for A. and T. as well.

[33] The Petitioner stated that if she relocated with the children, she would facilitate generous access between the children and the Respondent.

[34] The Petitioner gave evidence about a number of her own experiences with the children which lead her to the conclusion that the shared parenting arrangement should not continue. She said A. bullies both her and T. and he is rude and disrespectful in her home very frequently. She sees this getting worse as time goes by. The Respondent has not noticed this when the children are with him.

[35] As noted, the Petitioner also feels the weekly transition is difficult for the children. In her experience, it takes a couple of days for them to settle into her home after they have been with the Respondent. She perceives that the current arrangement forces the children to take on "two personalities" - one for her home and one for the Respondent's.

[36] The Petitioner testified that T. expressed to her recently that he wishes to live with her full-time. She said T. finds the Respondent moody and unpredictable. She also testified that in December of 2011 T. told her he did not want to go to the Respondent's home. The reason he gave her was that the Respondent was moody, yelled and made him "feel like sand". She also said that when she talked to T. recently about various custody options if she moved, including alternating years between the Petitioner and the Respondent, he made a gesture of holding a gun to his head and pulling the trigger.

[37] The Respondent testified T. recently asked to spend more time with the Petitioner, something which he accommodated.

[38] A logistical problem the Petitioner identified with the current arrangement is that it does not build in any flexibility for special occasions, such as an important holiday or when one parent's birthday, Mothers' Day or Fathers' Day falls during the other's week. This is exacerbated by what appears to be personal inflexibility on the part of the Respondent. The Respondent has had the children for Christmas day during each of the past three years, as it fell during his scheduled week. The Petitioner has, therefore, celebrated Christmas with the boys the week before. Similarly, the boys have been with Respondent on the Petitioner's birthday and

they have been unable to celebrate with her. The Petitioner has had T. for his last two birthdays.

[39] Both parties expressed concerns about their inability to communicate effectively about the children. The Petitioner says that although at times the communication between the two of them is very decent, the Respondent is sometimes slow to respond or entirely unresponsive. For example, she testified the Respondent takes a long to time to respond to requests for information concerning holiday plans or registration in extracurricular activities for the children. This also came out in the Respondent's testimony when he said he did not really know what the Petitioner's approach was to discipline and what the rules were in her home. The Petitioner testified that she and the Respondent have never discussed that the children are overweight and the impact this may be having on them.

[40] Mr. McIntosh and Ms. Weeks-Beaton each gave evidence at the trial about their relationships with T. and A. and their observations of the boys' interactions with their parents.

[41] Mr. McIntosh testified that he had a good relationship with T. and A. and they participated in various recreational activities, including cycling, camping and playing soccer. They also ate family dinners together. He described the boys' relationships with the Petitioner as "very loving" and he described her as a very patient parent with good values and morals.

[42] Mr. McIntosh did not have an opportunity to observe the Respondent interacting with the boys. While he lived with the Petitioner, however, he noticed that when the boys came from the Respondent's home to the Petitioner's they needed time to "unwind" and that their emotional state was often "all over the place".

[43] Finally, Mr. McIntosh testified he has maintained a relationship with the boys since he moved out of the Petitioner's home, although few details about that relationship were provided at the trial.

[44] Ms. Weeks-Beaton and the Respondent started dating in the fall of 2011. Earlier, she had been the Sparvier's day-home provider for a number of years and so she has known the whole family since 2008. She is widowed and has four children of her own, ranging in age from six to sixteen.

[45] The Weeks-Beaton children spend a great deal of time together with A. and T.. Ms. Weeks-Beaton testified the relationship between her children and A. and T. is akin to that of siblings. Her own children have a good relationship with the

Respondent, although there has in the past been tension between the Respondent and her eldest child.

[46] Ms. Weeks-Beaton's testimony reflected that she has good relationships with both T. and A.. When they are in the Respondent's care the two families spend a lot of time together and she helps out with getting them to their various activities.

[47] She described her impressions of the Respondent's interactions and relationships with T. and A.. She said it is a very "laid back" relationship and that the Respondent is very affectionate with both boys. The boys also display affection towards the Respondent.

[48] Ms. Weeks-Beaton testified about her observations of the Respondent's manner of disciplining the boys. She said that she has witnessed him raise his voice with the boys on a couple of occasions after they ignored him when he was asking them to do something. Generally, however, she said that the two boys do not require much in the way of discipline.

[49] The Court also heard evidence about the impact of the children's art therapy program, both from the Petitioner and from the art therapist, Ms. Kreft.

[50] Ms. Kreft started providing therapy to the boys together, but she now sees them each individually. She feels both boys are comfortable opening up to her and she has recommended that they see her more frequently than they do now, which is every six school days.

[51] When asked to identify concerns about either of the boys, Ms. Kreft indicated that T. tends to internalize his feelings and she indicated he has expressed ideations of self-harm. Her observation was the extent of the evidence on this point, however, and it was not explored further. There was no evidence about when T. expressed this or whether it was a single incident or ongoing.

[52] Ms. Kreft noted both boys have problems coping with change.

[53] From the evidence it appears the art therapy is helpful. Ms. Kreft testified that both boys' ability to deal with the separation has improved since she started seeing them. She observed that A.'s ability to deal with stress has improved and T. is better able to express his feelings and has fewer outbursts.

[54] Although she deals most frequently with the Petitioner, Ms. Kreft testified that she has had an opportunity to observe the boys with both of their parents. She said they have a good relationship with the Petitioner and that in her relatively few

interactions with the Respondent, he has been supportive and the boys appear happy to see him. She observes no differences in the boys between the weeks they are with the Petitioner and when they are with the Respondent.

[55] During his testimony, the Respondent indicated that he does not talk to Ms. Kreft directly to obtain information about the boys' counselling sessions and progress. He said this is because the boys tell him about what goes on and they seem to enjoy their sessions.

[56] Finally, Ms. Kreft testified that T. has told her he would prefer to live full-time with the Petitioner. He has also told her he is afraid of making his father angry, although he did not expand on this with her, and he told her that he wishes to have his father in his life. A. has not expressed a preference to Ms. Kreft about either parent.

ISSUES

[57] There are two issues: whether the shared parenting arrangement should continue; and whether the Petitioner should be permitted to move with the children.

ANALYSIS

Should Shared Parenting Continue?

[58] Section 16 of the *Divorce Act*, RSC 1985 c.3, (2nd Supp.) applies in initial applications for custody. It provides, among other things, as follows:

> (8) In making an order under this section, the court shall take into consideration only the best interests of the child of the marriage as determined by reference to the condition, means, needs and other circumstances of the child.
>
> (9) In making an order under this section, the court shall not take into consideration the past conduct of any person unless the conduct is relevant to the ability of that person to act as a parent of a child.
>
> (10) In making an order under this section, the court shall give effect to the principle that a child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child and, for that purpose, shall take into consideration the willingness of the person for whom custody is sought to facilitate such contact.

[59] I turn first to the issue of past conduct. There was a great deal of evidence adduced by the Petitioner about the Respondent's conduct both during the marriage and after the separation.

[60] As noted, the Petitioner stated she believed the Respondent had an affair with another woman while he was living in St. Paul in 2007. I am not satisfied it has been proved on a balance of probabilities and even if it was, it would not, in my view, have any bearing on the Respondent's ability to parent the children some seven years later.

[61] Both parties engaged in what may be termed regrettable behavior shortly following the separation, the Respondent somewhat more so than the Petitioner. Again, however, I do not consider the conduct to be relevant to the abilities of either the Petitioner or the Respondent to parent their children. The separation and the life changes it represented were obviously very difficult for the parties. Although it was ill-advised, the conduct has not continued.

[62] The overriding consideration is whether it is in the children's best interests that the Petitioner becomes the primary caregiver, or if those interests are served by a shared custody arrangement.

[63] The evidence shows plainly that each of the Petitioner and the Respondent are caring and engaged parents who fundamentally respect each other. Despite differences between them, they have successfully co-parented their children for the three years following their separation.

[64] There have been some difficulties, most notably communication problems and inflexibility on the part of the Respondent. It is important for the parties to bear in mind that these issues, which the Petitioner views as a barrier to effective shared parenting, will not go away by simply changing the custody arrangement. The children would continue to spend time with the Respondent in his home, with different rules. As parents, the parties will still need to communicate with each other about holidays, birthdays, activity schedules, school work, rules, healthcare and counselling, to name a few. The issues created by having two different households with two different sets of rules will still be there.

[65] Ultimately, the parties are going to have to learn to be more effective in communicating with one another. That is not something this Court can realistically order. They will have to make the decision to avail themselves, together or separately, to resources that will assist them in communicating and co-parenting.

[66] Some of the communication issues and issues caused by inflexibility can be relieved by incorporating specific terms into the order. This is far less drastic than revising the entire custody regime. For example, the problems created by the Respondent's inflexibility respecting modifications to the schedule to accommodate birthdays, holidays and other special occasions can be remedied by

expressly specifying what happens with the children at those times. Similarly, the Respondent's apparent reluctance to answer the Petitioner's queries about things like extracurricular activity registration and summer holidays can be addressed by setting out deadlines and timelines for responding right in the order. Finally, the economic consequences that arise for the Petitioner when the Respondent asks her to look after the children for additional time, can be addressed by imposing appropriate child support obligations in the order.

[67] There are many advantages of a shared custody regime for the children. So far, it has allowed the children to continue to spend a significant amount of time with each parent and there is no reason to think this would not continue. It gives them an opportunity to settle in and engage in routines. They can spend both weekends and weekdays with each parent. They can interact with each parent not only in recreational pursuits, but with the more routine things, like preparing and eating family meals, getting ready for and getting to school, doing homework and even chores. These things may seem mundane, but they represent important opportunities for parents and children to interact and to teach and learn from each other. Finally, the shared parenting arrangement has provided the children with a meaningful opportunity to build relationships with other people in each of their parents' lives, such as Mr. McIntosh and Ms. Weeks-Beaton.

[68] I have considered T.'s preference to live with the Petitioner. Unfortunately, there was no evidence to illuminate his reasons for expressing this preference, which makes it very difficult to determine if this would, in fact, be in his best interests.

[69] The suggestion that T. would prefer to live with the Petitioner because he is afraid of the Respondent is simply not borne out by the evidence. For example, he told his mother in December of 2011 that he did not wish to return to the Respondent's home. Yet, the shared custody arrangement has continued for some two and a half years since that time. It is just as likely that what he said was a result of the stress of the family breakup as it was a true expression of desire to stay with his mother.

[70] T.'s desire to spend more time with his mother can be, and recently has been, accommodated within the shared parenting arrangement. The Respondent testified that T. asked recently asked to go to the Petitioner's home during a week he was with the Respondent. The Respondent agreed. That was on a Wednesday and T. returned to the Respondent's home on his own accord two days later.

[71] I have also considered very seriously the evidence from Ms. Kreft about T.'s ideations of self-harm and the Petitioner's evidence that T. made a gesture with his

hand of putting a gun to his head. Unfortunately, as noted above, Ms. Kreft's evidence was not explored further, nor was the Petitioner's. In my view, this type of statement is something that must be taken very seriously by parents and healthcare providers; however, it is not something that can realistically be resolved in this case by moving away from shared parenting.

[72] I do not consider the incident when the Respondent lost his temper because the children opened the door when he was not there to be indicative of the Respondent being a harsh disciplinarian or engaging in conduct that is physically or psychologically harmful to either child.

[73] Finally, I am unable to conclude that the shared parenting arrangement is what is causing A. to be disrespectful to the Petitioner and T. in her home. There is simply no evidence to support any connection between the two.

[74] In my view, the interests of the children are best served by continuing a shared parenting arrangement. This will ensure they have the greatest opportunity to continue to enjoy a healthy and loving relationship with both of their parents.

Should the Petitioner be Permitted to Move to Alberta with the Children?

[75] The principles to be applied in considering relocation are found in *Gordon v. Goertz*, [1996] 2 SCR 27. The overriding consideration is, again, the best interests of the children; however there are a number of factors that are to be considered in determining whether relocation is in the best interests of the children, as follows:

> (a) the existing custody arrangement and relationship between the child and the custodial parent;
>
> (b) the existing access arrangement and the relationship between the child and the access parent;
>
> (c) the desirability of maximizing contact between the child and both parents;
>
> (d) the views of the child;
>
> (e) the custodial parent's reason for moving, only in the exceptional case where it is relevant to that parent's ability to meet the needs of the child;
>
> (f) disruption to the child of a change in custody;
>
> (g) disruption to the child consequent on removal from family, schools, and the community he or she has come to know.
>
> *Gordon v. Goertz*, at para 49

[76] I pause to note that although *Gordon v Goertz* was a variation application, this Court has held that its principles respecting the interplay between a proposed

relocation and the best interests of the child are applicable in determining whether relocation is in the best interests of the children on initial custody applications: *Ivens v. Ivens,* 2008 NWTSC 18 (at para 25).

[77] Currently both parents play an active role in the day-to-day lives of T. and A.. They attend activities with them. They take them on hockey and scout trips. They each see the children frequently, even when the boys are with the other parent.

[78] Notwithstanding her evidence that she would be prepared to facilitate liberal and generous access if she moved, the reality is that if the Petitioner relocates to Alberta with the children, the role the Respondent plays in their lives will be seriously diminished and the relationship the children have with him will be fundamentally altered. Access will have to take place far less frequently and over longer blocks of time. In all likelihood it will cause disruption for the children by requiring them to travel to another location. The Respondent would lose the ability to participate in their day-to-day lives.

[79] Although it would not be optimal from either a professional or personal perspective, the Respondent indicated he would be prepared to move to Alberta to continue the shared parenting arrangement. That is not a realistic solution, however. First, the Respondent may request a transfer to Alberta, but there is no guarantee he would be transferred to a post in the same community as the Petitioner. Thus, his ability to share parenting responsibilities would nevertheless be curtailed and, likely, his ability to exercise regular and frequent access. The children would be no further ahead than if the Respondent remained in Yellowknife. He also indicated that a move to Alberta would result in a return to shift work, which would also limit his ability to share parenting responsibilities.

[80] I have considered T.'s views, which, as noted, include a desire to move to Alberta with the Petitioner. Again, however, the reasons he holds this view did not come out in the evidence. As such, it is impossible to assess this factor in any depth and determine what weight it should be given. In any event, what evidence there is suggests a move at this time would not be his best interests overall.

[81] The disruption a move to Alberta will cause to the children is an important factor in this case. A move would take T. and A. away from their school, their friends and their community. It would take them away from their father, with whom they have a close relationship. They would be placed in a brand new community where they would know no one but their mother, in a new school, with unfamiliar children. These are difficult things to deal with in the best of circumstances. Here, they would be even more difficult.

[82] Ms. Kreft testified that T. and A. have difficulties adapting to change so it is logical to conclude that relocating to Alberta would be very hard on them. Further, it was also noted by both parents that T. is reserved and has difficulty making new friends.

[83] Relocating would necessitate the children being removed from their art therapy program with Ms. Kreft, under whose care they appear to be gaining the skills and strategies required to cope effectively with their parents' separation. While the Petitioner testified she would make inquiries about counselling and therapy options at the school in Innisfail, there was no evidence that these services would be available and if so, in what form.

[84] Although the Petitioner and the children would be closer to extended family than they currently are in Yellowknife, they would nevertheless be in another town in the case of the Petitioner's sister and in another province in the case of the Petitioner's parents. The move would not, therefore, result in the Petitioner having more support from extended family.

[85] There are very few, if any, advantages that would be realized for the children if they moved to Alberta, yet it would entail a great deal of disruption for the children and the Respondent. It would also have a highly detrimental effect on the Respondent's relationship with them.

[86] I conclude it is in the best interests of the children that they remain in Yellowknife and, accordingly, the Petitioner's application to move them to Alberta is denied.

[87] There remain the matters of a Divorce Judgment and child support. Based on the evidence, the parties have grounds for a divorce.

[88] As noted by counsel, the amount of child support depends entirely on whether the Petitioner remains in Yellowknife or chooses to move to Alberta. Thus, counsel suggested and I agree they may submit to me an order respecting child support based on the *Child Support Guidelines* once those plans are finalized. If they are unable to agree on the terms of the order, they may bring a motion before me to determine that issue. In the meantime, however, I am satisfied that there are satisfactory financial arrangements in place for the care and maintenance of the children and a Divorce Judgment may issue.

[89] The terms of the custody order will also depend on whether the Petitioner moves to Alberta or remains in Yellowknife. Again, once those plans are finalized, counsel may take out an order setting out the specific terms. If they are unable to agree on those, they may bring a motion to argue any points of disagreement.

[90] Finally, should the parties be unable to agree on costs they may bring a motion to speak to that issue and have it determined.

K. Shaner
J.S.C.

Dated in Yellowknife, NT this
2nd day of July 2014

Counsel for the Petitioner: J. Olson
Counsel for the Respondent: E. Keenan-Bengts
Counsel for the Children: B. McIlmoyle

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