

SUPREME COURT OF NOVA SCOTIA

Citation: *Nova Scotia (Minister of Community Services)*, 2023 NSSC 330

Date: 20231019

Docket: SFHCFSA, No. 127135; 125679

Registry: Halifax

Between:

Nova Scotia (Minister of Community Services)

Applicant

v.

R.S. and J.L.

Respondents

Judge: The Honourable Justice Cindy G Cormier

Heard: October 3, 4, 5, 6, 2023, in Halifax, Nova Scotia

Counsel: Angela Swantee, for the Applicant
Ashley Wolfe, for the Respondent, R.S.
Katelyn Viner for Respondent, J.L.

Restriction on Publication:

Pursuant to subsection 94(1) of the *Children and Family Services Act*, S.N.S. 1990, c. 5, there is a ban on disclosing information that has the effect of identifying a child who is a witness at or a participant in a hearing or the subject of a proceeding pursuant to this Act, or a parent or guardian, a foster parent or a relative of the child.

By the Court:

Introduction

[1] The Minister of Community Services wants 4 children placed in her permanent care and custody. The children are a 7-year-old boy, MA; a 6-year-old boy, MI; a 13-month-old girl, S, and a 13-month-old boy, J. The children's mother, Ms. S, was born in 1983 and their father, Mr. L, was born in 1990. They want the children returned to them.

[2] The issues that will determine whether the children are returned to Ms. S and Mr. L are:

- (a) Whether returning the children to Ms. S and Mr. L is the least intrusive alternative that's in the children's best interests under clause 46(4)(c) of the *Children and Family Services Act*; and
- (b) Whether the circumstances that justify a permanent care order for MA and MI under section 46(6) of the *Act* are unlikely to change before October 19, 2023; and
- (c) Whether the circumstances that justify a permanent care order for S and J under subsection 46(6) of the *Act* are unlikely to change before February 22, 2024.

[3] On or about November 10, 2021, the Nova Scotia Minister of Community Services – Child Protection (Nova Scotia agency), became involved with the parties and their two eldest children after they received information from the Department of Children, Seniors, and Social Development in Newfoundland (Newfoundland agency). The Newfoundland agency advised they had had involvement with Ms. S and Mr. L beginning after MA's birth in 2016.

[3] The Newfoundland agency advised the Nova Scotia agency they were concerned that Ms. S and the children had left Newfoundland during an open child protection investigation with many services still pending, that Ms. S had been referred to in-home support services, and there was an expectation Ms. S would follow up on referrals for the child(ren) to speech language pathology, and to an autism specialist.

[4] The Newfoundland agency had identified concerns while involved with the family, including: family violence; substance abuse; unfit living conditions; parental mental health; and inappropriate discipline of the children. The agency reported there were allegations of: emotional abuse and neglect; unsafe and unsanitary conditions of the home including food being left around and bugs in the home; risk of Ms. S becoming physical with the children; and the possibility Ms. S was experiencing suicidal ideation.

[5] The Newfoundland agency specified they were also concerned that Ms. S had stated she had been diagnosed with Castleman's disease and she was experiencing chronic pain. The Newfoundland agency reported that Ms. S had advised them she was moving to Halifax, Nova Scotia for treatment and for support from the children's paternal grandmother, Mr. L's mother.

[6] The Newfoundland agency advised they had informed Ms. S they would be referring her matter on to the Nova Scotia agency. They advised the Nova Scotia agency that they had returned the children to Ms. S's care with the understanding that Mr. L had left Newfoundland and he had moved to Nova Scotia in or around April 15th, 2018, and the parties understood they could not have contact in the presence of the children, and Mr. L could not be left unsupervised with the children.

[7] On cross-examination of the parties Mr. L stated that he:

Tried to have a coparenting relationship with my children, which for a time worked out quite well, but it also came to my attention at that point (Ms. S) started seeing T, and I met T on a couple of other occasions, I see him as an okay guy, but not somebody I would trust with my kids, so that kind of created conflict, you know. I didn't have conflict with him, however, because of those interactions, there was one point where **MA had looked up and called me (J). And I seen that as 100 percent disrespectful, I got escalated, however, I did hang up the call because these is going to get bad fast, I cant do it.** After that, me, I mean myself and (Ms. S) got in, I believe, an argument that night and ... I didn't know she was moving... I was blocked, she moved, I had no contact for ... two and half years.

[8] On cross-examination, Ms. S suggested she married T in 2019 and that they separated at the end of 2020 or before then. She was in relationship with T for about a year and a half. In counseling sessions, Ms. S admitted her husband, T, whom she married after separating from Mr. L, had been both physically and emotionally abusive toward her. In her family skills sessions with Ms. West she confirmed the children were exposed to T yelling at her a lot.

[9] The Newfoundland agency stated that in or around the spring of 2021 or the fall of 2021, when Ms. S suggested she would be moving to Nova Scotia, Ms. S, clearly understood the Newfoundland agency's position that the parties should not have contact in the presence the children and that Mr. L could not have unsupervised contact with the children. Therefore the parties could not live together with the children.

[10] The Newfoundland agency advised that Ms. S had stated to them that she had no intention of "having anything to do with" Mr. L. She indicated to them that she would never put her children in danger by having them around Mr. L.

[11] When meeting with child protection workers in Nova Scotia, Mr. L and Ms. S both claimed they had had no intention to reunite and that Ms. S's circumstances upon arrival in Nova Scotia gave her no choice but to reach out to Mr. L for

assistance with her living arrangements and with the children. I do not accept that Mr. L and Ms. S's resumed contact was unplanned by them.

[12] Ms. S and Mr. L were described as defensive when the Nova Scotia agency workers challenged the parties about past concerns which had been identified by the Newfoundland agency, including concerns regarding domestic violence, concerns regarding Mr. L's violence towards the children, and concerns regarding Ms. S's follow through with respect to the safety plan discussed with the Newfoundland agency before she left Newfoundland to live in Nova Scotia.

[13] Mr. L claimed there had only been "one domestic" and the parties had understood Ms. S could supervise Mr. L's contact with the children. I do not accept that either Mr. L or Ms. S misunderstood the direction given to them by the Newfoundland agency or that they were not aware of the safety plan Ms. S was required to follow, or that it was not Ms. S's choice to connect with Mr. L and permit him to have contact with the children contrary to her representations and contrary to the safety plan.

[14] With respect to the incident of "domestic violence" perpetrated against Ms. S, Mr. L explained that while in Newfoundland he had self-reported he had assaulted Ms. S and he cooperated with police. Mr. L downplayed the seriousness

of the incident by suggesting that during the police investigation there had been a mistake in the initial police report which suggested, in error, that the shotgun was found loaded under bed rather than on the bed, unloaded, with the breach open, as Mr. L claims. I do not accept there was only one incident of domestic violence while the parties were in Newfoundland.

[15] Mr. L has stated that he and Ms. S “did not refuse to participate in ‘Impacts of Domestic Violence,’” he suggested:

We refused to agree that we were participating in family support work on the basis that domestic violence was a problem in our family. It is not a regular practice in our household to fight each other. In the past we were under the understanding that domestic violence is between partners, however we now know that domestic violence includes anyone in the home.”

The concern has always been about the parties lack of insight and their lack of recognition that the children’s difficulties regulating their emotions was likely in part related to the parties’ parenting choices.

[16] The Nova Scotia agency became aware of the Newfoundland agency’s concerns about Mr. L and Ms. S residing together, either in Mr. L’s home at that time or in his mother’s home, and Mr. L’s mother was considered as a possible supervisor for his contact with the children. The plan failed as Mr. L’s mother was not prepared to assist in the manner stipulated by the Nova Scotia agency.

[17] To address the risk of harm to the children, the Nova Scotia agency's expectation in November 2021 was that Ms. S and the children find alternative accommodations. Ms. S made an initial application for immediate funding and she was provided funding to stay at a local hotel with the children. The agency provided support for the children to be transported to school by taxi while the agency understood Ms. S's application for social assistance was being processed. It does not appear that Ms. S applied to the court for an order for child support or spousal support from Mr. L.

[18] Initially, in or around early November 2021, Mr. L was offered supervised parenting time with the children through the Nova Scotia agency but he declined the offer as he was not interested in attending access with the children if a worker was going to supervise his contact or he would only agree to do so if his mother could attend and she could record his supervised parenting time with the children. In or around the end of November 2021, Mr. L identified and the Nova Scotia agency approved a person to supervise Mr. L's parenting time with the children.

[19] Mr. L has stated that when the agency representative, Ms. W, first called to introduce herself as the parties' new long-term worker, he told her that other social workers working with the Nova Scotia and Newfoundland agencies did not "leave a good taste in my (his) mouth." He indicated that although he *did* want to

participate and services offered through or work with the Nova Scotia agency, he advised he could be “mildly hostile” when speaking with workers as he felt the agency was a threat to his children and his family. Mr. L explained about his “Luciferian religious bloodline” which he stated made him extremely protective and possessive over “that which he considers his” and that it also “enforces his primitive rights to be human”.

[20] When Mr. L was asked about services he had received since arriving in Nova Scotia, from Newfoundland in or around 2018, he advised he attended the Abby Lane hospital in 2020, due to “delusions and hallucinations” he had been experiencing. Subsequently, Mr. L has stated he had not stated he had been suffering from “delusions or hallucinations” when admitted to hospital in 2020, but he was admitted to the Abby Lane hospital after a suicide attempt due to depression related to the pandemic.

[21] Mr. L claimed that while he was admitted to the Abby Lane hospital the staff told him that his “spirit guide” was nothing more than “voices in his head.” He claimed that he was prescribed medication by injection, but the medication made him extremely sore and taking it was debilitating. He decided to discontinue his medication.

[22] I would note that when Mr. L spoke with Dr. Mulhall while participating in a psychiatric assessment, Dr. Mulhall had noted that Mr. L had reported that the medication he was prescribed while at the Abbey Lane Hospital made him feel like a zombie or zoned out. At one point in time, Mr. L has stated he has refused to “get rid of (his) voice inside (him), as “he’s” the best thing that’s happened to me.” However, Mr. L did not appear to have shared any information about a “voice inside him”, when Mr. L participated in a psychiatric assessment with Dr. Mulhall. In any event, perpetrators of family violence or child maltreatment may or may not have formal mental health diagnoses.

[23] Mr. L claimed he had almost finished a “No One’s Perfect” program through a Family Resource Centre. The Nova Scotia agency completed a collateral contact with the Fairview Family Resource Centre and the Centre suggested Mr. L had completed the “Nobody’s Perfect Program,” a general parenting support program for parents of children ages 0-5 years old in 2017 (however there is no evidence he was in Nova Scotia before 2018), and the Centre suggested Mr. L may have completed some services in 2018.

[24] The agency representative also completed a collateral contact with an individual Mr. L stated had been a previous employer of Mr. L’s. The individual spoke very positively about Mr. L.

[25] On December 7, 2021, Mr. L contacted the Nova Scotia agency and he left a message stating he understood the Nova Scotia agency had a copy of the Newfoundland agency's file and agency representatives would be making collateral checks. Mr. L requested a meeting the next day, demanding the matter be taken before a Supreme Court judge within ten days as he would be "suing the actual fucking life out of everyone."

[26] On December 9, 2021, an agency representative completed another collateral contact, this time with the Major Crimes Division. Mr. L's criminal history was reviewed. The Agency was advised Mr. L did not appear to be on any outstanding conditions.

[27] On December 19, 2021, the Nova Scotia agency decided Mr. L's contact with the children no longer needed to be supervised and they would offer the family voluntary services. The parties were advised of the agency's expectation that Ms. S would continue to act protectively with respect to the children, meaning that if Mr. L became escalated or inappropriate, Ms. S would do what was necessary including: contacting the police; asking Mr. L to leave; or leaving with the children herself.

[28] The Nova Scotia agency offered to continue to work with the family on a voluntary basis and to fund counseling for the parties and / or to arrange and fund autism assessments for the children. The parties declined.

[29] The Nova Scotia agency recommended the parties engage in services including but not limited to: the Parenting Journey Program; mental health counseling; the Schools Plus Program; and suggested that they connect with Autism Nova Scotia to arrange for the children to be assessed. Mr. L and Ms. S denied they needed counseling.

Most Recent Involvement

[30] In or around March 21, 2022, the Minister of Community Services received a referral from the children's school. They advised that MA had stated "my daddy slammed me on the floor and then my tooth got loose."

[31] On March 24, 2022, the children were interviewed at their school by an agency social worker.

1. MI disclosed that his father held his brother up and "hit him down" and "made his tooth bleed." MI then "put his hands around his own neck and motioned lifting up with his hand still around his neck."

2. When asked what had led up to this happening, MI said MA threw a knife at his father. When MI was asked about rules in the home and consequences, he stated there were no rules in the home but when he gets in trouble, he is required to place a book on his head.
3. MA stated there were lots of rules at his house and that if he broke a rule he had to stand in the corner with a heavy book on his head and that it hurt. When MA was asked if there were any other consequences for breaking rules MA indicated that his father would spank him on the bum with his hand.
4. MA then disclosed that when he had been standing in a corner with a book on his head his father tried to spank him but MA threw the book at his father and his father picked him up and slammed him on the ground and his tooth bled. MA explained that his father lifted him by placing one hand to his throat and the other hand under his armpit.

[32] On March 28, 2022, the children's school reported Mr. L had attended the school on Friday March 25, 2022 and he had provided them with a note indicating his children were not permitted to speak with social workers at school without a parent present. While delivering the note, Mr. L told a school staff person he was involved in an ongoing lawsuit in Newfoundland, he was taking social workers

from Nova Scotia to court, and that he would include school staff in a lawsuit if the school staff permitted his children to be interviewed at the school. Mr. L then stated that MA was a liar.

[33] On March 30, 2022, an agency representative met with Mr. L and Ms. S and learned that the children had been home from school for several days. They further noted that during their conversation with Mr. L he described the children's behaviours as "out of control" while in the home.

[34] The issue of excessive discipline and several other issues were discussed with the parties. The agency representatives engaged in a discussion with Mr. L about how he had been physically beaten and abused as a child and the representative suggested to him that he did not want the same for his children.

[35] Mr. L agreed some of the discipline used on him by members of his family of origin was abusive, but he stated that he believed some of it worked. Mr. L suggested that some level of fear works. Mr. L shared that he also felt it was appropriate to use soap in children's mouths as it does not cause them any physical harm.

[36] Mr. L also observed that the agency uses fear as a deterrent. As an example, Mr. L stated that before the agency representatives arrived to meet with them he

had wanted or he intended to slap one of the children in the mouth for calling him a “cocksucker,” which he acknowledged is a word the children have heard him call the dog, but instead he had chosen not to do so. He explained that his fear of the agency’s potential reaction to him slapping a child in the mouth and the potential consequences were a deterrent for him.

[37] Mr. L did not and still does not have the insight to see the parallel between how his fear and distrust of the agency affects his ability to work with the agency and benefit from their support and services can be compared to the children’s fear of Mr. L hurting them / their distrust affecting the children’s ability to potentially benefit from Mr. L’s guidance. The social worker described Mr. L as cooperative during the meeting but as showing no insight into the risks of using excessive discipline and / or potentially emotionally abusive discipline methods with children.

[38] On April 22, 2022, an agency representative was text messaging with Ms. S in an effort to ensure she had adequate pre-natal care in place and Ms. S raised some questions about how to complete home schooling documentation for the children. Following their communication the agency representative dropped off prenatal vitamins for Ms. S at her home.

[39] On April 27, 2022, Mr. L contacted an agency representative stating he was unhappy and he wanted to meet with an agency representative that day as he wished to discuss the parties right to homeschool their children and his request that the agency no longer be involved with his family. The agency representative observed that throughout the conversation Mr. L repeatedly requested the worker confirm whether the agency representative felt the parties' children were at risk, and Mr. L became "quite escalated and loud."

[40] The agency representative indicated that during their conversation she asked Mr. L to speak more respectfully to her and she confirmed with him her belief the parties' children were "at risk." She went on to state to Mr. L that despite his request for the agency to "leave his family alone," the agency would continue its investigation regarding potential risk to the parties' children.

[41] Later on April 27, 2022, the Nova Scotia agency received a copy of the parties' Parental Capacity Assessment which had been completed in Newfoundland in 2017. Therein, historical concerns about Ms. S such as: her mental health; her anger management; her violence toward Mr. L; and her use of cannabis were reviewed. Concerns about Mr. L were also considered including: his mental health; his anger management issues; his admission regarding assaulting

Ms. S; his use of cannabis; and his difficulty with being “triggered” when MA would cry.

[42] The report from the school in March 2022 and the children’s disclosures when interviewed at the school a few days later led the Nova Scotia agency to open a new investigation. In addition to the school referral information, the agency subsequently received and reviewed the Parental Capacity Assessment referred to above, and would also have considered: Mr. L’s demands for the Nova Scotia agency not to have any contact with his family; Mr. L’s and Ms. S’s refusal to work voluntarily with the Nova Scotia agency; Mr. L’s and Ms. S’s apparent lack of insight about the potential risks of physical or emotional harm when using excessive and / or physical discipline with children; the parties’ decision to home school their children, thereby limiting regular oversight of the children by third party professionals who would be in a position to identify necessary interventions or concerns; and the agency would also have considered Mr. L’s position that the children’s behaviour in the parties’ home was “out of control” when the agency was determining whether the children were at risk of harm with the parties.

[43] On April 28, 2022, given Mr. L’s previously heightened emotional responses when interacting with agency representatives in both Newfoundland and Nova Scotia, and given his heightened emotional presentation when he had previously

attended the agency offices, a safety plan was put in place in advance of a scheduled meeting with Mr. L at the agency offices. A decision was made to have two child protection social workers meet with Mr. L together, while three police officers were available to assist as necessary.

[44] At the meeting, agency representatives spoke with Mr. L about the agency's overall concerns as noted above, touching on the agency's concerns about his mental health and the agency's position that the discipline he was using with the parties' children was inappropriate and / or excessive generally and placed the children at risk of ongoing physical and emotional harm. When Mr. L was advised of the agency's intention to take the children into care, Mr. L became emotionally escalated.

[45] Mr. L argued that the meeting with his worker the previous day had gone fine and he wanted to go to court and "sue all of (your) asses." Mr. L also argued that the Minister would require a court order before the agency could take the children into their care and custody.

[46] Mr. L also argued that the agency representatives could not take the parties' children into their care and custody as the children were not where the agency representatives believed the children would be. When Mr. L learned Ms. S and the

children had been located by the agency and police, he accused the police of corruption generally and he alleged babies were being taken by the agency and by police and being sold for a profit. He suggested the parties' children would be "sold to the Ukraine."

[47] Mr. L was observed to gesture toward an agency representative and state in a loud tone directed at police about the representative, "just think what would happen to them if you weren't here today." A police officer directed Mr. L not to gesture toward the agency representative and then police attempted to explain to Mr. L that the social worker's role was to protect children.

[48] Meanwhile, as noted above, police and an agency representative had located the vehicle where Ms. S and the children had been directed by Mr. L to wait. Ms. S was observed to become "escalated" when she was advised of the agency's intention to take the children into their care and custody, after having determined the children were at risk of ongoing physical and emotional harm.

[49] Ms. S claimed the agency had their information wrong and that Mr. L had not assaulted her in Newfoundland, that she had instead been trying to stop Mr. L from killing himself and that Mr. L had never hurt the children. When Ms. S was asked to step out of the vehicle she was in with the children, she immediately

began “screaming” and she directed the children to lock the car doors, telling the children bad people were trying to take them away. While still in the children’s presence, Ms. S stated that children die in foster care and she claimed the Minister had previously killed her baby and the Minister would be responsible for her losing the babies she was carrying at that time.

[50] After the children were taken into care and while final arrangements were still being made to secure a foster home placement for the children, the agency representative who had care of the children observed they presented as generally relaxed and happy when transported to buy necessities and visiting a playground. However, the agency representative reported the children did make comments such as: “my daddy is a bad guy” and “daddy said we would be safe in the car and that the bad people wouldn’t be able to take us.”

[51] In addition, the agency representative observed MA stated “well you know I am a liar ” and that when MA was asked what would happen when he lied, MA stated “daddy will smack my butt really, really, hard” and MA stated that sometimes he is afraid (scared) of his father. Although MA shared that his parents had told him the social worker was a “bad guy,” MA advised the agency representative that he did not think she was bad, but instead he believed she was “really nice.”

[52] The agency representative observed that throughout the day both children told her they loved her. She reported that she responded to the children by stating that she wanted to make sure they were happy, healthy, and safe. She also spoke with the children about police officers wanting them to be happy, healthy, and safe. She also observed that upon the children's arrival at the foster home for the first time, they did not present with any concerns.

[53] The matter of the Minister of Community Services v. R.S. and J.L SFHCFSA 125679, involving the two eldest children, MA and MI first came to court on May 5, 2022. The first disposition hearing was completed on October 20, 2022, and the initial Agency Plan for the Children's Care was dated September 21, 2022 and was reviewed by the court.

[54] Reviews of the Agency's Plan dated September 21, 2022 were subsequently completed by the Court on January 12, 2023, and on March 30, 2023. An updated Agency Plan for the Children's Care seeking placement of the children in the Minister's permanent care and custody is dated May 9, 2023 and was filed in advance of a court review on May 30, 2023. In addition, a combined review hearing, including both files and all four children, was completed on August 29, 2023, and evidence was heard during four days of trial in October 2023.

[55] On or about May 13, 2022, while an agency representative was transporting the children to an access visit with their mother, Ms. S, and their father, Mr. L, MA stated he did not wish to see his father but only wanted to see his mother. MI was observed to present as indifferent about seeing his father but as excited about a visit with his mother.

[56] Despite the agency representative explaining to MA that someone would be in the room with them for the visit and in response to MA's questions, assuring MA they would be returning to their school / daycare and to their foster home after the visit, MA insisted he did not want to see his father that day. Mr. L and Ms. S were advised MA had expressed he did not wish to see his father. Mr. L agreed he would allow Ms. S to see the children alone.

[57] Subsequently, the agency representative supervising the access visit between the children and Ms. S observed that Ms. S was focusing a considerable amount of time and effort speaking to the children about including their father in the visit, and that she had eventually elicited interest from one of the children. Despite direction from the agency that Mr. L would not be participating in the visit that day, Ms. S telephoned Mr. L and she suggested to him that he return to the agency offices to participate in the visit.

[58] The commissionaires responsible for safety and security at the building where the agency offices are located advised an agency representative that at the agency's request they had intervened when Mr. L attempted to re-enter the building. When Mr. L was told he could not enter the agency building he demanded to speak with a supervisor. When he was not able to speak with a supervisor he suggested he would be contacting the police and he left the immediate area.

[59] When the agency did not reverse their position about Mr. L's visit that day and the agency did not immediately arrange for an agency representative or supervisor to meet with Mr. L that day, Mr. L was overheard on Ms. S's telephone telling her he would be contacting the police to intervene. Mr. L was also overheard commenting to Ms. S about someone having seen his knife in his possession.

[60] Mr. L left a voicemail message for the agency representative facilitating access that day, questioning how he could be banned from a public building. Mr. L stated that he expected the agency representative who had been involved in the decision to exclude him from the visit that day, and involved in the decision to exclude him from future visits would not be in court, as Mr. L believed the representative was afraid of him.

[61] Mr. L stated to the agency representative that he “would be willing to meet him any time of any day and that he would make sure he was there.” The agency representative interpreted Mr. L’s message as Mr. L’s invitation to “meet him to fight.”

[62] The commissionaires noted that when Mr. L had returned to the agency to attempt to gain entry to the access visit the “knife he had been wearing on his hip was gone.” A report was filed by the commissionaires.

[63] Subsequently, Mr. L was “banned” from the Gottingen Street agency and a decision was made to serve him with a *Protection of Property Act* Order if he returned. Mr. L’s access with MA and MI was suspended on a go forward basis. Mr. L’s behaviour was excessive and threatening, showing an inability to problem solve and work with the agency in the children’s best interests.

[64] The agency suspended Ms. S’s in-person access with MA and MI and substituted virtual access, due to her involvement in the drama.

[65] On May 30, 2022, joint interviews for the children with an agency representative and a member of the Halifax Major Crimes Division, were scheduled at the IWK Hospital, the children disclosed as follows:

1. MA stated that when he gets in trouble, he is made to stand in a corner facing the wall and has to hold books on his head. MA said that this hurts his head and his arms. At one point during the interview, MA said “Mr. Wolf is a bad guy”, and confirmed he refers to his father as Mr. Wolf and he is punished for 6 minutes... and that MI is punished for 5 minutes.
2. When asked about any other punishments MA stated that if he does not listen, sometimes his father smacks him on the butt and that his father is strong and fast... In terms of when his father smacks him on the butt, MA said that it hurts a lot and that he cries a lot. He also spoke about his father yelling at him a lot.
3. Near the end of the interview, when asked if there was anywhere other than his bum that Mr. Wolf hits him, MA said “sometimes he slams me on the floor”. When asked why this happens, MA said that it was because he threw a book at his father because he did not want his father smacking him on the butt.
4. MA explained that his father was coming toward him, his father looked like he was going to smack MA on the butt, and MA threw a book at his father and then his father “picked [him up] and slammed [him] on the floor.” MA said he remembered his mother telling his father to be gentle and that his father grabbed him on the neck and then slammed him onto the floor. MA stated that this happened in the corner and after that his father put him on his bed, told him to open his mouth, and then his father said “ah a little blood”. MA said that his father then slammed the door right in his face.
5. MA said that his mother told his father to apologize to MA, but that his father did not apologize. MA said that once his father was no longer mad, his father said he was sorry.
6. When asked whether there were any other punishments, MI said that his parents put him in a dark room and that he hates the dark.

Evidence - Credibility

[66] In *L.M. v K.M.*, 2022 BCSC 689, the Court found:

Credibility and Reliability

[274] The credibility of the witnesses and the parties in particular is, as I have indicated, a critical issue in this case.

[275] Credibility or truthfulness and reliability or accuracy are related but distinct concepts. A truthful witness, for example, may be mistaken about what they recall.

[276] Credibility and reliability are not all or nothing concepts. The trier of fact **may believe some, all, or none of a witness's evidence and attach different weights to different part of their evidence**: *R. v. R. (D.)*, 1996 CanLII 207 (SCC), [1996] 2 S.C.R. 291, [1996] S.C.J. No. 8 at para. 93.

[277] The proper approach to assessing the **truthfulness of any interested witness** was articulated many years ago in *Faryna v. Chorny*, 1951 CanLII 252 (BC CA), [1952] 2 D.L.R. 354, [1951] B.C.J. No. 152 (C.A.) at 357, with these words:

The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of the truth. The test must reasonably subject his story to **an examination of its consistency with the probabilities that surround the currently existing conditions**. In short, the real test of the truth of the story of a witness in such a case must be **its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions**.

[278] *Bradshaw v. Stenner*, 2010 BCSC 1398 at para. 186, aff'd 2012 BCCA 296 [*Stenner*], identified several factors that may be considered when assessing both credibility and reliability, which I summarize as follows: **the capacity and opportunity of the witness to observe the events at issue; the witness's ability to remember those events; the ability of the witness to resist being influenced by their interest in recalling those events; internal and external inconsistency in the witness's evidence, meaning did their testimony change between direct and cross-examination, between prior statements, their discovery evidence and their evidence at trial; whether the witness's evidence harmonizes with or is contradicted by other evidence, particularly independent or undisputed evidence; whether their evidence seems unreasonable, improbable or unlikely, bearing in mind the probabilities affecting the case; and the witness's demeanour, meaning the way they presented while testifying**.

[279] Regarding the last factor, *Faryna* and other authorities have discussed the dangers of relying too heavily on the demeanour of a witness to determine their credibility, recognizing the risk of misinterpreting the testimony of the better actor as truthful, and conversely, the poor presentation of an honest witness as deceptive (see: *R. v. Jeng*, 2004 BCCA 464 at para. 54; *R. v. Tyers*, 2015 BCCA 507 at para. 18).

[280] The law also prohibits unsupported stereotypical reasoning and speculation about human behaviour, from affecting the assessment of credibility. **It is now understood and well accepted that there is no typical victim or typical perpetrator or typical ways in which a victim or perpetrator will behave**.

[281] I also note the recognized need to assess the evidence of children somewhat differently based on their age at the time of the alleged events. In *R. v.*

B. (G.), 1990 CanLII 7308 (SCC), [1990] 2 S.C.R. 30, [1990] S.C.J. No. 58 at para. 56, Justice Wilson observed:

[56] ... While children may not be able to recount precise details and communicate the when and the where of an event with exactitude, **this does not mean that they have misconceived what happened to them and who did it.**

[282] Finally, I remind myself of the relationship between the civil burden of proof, on a balance of probabilities, and the assessment of credibility, as described in *F.H. v. McDougall*, 2008 SCC 53:

[49] In all civil cases, the trial judge must scrutinize the relevant evidence with care to determine **whether it is more likely than not that an alleged event has occurred.**

...

[86] However, in civil cases in which there is conflicting testimony, the judge is deciding whether a fact occurred on a balance of probabilities. In such cases, provided the judge has not ignored evidence, **finding the evidence of one party credible may well be conclusive of the result because that evidence will mean explicitly or implicitly that the other party was not believed on the important issue** in the case. That may be especially true where a plaintiff makes allegations that are altogether denied by the defendant as in this case. ...

Admitting and Assessing Hearsay Evidence

[283] I now turn to discuss the legal principles that govern the admission and assessment of M's sexual abuse disclosures, or hearsay statements. Primarily concerned with an inability to test out of court statements through cross-examination, the hearsay rule provides that out of court statements are presumptively inadmissible to prove the truth of what was said, subject to the traditional and principled exceptions: *R. v. Khelawon*, 2006 SCC 57. **The evidence of a child's disclosures of abuse may be admitted for their truth under the principled exception to the hearsay rule (*Khelawon* at para. 42). At common law, this exception requires that the evidence is both necessary and reliable.**

[284] Section 202 of the *FLA* provides that in a proceeding under the *Act*, **having regard to the best interests of a child, the Court may "admit hearsay evidence it considers reliable of a child who is absent", indicating that the only criterion is reliability.** In any event, it is well accepted that the potential for significant harm or trauma to a child, particularly a young child, if required to testify about alleged abuse by a parent, is more than sufficient to establish necessity. In *R. v. F. (W.J.)*, 1999 CanLII 667 (SCC), [1999] 3 S.C.R. 569, [1992] 12 W.W.R. 587 (S.C.C.), the Supreme Court of Canada recognized that the reasons for the necessity may be diverse: "ranging from total testimonial incompetence to traumatic consequences to the witness testifying" (para. 36).

[285] The case law provides that **threshold reliability must be established before an out of court statement can be admitted for its truth, and if admitted, assessed for its ultimate reliability.** Although there is a distinction between **threshold reliability**, which concerns admissibility, and **ultimate reliability**, which concerns the degree to which the hearsay evidence is relied on or accepted, both must be assessed in accordance with the principles in *Khelawon* and *R. v. Bradshaw*, 2017 SCC 35 [Bradshaw]. Essentially, **all relevant factors must be considered, including the presence of supporting or contradicting evidence:** *Khelawon* at paras. 2 and 4.

[286] *Khelawon* and *Bradshaw* also discussed two types of reliability. The first, referred to in *Bradshaw* as **procedural reliability**, is established where there is no real concern about the truth or accuracy of the out of court statement because **adequate procedural safeguards were present at the time it was made: para. 31.** A statement made under oath or affirmation at a preliminary inquiry is an example. The second type of reliability, **substantive reliability**, arises from the **circumstances in which the statement came about or was made.** It may be established where there are “sufficient circumstantial or evidentiary guarantees that the statement is inherently trustworthy”, or the statement was made in circumstances where cross-examination would add little or be unlikely to change it: *Bradshaw* at para. 22 and *Khelawon* at para. 62.

[287] With respect to children’s hearsay statements, the indicators or factors to be considered in **assessing reliability** have been identified as including: **the timing of the statement; the demeanour of the child; their personality, intelligence and understanding; the child’s age, whether the statements were made spontaneously or in response to non-leading questions; the absence of a motive to fabricate on the part of the child; the absence of motive to fabricate or bias on the part of the person testifying to the child’s statement; the absence of suggestion, manipulation, coaching, or undue influence; and consistency over time:** *R. v. Khan*, 1990 CanLII 77 (SCC), [1990] 2 S.C.R. 531, 1990 CarswellOnt 108 at para. 30; *DAM v. DAT*, 2013 BCSC 259 at paras. 23-26; and *D.D.R. v. K.T.R.*, 2019 BCSC 1805 at para. 102.

Assessment of the Evidence

[288] I begin by observing that, although the parties attacked one another’s credibility, and to a lesser extent that of some of their witnesses, they made limited submissions about how I ought to assess the credibility and reliability of any of the evidence. (my emphasis)

[67] The Court in *In L.M. v K.M*, 2022 BCSC 689, also stated:

[268] Family violence, identified in s. 37(2)(g) and (h), is defined in s. 1 of the *FLA*. The **definition includes sexual abuse, attempts at sexual abuse, and for a child, direct or indirect exposure to family violence.**

[269] Section 38 requires the court to assess family violence, in this case alleged sexual abuse or attempts at sexual abuse, based on a range of considerations. Relevant here are the **nature and seriousness of the family violence, its frequency, whether the family violence was directed toward the child; the harm to the child’s physical, psychological and emotional safety, security and well being as a result of the family violence; whether the child was exposed or directly harmed, and any steps taken by the person responsible to prevent further family violence from occurring.**

[270] Significantly, s. 37(3) provides that an **order is not in the best interests of a child unless it protects, to the greatest extent possible, their physical, psychological and emotional safety, security and wellbeing.**

[271] The parties dispute the burden of proof that applies to allegations of sexual abuse in family proceedings, with reference to on a number of authorities including *Leveque v. Leveque* (1983), 1983 CanLII 717 (BC CA), 54 B.C.L.R. 164, [1983] B.C.J. No. 2213 (C.A.). In *Leveque*, the Court of Appeal established a **real risk approach**:

[13] ... When the welfare of children is concerned, the question is not so much whether specific allegations of misconduct with a third party have been proven, but **whether on the whole of the evidence there arises a real risk to the children if access is given without protection against that risk.** The degree of risk can only be determined by carefully weighing all the evidence, and that must necessarily involve the credibility of the witnesses and the judge’s assessment of the character of the parties....

[272] *Leveque* has continued to be followed since the enactment of the *FLA* (see for example *M.H. v. A.M.*, 2016 BCSC 1664; and *N.D.T. v. T.F.T.*, 2016 BCSC 134). In *N.D.T.*, a case that involved allegations of physical abuse and neglect, Justice Saunders also **interpreted the real risk approach as implicit in the best interests imperative** of s. 37(3):

[103] It has long been recognized, however, that in cases dealing with the well-being of children **a court is not obliged to reach a specific factual conclusions as to what has transpired while children have been in their parents’ care, in making an order regarding parenting arrangements: see *Levesque* (sp.)...** This principle is recognized implicitly in [s. 37(3)] of the *Family Law Act*, which provides only that the **best interests of a child be advanced through an order that protects a child’s physical, psychological and emotional safety, security and well-being to the greatest possible extent.** This wording contemplates that evidence in family cases is often of a type that may be only suggestive of the truth, and that resists specific conclusions being drawn.

[68] I find MA's disclosure to have both procedural and substantive reliability and that based on the incident in question and the overall circumstances and history of parental care, there was a real and ongoing risk to MA's and MI's physical, psychological and emotional safety, security and wellbeing as a result of the family violence.

[69] I have turned my mind to affidavits filed by the Minister of Community Services and the testimony of Minister's agents, including the testimony of Alex Nelson; Anita Smith; Carol Habicht; Katie Brown; Martin McLean; Amy Whynot; Angel Sperry; and Cheryl West. I have considered any discrepancies raised in cross-examination or argument and resolved them to my satisfaction. Although I am obligated to be mindful of potential biases, there is a certain expectation which is of course rebuttable that the above-noted persons do not have a "horse in the race" so to speak and are motivated to provide the most accurate information they can. Any discrepancies and / or inconsistencies raised with respect to the evidence given has been considered.

[70] I accept the evidence of the professionals who provided expert testimony including Dr. Mulhall; Danny Patterson; Janet Budd; and Wendy Green. I have also considered professional reports filed by other professionals who did not testify including Marilee Burwash-Brennan; Susanne Cassidy Duggan; and the late filed

report of Fiona Davidson, Ph.D. Registered Psychologist and Ashton Parker, M.A. Registered Psychologist, remembering none of the above-noted professionals had the benefit of reviewing all of the written evidence or hearing the oral evidence.

[71] On May 30, 2022, the foster parent reported that MI had been exhibiting some behaviours which were of concern. At daycare, MI had pushed a little girl and he had stated to her “you’re ugly, you’re stupid, I hate you” and MI became quite escalated.

[72] They also reported that: MI hit MA when they were in the car and MI could not be redirected; previously, MA had not spoken about his parents, but then he had stated he wanted to see his mother, Ms. S.; and MI had been waking up with nightmares since his first in-person visit with Ms. S on May 13, 2022. The foster parent suggested the children could benefit from psychoeducational assessment as she had noted some developmental delays.

[73] On June 1, 2022, an agency representative reported to Ms. S that although the children appeared to be settling in the foster home, there had been an incident with MI being aggressive with another child, pushing her over, and that MI appeared to be continuing to have nightmares. Ms. S responded by stating that was not how MI usually presented although he could be aggressive when “boys [were]

being boys” and she believed MI’s nightmares were related to a “head on collision” she was involved in August 2021, as the nightmares started almost immediately after the accident.

[74] In or around July 25, 2022, Mr. L reported he was homeless after the parties’ income assistance was cut off. He blamed the agency.

[75] In early August 2022, Ms. S reported she was living at a cottage which was being paid for through the Shelter Diversion Support Program and that her rent was paid to the end of August 2022. She stated that Mr. L was not living with her. She claimed he was living in his car and he would often bring her supplies.

[76] An agency representative met with Ms. S at her new home. Ms. S stated that her plan was to first get the children out of care and then to consider what she and Mr. L would do, indicating Mr. L was a good partner and he treated her well.

[77] In or about August 2022, Ms. S communicated to the agency her commitment to ensuring in-person access visits with MA and MI would be “drama free.” The agency reversed its decision and Ms. S was approved for in-person access visits with MA and MI, which was reinstated on August 22, 2022.

[78] On August 18, 2022 Mr. L advised an agency representative that he believed the agency was guilty of “criminal negligence.”

[79] On August 30, 2022, Ms. S advised an agency representative about her preparations for the twins arrival. She also advised she was no longer living at the cottage. She had moved to a hotel in Bedford, Nova Scotia. She stated that she and Mr. L were no longer in an intimate relationship and he had accepted work in Alberta and would be leaving soon. She stated that Mr. L continued to live in his car.

[80] On September 1, 2022, Mr. L asked if the agency would be taking Ms. S's twin babies into their care and custody if he left the jurisdiction. He stated, "you already have two of my kids that you should not have, there is no reason for you to take these ones from Ms. S, no reason whatsoever."

[81] The agency representative advised Mr. L that a decision would not be made until the children were born. Mr. L responded "I am just going to tell you, that it is not a good idea to take those babies. Make of that what you will, but if anyone takes those kids, well I will just leave it there."

[82] The parties' 3rd child and 4th child, a boy and a girl were both born on September 3, 2022. The matter first came to court on September 12, 2022. First disposition was completed February 23, 2023 and subsequent reviews on May 5, 2023; and a combined review on August 29, 2023. An Agency Plan of Care was

filed dated January 26th, 2023 and an updated Agency Plan of Care was filed dated April 24, 2023.

[83] A representative from the Provincial After-Hours Response Team (PART), attended at the IWK hospital to speak with Ms. S and Mr. L, regarding their ability to care for the babies if the babies were released in the respondents care. The PART representative was unable to engage in a conversation with Mr. L or Ms. S as both were agitated immediately upon the worker attempting to introduce herself.

[84] The PART team representative reported that upon her arrival Mr. L was yelling, using profanities, stating that the Notice of Taking Into Care was fake, and directing the PART team representative to leave the room before he lost his temper, that if she did not leave the room, he would physically remove her from the room.

[85] Mr. L and Ms. S stated to the PART team representative that they would be leaving the hospital with the twins and that MA and MI were in the process of being returned to his and Ms. S's care. As she left the room, the PART team representative served the respondents with a Notice of Taking Into Care. The newborn children, S and J, were taken into the care of the Minister of Community Services on September 3, 2023.

[86] While in hospital, Mr. L was overheard stating he would “rather be dead than allow any social worker to take his children.” Mr. L was observed to stand up and make a motion as though he was going to fight with the PART representative and police intervened. Then Mr. L became even more escalated, alleging the police were working with the Nova Scotia agency and stealing babies.

[87] Ms. S was overheard stating that if they took the twins there was no reason for her to live. She indicated she had a terminal illness and was fighting to survive. Mr. L indicated he was ready to die or kill someone and he was cautioned by the police for making those statements. Mr. L was observed to be extremely loud and to be yelling profanities in the children’s hospital. Police noted that Mr. L advised them he knew various social worker’s personal addresses. As Mr. L was leaving the hospital police saw him kiss the twins and state “see you in heaven.”

[88] A *Protection of Property Act* Order was placed against Mr. L preventing him from returning to the IWK hospital.

[89] Mr. L’s behaviour while at the IWK hospital was abusive. His behaviour had the potential to cause trauma to Ms. S, their children, other newborn patients, their families, IWK staff, and visitors. Mr. L’s emotional responses in times of stress are maladaptive and potentially harmful.

[90] The parties have argued: Ms. S had appropriate housing arranged; Ms. S had the necessary items to care for the twins; and Mr. L was not residing with her, and therefore the twins should have been allowed to go home with Ms. S. However, Mr. L has acknowledged the PART representative was unable to assess Ms. S's or Mr. L's plan(s) as they were both too highly agitated for her to do so. At no point does Mr. L fully acknowledge that his exaggerated and uncontrolled emotional responses in times of stress may be the more likely reason for certain intrusive interventions into his family life. Mr. L has often opted to argue for instance that others have been negligent in their duties, they are corrupt, or they wish to steal babies and sell them.

[91] In-person access visits were arranged for Ms. S with the twins, S and J twice per week. Ms. S did not attend access on October 3rd, 2022 or on October 17th, 2022.

[92] On September 16, 2022, Mr. L swore an affidavit stating that his future goal was to have "himself and his family live solely off the land, away from Canada's broken and unjust systems and governments." His stated goal was in conflict with his previous communicated plan to separate from Ms. S and move to Alberta.

[93] On or about September 21, 2022, an agency representative was advised that Ms. S and Mr. L had referred themselves to the Parenting Journey Program at the Fairview Family Resource Centre. A representative from the Family Resource Centre, Ms. Garagan, confirmed a one hour weekly session could be arranged for Ms. S and Mr. L. The agency identified the need for education and skill development regarding structure, routine, positive discipline, “hands off” parenting, and caring for children as a single parent (as Ms. S had advised the agency of Mr. L’s intention to move to Alberta).

[94] On October 12, 2022 Mr. L contacted an agency representative to request contact with his children. He stated he believed he was a good parent and he claimed he had stopped using cocaine about two years previously. He indicated that a friend of his who was living in Alberta had offered him a job as a live in nanny, and offered this information as evidence of his ability to care for his children. **Mr. L stated he was willing to learn “hands off” parenting from a program not associated with the agency.** The agency representative advised Mr. L that the agency would be supportive of Mr. L participating in the Parenting Journey Program.

[95] On October 20, 2022, an agency representative, Ms. S, and Mr. L met with the Family Resource Centre representative, Ms. Garagan. Ms. S and Mr. L had

indicated they wished to participate in the program as a couple. Ms. Garagan confirmed she had offered to work with Ms. S individually.

[96] On October 27, 2022, while the agency representative, Ms. S, and Mr. L were meeting with Ms. Garagan, Ms. S asked why she needed to go to counseling to talk about family violence if there had only been 2 incidents of violence with Mr. L. During the session, the parties acknowledged Mr. L had listened in on Ms. Burwash Brennan facilitating a virtual counseling session intended for Ms. S. Ms. S requested a different therapist. Mr. L stated that hearing how Ms. Burwash Brennan talks “makes him want to punch her out.” Ms. S stated it was good the sessions were virtual or she would “smack” Ms. Burwash Brennan.

[97] The agency representative observed that while they were speaking about disciplining the children, Mr. L stated his belief that it was appropriate to hit a child, tell them to sit down, and tell them to shut up, but then Mr. L demonstrated what excessive abuse looks like by punching his fist into the air 4 or 5 times. The agency representative noted that Ms. Garagan suggested to Ms. S and Mr. L that they should reconsider the discipline they had been using and she could provide information to teach them how to guide children’s behaviour without using physical discipline which can scare and traumatize them. Ms. S stated that she had no concerns about how Mr. L disciplines the children.

[98] When Ms. Garagan asked the parties if there were other issues they wished to cover, and the agency's representative raised the issue of Mr. L's reported sensitivity to children crying, **Mr. L confirmed that when crying or screaming gets to a certain volume, "it sets him off."** Mr. L stated that on one occasion when he was changing MA and MI was screaming, he "just snapped," left the room he had been in with MA, and went into another room and "ended up breaking a dresser." Mr. L suggested that the action he took was due to his military training.

[99] In or around the end of October 2022, MI exhibited extremely aggressive behaviour at his day care, reportedly "sending three daycare workers to hospital" and breaking another child's nose, and MI was asked to leave the daycare. Due to MI's foster parents' work schedules and because MI could not return to daycare, MI was placed in a temporary emergency arrangement during the week and MI continued to spend weekends at his previous foster home. On November 19, 2022 MI was able to return to his previous foster parent's home on a full time basis as alternate arrangements were made for his after school childcare.

[100] In November 2022, Ms. S raised concerns related to the children, S and J, being vaccinated. The child in care worker advised that with respect to S and J's physical development, the foster parent had noted that S's muscle tone appeared to

be more developed than J's, and J's head was noticeably misshapen. J's doctor had referred him for physiotherapy / occupational therapy to address the issues.

[101] On or about December 2, 2022, MA and MI saw Mr. L parked in his vehicle outside the access visit location where Ms. S had been exercising access with the children. Previously, she had stated she would make arrangements for someone other than Mr. L to transport her for the children's access visits to avoid "drama."

[102] In or around the first part of December 2022, Mr. L began participating in virtual access visits with MA and MI.

[103] On December 6, 2022, MA's and MI's foster parent reported that **MI had begun having nightmares since seeing Mr. L in his van** while he was leaving an access visit with his mother as noted above. In addition, the foster mother reported MI had a bad day the previous day, exhibiting aggression towards school staff and peers, and that MI had just been suspended from school for having a "major flip out" including throwing a chair at his principal.

[104] On December 9, 2022, the foster parent reported to an agency representative that while MI was residing at the temporary emergency arrangement he had continued to present with significant aggressive behaviours when attending school.

[105] The foster mother also reported that MA's teacher was seeing an increase in MA not listening and sometimes leaving the classroom without asking. The teacher had reported that it took significant effort to convince MA to clean up and focus on his work, and he had presented as needing extra attention and hugs.

[106] On December 12, 2022 the foster mother observed MI's behaviours appeared to be improving in her home.

[107] On December 19, 2022, Ms. S and Mr. L were introduced to a new long term worker and Mr. L asked for his access to be expanded.

[108] On December 21, 2022, Mr. L's mother attended the agency offices and she requested to be permitted to attend the children's access visit with Ms. S. After an agency representative referenced her last name, Mr. L's mother demanded to know how the agency representative had heard the name and she became increasingly loud and threatening. After being advised that her behaviour was inappropriate, Mr. L's mother continued to present as escalated.

[109] Following the exchange between agency representatives and Mr. L's mother, he demanded a meeting and was observed to present in a "threatening and disrespectful" manner. Mr. L was advised that his mother was denied approval to participate in the access visit due to her escalated behavior.

[110] On December 28, 2023, Carol Habicht reported that Ms. S had stated she had moved to Nova Scotia to receive treatment for Multicentric Castleman Disease. Ms. S had stated that without treatment she would be deceased in two years.

[111] On or about January 4, 2023, Ms. Garagan, facilitator with the Family Resource Centre, stated that Mr. L indicated to her **he was opposed to working on information related to the impact of domestic / family violence on children,** and that neither Ms. S or Mr. L would discuss their past counseling with her.

[112] On or about January 9, 2023 J was seen by his pediatrician Dr. Crouse.

[113] On January 10, 2023 **family support worker Cheryl West was assigned** to work with Ms. S and Mr. L. She was asked to provide information and direction regarding positive discipline, structure / routines, effects of domestic violence on children, and household management. The goals were for the parties to develop “hands off” parenting skills which would promote positive behavior and for the parents to develop an understanding of the impact that domestic violence has on children in the home.

[114] On or about January 17, 2023, Mr. L advised the agency representative he **was unwilling to work on issues related to the impact of family violence as he**

himself had been exposed to family violence as a child and already knows about the impact personally. Mr. L was advised that the issues related to the impact of family violence needed to be addressed.

[115] On or about January 23, 2023, MA and MI's foster mother reported there was no longer any punching or physical fighting between MA and MI and they were only being contacted by the school approximately once per week rather than daily.

[116] On January 31, 2023 a meeting was arranged including an agency representatives (a long term worker and child in care worker), Ms. Garagan from the Family Support Centre, Mr. L, Ms. S, and the new family support worker Cheryl West. **Mr. L took the position that the only reason the agency was involved with his family was because he asked for help.** Mr. L and Ms. S stated they did not believe in science based practices and their belief system was rooted in spirituality.

[117] Mr. L confirmed he was homeless and working on obtaining stable housing. Mr. L shared that he intended to start counseling with the New Start program. On March 21, 2023 Mr. L signed a consent to allow an agency representative to speak with Hilary Bowdridge, his New Start counselor, whom he stated he had already

attended several sessions with at the New Start program. On April 20, 2023 Hilary Bowdrige confirmed she would be leaving New Start but Mr. L's file would be transferred to another practitioner.

[118] Ms. Bowdrige confirmed Mr. L had attended 10 sessions with her and that he was "engaged in the materials." She indicated they talked about coping strategies and when she was asked if Mr. L had acknowledged his use of violence and abuse with his children and partner, she responded by stating "yes and no" then later that "he is not all the way there yet" and then stated there was "no acknowledgement of abuse or violence. Mr. Bowdrige noted that she had told Mr. L that New Start does not condone violence and he had referenced section 43 of the *Criminal Code*.

[119] In July 2023 Mr. L indicated he had been referred to a new New Start counselor Robert Leek. Mr. L stated he cancelled his first scheduled appointment due to issues with his vehicle. He later indicated his first scheduled appointment would be July 18, 2023.

[120] On February 23, 2023, Ms. Garagan reported to Cheryl West and on March 8, 2023, to an agency representative that she would be "phasing out" her work with Ms. S and Mr. L, whom she had been working with since July 2022. As appears

from a review of both reports, Ms. Garagan confirmed that the Parenting Journey Program had provided Mr. L and Ms. S with a “lot of support and advocacy throughout the program” and that the respondents gained a lot of positives and now that they had consistent counseling and family support in place, she would phase out.

[121] However, on March 8, 2023 Ms. Garagan reportedly stated to an agency representative that Ms. S and Mr. L had “not been making any progress and she had done everything that she felt within her role could be provided to them.” She stated Ms. S was a “lovely person” and could likely care for the children without Mr. L, but it seemed unlikely they would separate.

[122] On April 5, 2023, as a follow up following a recent session Mr. Garagan had with Mr. L, Ms. Garagan advised the agency that Mr. L had stated that he believed a war would break out in Canada in July 2023, that he knew where the children were living in their foster placements and he would get the children from their placements when the war started.

[123] On March 21, 2023 an agency representative met with Mr. L and Ms. S and observed Mr. L dominated the majority of the interaction as he spoke at length about his distrust. In addition, she observed that at times throughout her meeting

with Mr. L and Ms. S, Ms. S was hostile toward her, alleging the agency was responsible for her losing her housing.

[124] The agency representative advised Ms. S and Mr. L that the agency's child protection concerns had not yet been addressed, and up to that date neither Ms. S or Mr. L had demonstrated to the agency that they had gained any insight about the safety risks leading to the children being placed in the agency's care in or around March 2022. Mr. L stated that if MA and MI did not want him in their life he would leave. Ms. S stated that if the boys did not want Mr. L around, she would choose the children. Ms. S also stated she did not find her therapist to be helpful. The agency representative stated she would arrange for another therapist.

[125] Mr. L stated that his legal counsel had been working for the last month and a half trying to figure out how the agency wire tapped his van. He stated that he is the children's biological father which equals "their possessor." However, he indicated that if he heard from Ms. Green that the boys are scared of him and do not want him around, he would leave. That he trusts information received directly from Ms. Green as she is not a representative of the government.

[126] On March 28, 2023, a risk management meeting was held and the agency's history of involvement with the parties was reviewed. The agency found the

children had likely demonstrated some negative reactions attributable to the re-introduction of Mr. L by videoconferencing in or around the first of December 2022. Mr. L's request for in-person contact with the children was denied and his virtual access with the children was placed on hold pending the parties having an opportunity to speak with Wendy Green about the children expressing fear of their father. The Minister decided to apply for permanent care and custody of the children.

[127] On March 28, 2023, Ms. S advised that she did not believe the children were afraid of Mr. L. She stated that in a recent access visit with the children she told MA and MI that when they come home, they would get a king sized bed. She indicated the boys asked her if Mr. L could sleep with them in the king sized bed.

[128] On April 11, 2023 a virtual meeting was held with Ms. Green to allow both Mr. L and Ms. S to ask any questions they may have. Mr. L indicated he wanted to know whether Ms. Green's reports were updated and if they reflect the boys' current perspectives of him. Mr. L stated he had a "huge point" to prove, not just that the boys were not scared of him initially but also they are not scared of him any longer.

[129] Ms. Green stated that the boys are very honest in their sessions with her and they have expressed being fearful and scared of Mr. L, and that both boys are scared that Mr. L is not working on his anger and feelings as they have been working on theirs. Ms. Green stated that both boys want him to work on his anger and feelings as both boys say that Mr. L scares them and that they experienced a lot of anger with him.

[130] Mr. L stated that he wants the boys to know that “this society is not here to help them” and Mr. L said that he believes in physical discipline. Mr. L stated that he wants to “vacate the society,” he wants to leave Canada, he has places to take his family, and that there are much better countries.

[131] Ms. Green stated that the boys had expressed wanting “to be parented by a responsible parent who is emotionally responsive to their needs.” She stated that MA and MI did not feel safe with Mr. L.

[132] Ms. Green asked Ms. S if she agreed with Mr. L’s position on parenting. Ms. S stated that she does not use physical discipline but she agrees with Mr. L that there is a place for physical discipline if the boys return to their care. Mr. L then interjected and stated that “the punishment must fit the crime,” and he would only hit his children when they hit, and not when they yell.

[133] Ms. Green stated that MA and MI wanted to be parented with kindness, patience, managing their feelings, non-aggression, and problem solving.” Mr. L stated that he was raised to believe that “severe / serious actions deserve severe / serious consequences.” He stated that he wants his children to know that when you “physically attack” authority and you lie, that there are consequences.

[134] On April 12, 2023, Mr. L asked an agency representative why he could not have contact with his children. He was advised that the children’s therapist had clearly stated that the children were fearful of him and that the children become dysregulated following contact with him and this was having an impact on their foster placement, their school placement, and their development generally.

[135] In or around April 21, 2023 Mr. L’s virtual access with S and J was put on hold.

[136] On April 27, 2023, MI was seen by his doctor, Dr. Yamada, who referred MI to the IWK Autism Team and also made a referral for a private assessment. MI disclosed to the doctor that his “dad smacks his butt” and he talked about how hard his dad “hits.” MI is prescribed Biphentin for his ADHD and aggression.

Family support work with Ms. West

[137] On January 23, 2023, Ms. West, Ms. S and Mr. L participated in a joint meeting regarding the goals related to family support. Ms. West noted that Mr. L dominated the interaction, and he was escalated and combative. She further noted that Ms. S was hostile, particularly toward the long term social worker during most of the meeting.

[138] Ms. West observed that Ms. S and Mr. L struggled to communicate in a respectful, positive, and effective manner. After Mr. L spoke about his way of disciplining the children, Ms. West and the long term social worker attempted to explain to Ms. S and Mr. L that using physical force of any kind with children is not appropriate or indicative of positive discipline. Mr. L and Ms. S repeatedly stated they did not believe in science based practices and that their belief system is rooted in spirituality.

[139] On February 9, 2023, Mr. L stated he had taught the children to fight, and that it was more than teaching them to wrestle. Ms. S indicated that she uses Facebook Messenger to allow Mr. L to interact with the children during access and the agency has approved his attendance. Mr. L acknowledged he had used “excessive force for an excessive circumstance.”

[140] On February 17, 2023, Mr. L discussed the physical discipline he had received as a child and reported that it taught him a valuable lesson. Ms. West identified Mr. L's parenting style as a power struggle, which he acknowledged. He reported having difficulty communicating with children. He reported gaining a new perspective on disciplining the children when Ms. West highlighted the size disparity between he and the children. During his meeting with Ms. West Mr. L reported he had been diagnosed with "ADHD; a Major Mood Disorder; Psychosis; and possibly 'psychotic depression.'"

[141] On February 28, 2023, Ms. West spoke to Mr. L and Ms. S about the agency expectation that they make appropriate decisions in order to keep the children safe and for Mr. L to commit to not using harsh punishment. Mr. L suggested his children were not afraid of him and love him. Ms. West pointed out that victims can love their abusers and this did not mean they were not scared of him.

[142] Mr. L acknowledged his punishments with the children had been "a little harsh" and he suggested he had changed. Ms. S stated that she found Mr. L's punishments were harsh and she had told Mr. L they were harsh and she had threatened to contact the police.

[143] Mr. L suggested that the children needed to be somewhat scared in order for discipline to work and that Ms. S had always had control issues with the boys. Mr. L talked about rewarding the boys with “bars” and allowing them to watch him play violent video games such as Grand Theft Auto as they enjoyed it. Ms. West suggested there were studies which appeared to indicate exposure to those games could be detrimental to some children’s development. Mr. L asked if the studies were scientific and suggested that if they were not, they were not valid.

[144] The parties acknowledged using a “dark room” explaining it was used as a “sensory reset” if the boys were out of control.

[145] On March 3, 2023, Mr. L talked about trauma he and Ms. S had endured as children. Mr. L stated that he felt he needed to engage in private therapy to deal with the trauma he had suffered before he could move on and not let it keep impacting himself and those around him. He stated he was not necessarily ready, but he knew it needed to be addressed. Mr. L returned to the theme of needing to learn to communicate effectively with children.

[146] On March 8, 2023, Ms. West attended an access visit with MA and MI which Ms. S attended in person and Mr. L attended virtually. She noted that at one point in the visit, MI indicated he was angry but he did not want to talk about why.

Mr. L suggested he would make a deal with MI, that either MI could tell him or Mr. L would let MA tell him. Mr. L suggested that if MA had to tell him “it’s gonna be 100 times worse.” On the other hand, Ms. S was reported to provide MI with appropriate support when discussing the issue with MI.

[147] Ms. West indicated Mr. L expressed an interest in the concept of “time in.” He stated that his “final recourse” had been violence and he understands that is the reason the agency is involved. Mr. L acknowledged that the situation was 100% about him and Ms. S was an unfortunate casualty.

[148] On March 13, 2023 Ms. West noted that she had attended a visit with all 4 children which Ms. S attended in person and Mr. L attended virtually. Ms. West determined the visit went well.

[149] On April 3, 2023 Ms. West noted that Ms. S stated that the boys were being told that she and Mr. L are a “package deal” but she said that she had already left Mr. L three times and if it needed to be “bye bye” that it would be. Ms. West noted that when she was discussing the concept of “natural punishment” that Mr. L stated “that’s my entire philosophy right there,” stating he would laugh at a child if the child fell and scraped his knee and became upset. Ms. West talked about the need for comforting at the appropriate time and about the benefits of “time ins.”

[150] On April 14, 2023 Mr. L acknowledged that he spanked the boys. He talked about the law related to corporal punishment and about his two methods, including how he uses his fingers in a flick-like fashion as a warning or cupping his hand to make a louder noise, using it as a deterrent. Ms. West pointed out that Ms. S and Mr. L use two extremes of discipline, with Ms. S being “too soft” and Mr. L “too harsh” and spoke with Mr. L and Ms. S about a “middle ground.”

[151] On April 19, 2023, when reviewing information about communication, Mr. L observed that “if you hugged out of affection that was okay, but if you hugged to soothe a child, the child would not learn to self-soothe.” Ms. West spoke about children needing to learn how to self-soothe and indicated there was a difference between helping a child to learn to self-soothe and rescuing your child and not allowing them to learn to problem solve. Ms. West discussed the parties respective roles, with Mr. L perceived as disciplinarian and Ms. S as nurturer, questioning where that leaves Ms. S if Mr. L is not at home, and how Ms. S may not be perceived as having authority.

[152] On May 10, 2023, Ms. S and Mr. L advised Ms. West they had a discussion about disciplining the children and that moving forward Ms. S would be in charge of disciplining the children. She would make the rules and decide the consequences and Mr. L would use his “dad” voice only if it was necessary to get the children’s

attention. Ms. West reviewed information about “how to talk to children so they listen” and Mr. L once again identified that he found it difficult to communicate on a child’s level and that he had a tendency to talk a lot. Ms. S stated that she would intervene by stating “babe too much” and that Mr. L will stop talking.

[153] Ms. West spoke with Mr. L about the benefits of not having any reaction to children’s behaviour. Mr. L indicated not reacting would be impossible for him as he has a “reaction disorder diagnosis” and that is why he smokes cannabis.

[154] On May 17, 2023, Mr. L expressed that he had a particular concern about children lying, as he had been lied to his whole life, and his family are pathological liars. Mr. L stated that Ms. S is the more lenient parent and they have decided she will decide about discipline and consequences for their children.

[155] Ms. West then discussed the issue of use of bad language by children, challenging Mr. L to consider his proposition that he had no issue with bad language if it was used in the proper context, suggesting that based on his stated view was it not arguable that when MA had called him a “cocksucker” he had used the term in the proper context.

[156] On June 6, 2023 both Mr. L and Ms. S acknowledged they’d had disagreements in front of the children in the past. Ms. S stated that when she was

married to T that MA and MI had witnessed T shout at her a lot. Ms. S stated that MA had recently mentioned T and she had told MA he did not need to worry about T. Ms. West discussed “residual trauma” with Ms. S and Mr. L.

[157] On June 20, 2023, Mr. L stated that he believed his children should know how to kill a person if they needed to in order to defend themselves. Ms. S stated she felt it was not appropriate for a child to learn until they were 16 or 17 years old. After some additional discussion about whether the children had violent tendencies, Mr. L stated that he believed he and Ms. S “needed to have some big discussions as they were apparently not on the same page as he had felt they were.”

[158] On June 27, 2023 when Ms. West was discussing the issue of self-harming, Ms. S stated that she was taught by her mother that you do not hurt yourself. Mr. L stated that if his child came to him and had self-harmed he would smack the child, that your body is god given and you do not harm it, and after smacking the child he would sit them down and discuss what had led them to self-harm.

[159] Mr. L described what it would look like when he returned home when the children were living with him and Ms. S. He explained that he would enter the home, stamp his foot to announce he was home, and the children would come to see him at which point he would ask the children if they had been good, and if they

had been good, he would give them a chocolate bar and they would give him and hug and then go to their room.

[160] Mr. L said “they know that’s what I want, get the fuck away from me I just got home. It’s like with dogs, right.” Mr. L said that the boys would be in their room coloring and playing and come out after about an hour for supper or to watch him play a game. He said that then the whole family would watch TV together, perhaps the Simpsons, before going to bed.

[161] Mr. L has stated that he has found himself laughing nervously at the children if the children are upset and making no sense, and he attributes this to him having a logical brain and not knowing how to deal with this. Mr. L stated that if the children were hurt physically, they would need coaxing to help them deal with it, but if the children had done something that they had been warned was stupid and hurt themselves as a result, he would laugh and tell the children that they had been told that was stupid.

[162] Mr. L stated to Ms. West that he meant no disrespect but he was not learning anything.

[163] On July 12, 2023, Ms. West observed that at one point during the session, MA sat on a toy train. Ms. S warned MA to watch out and make sure he did not hit

Ms. West's legs as Ms. West was sitting behind MA. Ms. S then stated "I'm pretty sure she would smack your bum and I would let her."

[164] Ms. West observed that both Ms. S and Mr. L were open to learning new tools. Further Ms. S had been able to demonstrate her ability to use those tools but Ms. West was unable to observe Mr. L utilize the tools as he was not having access with the children.

[165] Ms. West observed that although both Ms. S and Mr. L showed insight into the impact of domestic violence on children, Mr. L carried the belief that some degree of physical discipline is necessary in order to prepare his children for life and he struggled with the concept of being totally hands-off. However, Ms. West stated that when Mr. L has described to her what his discipline practice has been at the time, it is in line with many of the practices discussed.

[166] Ms. West noted that Ms. S showed a good understanding of how each of her children operate and she was able to identify if they were struggling and showed the capacity to problem solve and address it, and that Mr. L recognized that he does not know how to talk to children and requested help in that area.

[167] In summary, Ms. West concluded that Mr. L had come to an understanding that his discipline style had been too harsh and stated that he fully embraced the

concept of time-in and that Ms. S and Mr. L told her they had decided that moving forward, Ms. S would be in charge of discipline.

[168] I have no confidence that Mr. L would be able to resist intervening when Ms. S was attempting to redirect or discipline the children. I also have serious concerns about Mr. L's reactions at times of stress, and in a home with a 7 year old, a 6 year old and two 1 year olds, there will be stressors. However, any crying, screaming, or confrontations should be between the children and managed in a calm manner by the parents. I do not believe Mr. L is capable of parenting the children MA and MI due to their high need for consistency and a caregiver with highly developed parenting skills or S and J due to their ages and the need for considerable involvement in their daily care needs.

Psycho-educational Assessment Report

[169] In August 2022, the Nova Scotia Agency arranged for Liza Gabriel, M.A.S.P. Registered Psychologist, to complete psycho-educational assessment reports for both MA and MI. These reports were completed August 2022 through October 2022.

MA

[170] With respect to MA, Ms. Gabriel, M.A.S.P. Registered Psychologist, noted that as of the assessment dates in August 2022, MA's foster mother described him as happy, sleeping well, making friends easily, being overactive, and having unclear speech. MA's teacher confirmed MA had joined the class in May 2022 and she described MA as a "very caring and warm hearted child." Another teacher described him as a "loving, kind, and affectionate child."

[171] His teacher had concerns that MA was below grade level in all academic areas, somewhat below in mathematics and "very much below" in decoding, reading comprehension, spelling and written expression. It was noted he was slow to build relationships with his peers but took to adults immediately, and he was afraid of noises such as fire alarms.

[172] MA was supported with curriculum adaptations (extra time to complete tasks / frequent check ins / pairing with positive and strong academic peers). At times, it was challenging to pull MA away from his drawings.

[173] She found MA presented with "strengths and challenges throughout his cognitive and academic profile," however, Ms. Gabriel noted that "he presented with significant difficulty in some foundational skills required for appropriate development of reading and spelling skills, phonological awareness, and rapid

naming skills. Thus, he is at high risk of developing a learning disability in literacy, specifically dyslexia...”.

[174] Her findings in part were that “due to MA’s complicated history, he is a child who needs to feel safe within his home and school setting.” I am not satisfied that MA has felt safe in a home Mr. L. In addition I am not satisfied that MA trusts his mother not to allow Mr. L or another T to create a chaotic environment of stress and fear in his life.

MI

[175] With respect to MI, Ms. Gabriel, M.A.S.P. Registered Psychologist, noted that as of the assessment dates in August 2022, MI’s foster mother described him as a child who loves to compliment others, as someone with good fine motor skills who loves to draw, color, and paint, as someone with a good imagination, and as a child who plays well independently. However, she was concerned about MI’s behaviour at home, school, and daycare. She also had concerns about his mood, indicating he presents as angry and tends to blame others rather than taking responsibility for his own actions.

[176] She found:

MI's history of early stressors complicates his overall profile, particularly with respect to his social, emotional, and behavioural presentation. Best practices will be to support him as he is currently presenting: as a child with clinically significant difficulty with symptoms of aggression, depression, and oppositional tendencies, as a child with good overall cognitive skills, good phonological processing, and visual-motor integration and as a child with good emergent math skills but with current difficulty with early reading, alphabet fluency, and oral language skills.

Speech Language pathology

MA

[177] Ms. Susanne Ruth Cassidy Duggan B. Sc, M. Sc., S-LP(C), met with MA and she prepared an Initial Speech and Language Assessment dated July 21, 2022; and Speech & Language Progress summaries dated August 31, 2022; December 31, 2022; March 31, 2023; and June 30, 2023. She noted that MA presented with “mild articulation of speech delays / difficulties for his age.”

[178] Despite MA's articulation errors and his tendency to speak quickly, she judged MA's overall understandability to be 80-90%. She found he had an interdental lisp for all word positions and within consonant blends and suggested that once MA lost his baby teeth and his adult teeth come in, he would be better equipped to articulate a correct / s / sibilant sound.

[179] Her recommendation was that MA have continued assessment of his receptive language, expressive language, and literacy skills development. She suggested he would benefit from direct regular Speech-Language services to

address articulation, language skills development, phonological and phonemic awareness, and reading / writing skills development.

[180] Her findings in part are that MA has made steady gains but keeping his attention on task is challenging.

MI

[181] Ms. Cassidy Duggan B. Sc, M. Sc., S-LP(C), also met with MI and she prepared a Speech & Language Assessment Report dated July 19, 2022; and Speech & Language Progress Reports dated August 30, 2022; December 31, 2022; March 31, 2023; and June 27, 2023. She determined MI presented with mild articulation of speech delays and difficulties. His overall speaking understandability was also judged to be 80-90%, in other words, she could understand the majority of what MI spoke within a familiar conversational context.

[182] MI could also benefit from continued assessment of receptive language, expressive language, and literacy skills development. Further MI would benefit from direct regular Speech-Language services to address articulation, language skills development, phonological and phonemic awareness, and reading / writing skills development.

[183] Weekly sessions were arranged and progress reports completed, which indicated in part that MI made steady gains, finding that MI's overall progress **since the summer of 2022 was "remarkable" and other gains were "outstanding"**, and that in shaping positive behaviour and follow through on structured tasks she had employed strategies such as using a time, and positive reinforcement for expected behaviours. She had used books and games as tools and removed the iPad time (altogether) as it was becoming too much of a negotiating issue.

[184] She did note that MI was sensitive and had difficulty with emotional regulation and control and that he could be easily triggered if he did not get his way and may react in an abrupt manner. She suggested the use of zones of regulation.

Counseling Services

[185] Wendy Green began providing counseling services for both MA and MI in or around June 27, 2022. Ms. Green has a masters degree in clinical social work and has provided counseling services to her clients for 30 years. She testified and she was qualified as an expert in the treatment of people, including children who have mental health issues and / or who have experienced trauma.

[186] Ms. Green, MSW., RSW prepared counseling reports for MA dated December 30, 2022; June 15, 2023, and counseling reports for MI dated December 30, 2022, and June 20, 2023. Ms. Green also filed a joint report for both children dated August 25, 2023.

MA

[187] Ms. Green M.S.W., R.S.W., met with MA regularly and she provided reports for the period between June 27, 2022 and August 25, 2023.

[188] In her report for the period between June 27, 2022 and December 10, 2022

Ms. Green stated in part:

...Goals of therapy are to assist MA to develop coping skills and overall emotional regulation skills and to be able to discuss emotions and thoughts in relation to his family and lived experiences. He is engaged and talkative in session.

In session, MA is engaged in components of trauma focussed cognitive behavioural therapy...his speech is rapid ...he has been noticed to show concern for MI. MA told me his father prefers to be called Mr. Wolfe and said he knows this as when he does all him Mr. Wolfe he talks to him more.

MA has disclosed that his **father has “smacked him on the bum” and that he “cried all day”** when this occurred. He also disclosed being **made to stand in a corner with heavy books on his head for misbehavior**. During a therapeutic feelings exercise **MA said, “Wolfe has all the bad feelings Wendy”**.

Further, MA has discussed that his father also **“smacked my legs, he wants my legs to feel broken”**. He added that **he cries when this occurs and this upsets his mother as his mother gets a headache when he cries**.

MA has also spoken of being in care with his parents and told me **that Wolfe has a shotgun in his vehicle and keeps it “up where the coffee goes, he painted it black to make it look really good.”** MA was tearful when discussing this and added that **his father screams a lot of bad words in his face and this frightens**

him. MA also said he had been in a car accident when Wolfe's mother was driving the car. ...

MA announced in session that his mother told him that she is a witch and he is unsure whether she is a "good witch or a bad witch but **she does try to call the police when Wolfe is mad but he steals the phone.**"

MA is a child who has experienced a great deal of life stressors. Positively, he is engaged with professional services to assist in alleviating this stress and related thoughts and feelings. Of concern is his poor academic performance. **As per psychological assessment by Ms. Gabriel, MA has well developed cognitive skills, however is at risk of developing a learning disorder, specifically dyslexia.** Supports to mitigate this are highly recommended as well as re-assessment at the two-year mark. Concerns such as hyperactivity, impulsivity, and inattentiveness should continue to be monitored. (my emphasis)

[189] In Ms. Green's subsequent report for MA, for the period December 10, 2022 through June 23, 2023, Ms. Green confirmed the goals of therapy and approach to therapy remained the same, however Ms. Green stated in part that:

...he has discussed his thoughts regarding his relationship with his parents and his **concern about his father's anger and behaviour toward him.** In addition, he has expressed **concern about whether he feels his mother is strong enough to stop his father from "smacking" them.** He has spoken of his parent's relationship and **told me his mother has received, "a ring" which to him has signified a future marriage.** In therapy, we discuss **his hope his father is able to learn to "not hit" and keep he and MI safe.**

During this period I attended a zoom session with Ms. W, Ms. S and Mr. L. Mr. L stated **he has a point to prove and that is that the children are not afraid of him.** I explained that it is **my impression that the boys are fearful of him and worried about his parenting approach towards them and this requires understanding, attention and protection.** Mr. L indicated **he believes in physical discipline and referred to this not being illegal.** He also indicated he would like the boys to learn to protect themselves physically and that he wished to leave Canada. **I expressed that the boys wish and need to feel safe.**

In January 2023 MA questioned more whether he would be returning to his parents' care... MA **continues to question whether he will ever be returned to his "real mom" and whether his mother and father will remain a couple.** He stated his **worry that his parents may marry and has spoken about his mother asking him whether she should marry his father.** MA has discussed in therapy that he **does not wish to live with his father,** however if he does and his father

hits him again he thinks it wont hurt as much as he is stronger now. **At other times, he has expressed hope that his social workers will help his father not to hit anymore...**

Ms. Green noted that MA had been referred to a pediatrician for an assessment regarding symptoms of Attention Hyperactivity Disorder... **he is a sensitive child and responds favourably to an approach which is kind, firm and understanding.**

MA is talkative, playful and kind. Unfortunately, he became **noticeably irritable and somewhat rejecting of his caregivers this spring as he struggled with emotional loyalty.** It appeared the more he worried about whether he would be returning home, the more he began to show irritability and rejection to caregivers. MA is also **struggling with his academics at school and is showing refusal to participate in many school-based activities/ academic expectations.** It is also **difficult for MA to settle at school on visit days as he seemingly becomes quite anxious and hyper focussed on the timing of visits.** He displayed **increased incidents of aggression of school in April and May 2023.** In May 2023, reportedly this anxiety and worry seemed to affect his sleep and behavior in his placement, as he woke in the middle of the night, showed increased opposition to caregivers and **expressed anxiety about potential unreal events – bath tub overflowing to drown the world.** It was about his time, MA **expressed concern for his mother as he stated she told him she was living in her car.**

MA is a child who has experienced a great deal of life stressors. Positively, he is engaged with professional services to assist in alleviating this stress and related thoughts and feelings. Of concern is his poor academic performance **and mental health presentation.** As per psychological assessment by Ms. Gabriel, MA has well developed cognitive skills, however is at risk of developing a learning disorder, specifically dyslexia. Supports to mitigate this are highly recommended as well as re-assessment at the two-year mark. Concerns such as hyperactivity, impulsivity, and inattentiveness were noted in my previous report and suggestions to monitor were recommended. **At this time, MA requires pediatric assessment and treatment for concerns noted above as his daily functioning is being impacted. I will continue consultation with Pediatrician** (my emphasis)

[190] In Ms. Green's report for MA for the period June 15, 2023 to August 25, 2023, the goals remained the same again, however Ms. Green stated in part:

Over the last several weeks, **MA's anxiety and worry worsened, and it appears to be in relation to his worry about whether or not; he will return to his mother's care, whether or not his mother will remain in a relationship with his father, whether his father will be in a parenting role with him, and likely most significantly whether his parents are in a position to parent him in a safe manner.**

In session, even when he is encouraged to discuss age appropriate topics such as play, school, and friendships, **he will often feel compelled to discuss his worries and generalized anxiety...** However, he continues to be **very much affected by the communication he states he receives from his mother during visits and the impact for him of his past experiences living with his parents.**

In a recent session, MA discussed how **his father had told him that he once had beaten a man up by kicking him in the face, and then told MA that he was not ready to do this now but someday he would have to do the same behavior.** MA told this therapist, while tearful, that he never wants to hurt someone like that. He **continues to discuss that his mother has asked him whether she should marry his father and MA has great difficulty with this, given the inappropriateness of this adult question and the emotional implications for such a young trauma impacted child.**

MA believes his mother will remain in a relationship with his father and has discussed in therapy that he would be very angry if his mother chooses to continue to live with his father. MA has also **expressed significant worry and upset as his mother said to him that she was very sad when MA referred to his foster parents as mom and dad in a visit,** this has caused much emotional turmoil and upset for both MA and MI as they didn't want to cause sadness for their mother, whoever **they also need to feel comfortable to refer to their foster parents as they wish while in their care. They know who their birth parents are.**

...

MA has now had an experience of receiving, safe and effective parenting and although he would wish his parents would, as he stated, "learn to be safe and have a home", he worries they have not improved. His worries and anxieties have become so significant over the last number of weeks that he has developed anxiety in relation to other events and other experiences. **MA has had disruption in his sleep, waking in the middle of the night, and fearing that he would be in a fire or harmed in some way.** He has also refused to engage in play based fun activities, where he normally would, for fear of being harmed. He has also expressed a fear of the sounds and occurrences he is most used to. I have consulted with his pediatrician and he his receiving medical care to address this concerning level of anxiety and mood disturbance. I have also consulted with the family agency social worker, and requested that a **conversation be had with Ms. S so that she can more fully understand the effect that adult conversations regarding these topics can have for MA and MI. MA is experiencing significant mental health difficulties as a result of what he has been exposed to,** and it is concerning that the parental presentation of Mr. L and Ms. S has not improved at this point and, in fact, may have worsened. (my emphasis)

MI

[191] With respect to MI, Ms. Green stated she had met with MI regularly. Ms. Green provided reports for the period between June 27, 2022 and August 25, 2023.

[192] In her report for the period between June 27, 2022 and December 10, 2022, Ms. Green stated in part that as with MA:

Goals of therapy are to assist MI to develop coping skills and overall emotional regulation skills and to be able to discuss emotions and thoughts in relation to his family and lived experiences. He is engaged, creative, and cautious and somewhat serious at times.

...

He often requires a great deal of support and guidance to enter session and then transition at end of sessions...

MI can become overwhelmed easily and therefore strategies which support regulation should be used often. It is very important to “connect before direct”.

In session MI has discussed some memories of events in his family of origin. He has told me he does not refer to his father as “Dad” as his father prefers that he refer to him to (sic) “Mr. Wolfe”. MI has disclosed that his father has “smacked his butt” both under and over his clothes. MI has also disclosed he had seen a gun before belonging to his father, “right in the corner of the living room, it’s a big gun, so loud”...

Therapy sessions have also focussed on current concerns such as stabilization in placement and peer relationships. Foster parents, as of late, have reported that MI is now more settled in their home, is no longer aggressive at home and his seeking foster parents out for support when needed and is accepting and responding favorable (sic) to praise. **In November 2022, it was reported that MI had a behavioural outburst at school...**

For MI it is likely **more important to recognize and praise his acquisition of learning new skills such as calming strategies, eye contact, problem solving, asking for help and kindness, rather than focussing on behavior and praising “no hitting”**. This approach can lead to increased social and emotional literacy. A consult with psychologist, Ms. Gabriel and MI’s school team was helpful to further support his psychological, emotional and social / behavioural needs. He is well supported at school to enhance his social / emotional literacy skills.

...

MI also engages in play as a means to process his trauma and lived experiences, his play often includes fighting and aggressive movements. **He is sensitive to correction, however with support and kind and firm direction he is able to achieve a “redo” and accept the support and teaching.**

MI can engage in creative imaginary play but left unattended appears to become emotionally activated and the play can become chaotic, disorganized and at times aggressive. It is likely he is responding to and attempting to cope with emotional and psychological triggers, his resting stress level, and poor coping abilities during these times. Activities that promote calm body, mindfulness and thinking skills should be encouraged on a regular basis. MI requires adult coaching to complete these tasks.

Likely most concerning for **MI is his emerging oppositional presentation.** Positively, he is young and engaged in several pro-social relationships across home, social and school environments. Building resilience, confidence and trust for MI is very important. MI has learned adaptive skills in a maladaptive and unsafe environment and now is faced with having to adjust his response when triggered by unfamiliar / confusing and overwhelming situations; this will take time and patience. He is a child who has experienced several early life stressors. Agency notes have indicated he has experienced exposures to instances of maltreatment, attachment breaches, exposure to parental drug and substance use, and exposure to domestic violence...

MI's presentation mood and behavior are concerning and as per recent psychological assessment his foster parents have been encouraged to make a referral to a pediatrician and child psychiatry should this be needed for ongoing treatment for mood and behavior.

[193] In her report for MI for the period December 10, 2022 through June 20, 2023, Ms. Green stated in part:

...MI continued to struggle with transitions in session when requested in early 2023, however this has minimized in last few months. He is also finding new interests and showing more pride in his accomplishments in sessions. MI is learning new skills as practiced in session and reportedly has begun to utilize these in school setting, such as “asking and accepting help”. **Although improvement has been noticed for MI since beginning medication for symptoms of ADHD in the areas of focus, impulsiveness and attention, he continues to struggle significantly with concerns of emotional and behavioral regulation.** When dysregulated he can become aggressive, threatening and resists adult support and assistance...

MI can become overwhelmed easily and therefore strategies which support regulation should be used often. MI can also become confused and frustrated

from the expectations and surroundings around him and often requires clarity. When confused, his response can easily become opposition and refuses guidance and support. Unfortunately, once this occurs it is often difficult to reason with him as he first requires regulation to think and respond in a clear manner. **Safe, predictable, and dependable relationships with adults are priority for MI** as he continues to navigate the world as if he feels threatened / confused by a change in rules and structure without warning or explanation he often becomes dysregulated / self-protective and resistant. **As stated previously, it is very important to “connect before direct”** with MI. He can look as though he understands what is expected of him, however he often requires further reminders and support to remain pro-social (kind, calm) and complete expected tasks. It is also helpful to encourage regulation using safe adult co-regulation before trying to reason or teach with MI.

Although improving, MI continues to have difficulty communicating his own needs and letting go of his perceptions of events around him, particularly when distorted or unhelpful. He also struggles with understanding what other people are communicating non-verbally and can be quite sensitive when adults use limits or rules which to him appear a surprise and / or difficult to understand. MI has **significant difficulty communicating his own needs and wants when he is feeling anxious or stressed. Therefore, he also struggles to understand how others may feel in certain situations and when this expectation is place on him, he becomes stressed.** When upset MI requires quiet spaces, kind, gentle and firm limits and usually will accept a mindful based activity such as drawing, repetitive play.

Unfortunately, MI continues to present with opposition mostly within the school setting, where more demands are placed on him for compliance and social interactions. Recently, this presentation seemed to have worsen(sic) somewhat and requires further assessment from his pediatrician which I understand has been arranged and in ongoing.

...

As of late, MI's play has become more organized and less aggressive, he is able to focus on age appropriate activities in sessions.

Likely most concerning for MI is his emerging oppositional presentation...
(emphasis mine)

[194] In her combined report for MA and MI for the period June 15, 2023 through August 25, 2023, Ms. Green stated in part about MI:

...

As noted in my June 2023 report, improvement has been noticed for MI overall in his ability to engage, settle and transition in therapy sessions. However he

continues to struggle significantly with concerns of emotional and behavioral regulation...When dysregulated he can become aggressive (causing significant harm to some), threatening and resists adult support and assistance.

It is important to note that **safe, predictable and dependable relationships with adults are a priority for MI as he continues to navigate this world as if he feels threatened / confused by a change in rules and structure without warning or explanation he often becomes dysregulated / self-protective and resistant.** As stated, previously, it is very important to “connect before direct” with MI. He can look as though...

MI has expressed concern over his mother crying in visits and he continues to discuss his fear of his father. In a recent session, when he stated his thought that his mother will likely, “marry” his father he stated, “oh no I would never tell mom to marry Wolf.”

MI discussed his upset that he hit his mother in a recent visit because he became upset with his younger sibling as she was, “screaming and touching me too much”....

MI continues to have difficulty communicating his own needs and letting go of his perceptions of events around him, particularly when distorted and unhelpful...

When upset MI requires quiet spaces, kind, gentle, and firm limits and at times will accept a mindful based activity such as drawing, repetitive play...

It is important that Ms. S remain focussed on the needs of the children and the current visit and activity and not discuss any future planning...

Based on the children’s demonstrated needs, Mr. L is not able to provide the level of parenting support required to assist the children or to assist Ms. S in assisting the children. I find that Mr. L is likely to have great difficulty not intervening when Ms. S attempts to do so. In his own words, not reacting would be impossible for him as he has a “reaction disorder diagnosis.”

Ms. Burwash-Brennan

[195] In early July 2022, Marilee Burwash-Brennan was contracted to provide counseling services to Ms. S and she met with Ms. S between August 2, 2022 and

October 1, 2022. During that period Ms. S attended 5 sessions (August 2, 10 and September 6, 22, and 27, 2022 and she late cancelled or did not show for appointments August 16, 2022 and September 13, 2022.

[196] Ms. Burwash-Brennan completed counseling reports dated October 1, 2022; January 13, 2023; and April 14, 2023.

[197] Ms. Burwash-Brennan stated that the purpose of her involvement with Ms. S was for Ms. S to process the abuse and the state of her abusive relationship, to have a firm understanding of the impact of violence on young children, for Ms. S to process and remedy her part in the children's protection concerns, and to engage in safety planning for future abuse.

[198] Ms. S stated there had not been any domestic violence in her relationship with Mr. L – that there was an isolated incident when she grabbed Mr. L and he grabbed her. She claimed the boys had been playfighting with Mr. L and he had not hurt the boys “ever”.

[199] Ms. S acknowledged she grew up in a home with abuse and that her dad used to abuse her – “he’d get drunk and take it out on her.” Ms. S also claimed her previous partner was both mentally and physically abusive. He slammed her on the floor and broke tables and that was why she left him (her husband T).

[200] In her report dated January 13, 2023, Ms. Burwash-Brennan has stated that Ms. S denied there had been any domestic violence in her relationship with Mr. L. Ms. S also shared her concerns about securing housing, indicating how she had stayed at Adsum House for a brief period, then Mr. L's mother's garage, and that she and Mr. L had then lived in his van and continued to do so at the time the report was written.

[201] In her report dated April 14, 2023, Ms. Burwash-Brennan stated that she found it was difficult to truly ascertain how much Ms. S truly comprehended or was willing to engage in. Ms. S appeared to be engaged during the sessions but had sometimes stated that she did not want to do therapy. She did at times appear anxious during sessions, but was unable to articulate specifically what was causing the anxiety. I suspect she was reluctant to truly be open due to the agency's involvement.

[202] At times Ms. S's testimony has shown she lacks the ability to resist being influenced by her own interest in recalling events; there are inconsistencies with respect to what information she provides to whom. I find her evidence regarding hers and Mr. L's relationship, and in particular her claim there is no ongoing conflict or disputes, is improbable or unlikely.

[203] It certainly appears that Ms. S did not share with Ms. Burwash-Brennan information about the incident of violence in Newfoundland, which appears to have involved a gun and if I were to rely on Ms. S's report, an altercation with Mr. L while he was threatening to kill himself.

Janet Budd

[204] In or around May 2023, Ms. Budd MA, RCT-C, CCC, Registered Counseling Therapist Candidate, was contracted to provided counseling services to Ms. S and met with Ms. S between May 4, 2023 and September 21, 2023. At trial, Ms. Budd was qualified as an expert who provides therapy to people with respect to mental health issues.

[205] Ms. Budd filed reports dated July 27, 2023 and September 21, 2023. She indicated Ms. S attended 14 out of a possible 18 sessions. Ms. Budd was contracted to provide support for Ms. S to process past abuse in her relationship, to have a firm understanding of the impact of violence to young children, to process and remedy her part in the CPS concerns, and to learn emotional regulation, communication and conflict resolution skills, how to communicate respectfully, and to engage in safety planning and to support protection from future abuse.

[206] In her report filed July 27, 2023, Ms. Budd stated that she believed Ms. S was making efforts to reflect on the past, present, and the child protection situation, and practice ongoing emotional regulation and grounding techniques to support her general mental health and approach with others. She recommended that Ms. S continue to engage coping strategies outside of session that are helpful and supportive to her.

[207] It appears that Ms. S spoke with Ms. Budd about how Ms. S and Mr. L would handle discipline in the future and Ms. S advised Ms. Budd that they had decided that she would be the primary parent to administer discipline and that if there was violence or safety concerns she would leave or call 911. Again, I do not accept that Mr. L will allow Ms. S to administer discipline to the children or to contact 911 for that matter if he was the cause of her concern.

[208] In her report filed September 21, 2023, Ms. Budd suggested that Ms. S had met the goals of their contract.

Mr. Danny Patterson

[209] Danny Patterson was qualified as an expert. He is a social worker with a Masters in Social Work and qualified to treat people with mental health issues.

[210] In July 2022, Mr. L began attending counseling sessions with Danny

Patterson. In his report dated October 6, 2022, Mr. Patterson observed in part:

...When I first spoke with Mr. L, he was adamant that the “agency” was harassing him and his partner and stated, “I have never abused my children, they are lying” and he feels much that is written about him is “pure nonsense”...

...and he will do anything to have them in his life, but also **acknowledged that he believes he is mentally fit/well and does not need medications and mental health treatment** and will be going through a psychiatric assessment in the future that he noted would prove that he is mentally stable.

... Mr. L noted **he was encouraged to take substance abuse counseling, anger management counseling and to take mental health medications. Mr. L verbalized that he would not follow through with recommendations as it was a violation of his basic rights as he stated he has done nothing to hurt or damage his children** and verbalized several times that his children were being unjustly held from him and his partner.

...Mr. L spoke in detail about how he wants to raise his sons to be strong and masculine and to be able to defend themselves. Mr. L noted that currently our culture is very supportive of femininity, and he believes this is weak.

...Mr. L recently had a psychiatric assessment completed by Dr. David Mulhall, psychiatrist and he was very happy to have assessment completed. Results from the assessment noted that “**he does not have a formal major psychiatric disorder. He does not wish to be engaged in therapy or the use of psychotropic medication**”. Dr. Mulhall also noted in his assessment that “**I do not believe his world viewpoint would be amenable to therapy or psychotropic medication**”. Mr. L was very happy that the psychiatric assessment confirmed his stance that he did not have a psychotic disorder. Mr. L felt the psychiatric assessment support his opinion that he is being unfairly treated by Community Services... At this time it was decided that **writer’s involvement with Mr. L would stop as he felt that he was okay and needed no further support.**

Mr. L has been fully engaged and active participant when communicating with writer. Mr. L openly communicated during all sessions and **was very eager to express himself and talk with writer openly about how negatively he and his family has been treated by Community Services.** Writer and Mr. L **never started a specific therapeutic approach** as from the beginning Mr. L was adamant that he was being treated unfairly and his rights were being violated...

I accept Dr. Mulhall's assessment, and with respect to Mr. L, I "do not believe his world viewpoint would be amenable to therapy or psychotropic medication." In addition, I don't think his views on parenting are amenable to change either.

[211] I find Mr. L's views on parenting practices as they relate to the children are highly unlikely to change and if he is involved in the care of the children MA or MI, their emotional distress will most likely increase over time and their level of positive functioning will decrease, losing the gains made thus far.

[212] I also find it is highly likely that with Mr. L involved in the care of S or J, they are likely to be exposed to maltreatment and conflict and to also then present with symptoms of emotional distress mostly or in large part attributable both Ms. S's and Mr. L's, actions, inactions, reactions, and their choices.

Dr. David Mulhall

[213] On September 6, 2022, Mr. L met with psychiatrist Dr. David Mulhall, M.B., FRCPC for a Psychiatric Assessment. Dr. David Mulhall was qualified as an expert to assess, diagnose, and develop treatment plans for the care of patients with mental health illness and emotional and behavioral disorders.

[214] Dr. Mulhall determined in part:

... He believes that he is not being allowed to parent children as Family and Children Services says that he wasn't to "masculinate" his children".

Mr. L was born in Newfoundland. He said that he was told that his father had died during his mother's pregnancy and his parents were not together at the time. He said he was given a number of stories about his father died(sic) and is unsure where the truth his. He believes he has an older half sister living in Ontario and his mother had a younger brother with whom he was raised.

He says he was raised by his mother and step-father who was abusive physically and was an ex-military member...He said it was an unsettled household and that Family and Children Services were involved episodically. He reports that he dropped out of school in grade 12 following an altercation with the principal but upgraded his education at age 27. He reports that he has worked primarily as a delivery driver over the years. He acknowledges that he lost his license for a four-year period, "it was a mistake" and has resumed driving in recent years and is self-employed earning between \$700 and \$800 per week.

He reports he and Ms. S have been a couple since 2014 and had two children before they separated in 2018. He stated that the children were in care in Newfoundland, first MA in early 2017 and MI from his birth [in March 2017]. He says that Family and Children's Services in Newfoundland had concerns about his parenting. He says he was not allowed to have access or contact with the children and that for the sake of the children he and Ms. S separated, and he moved to Nova Scotia and the children were returned to Ms. S's care within a month of him leaving in 2018. The couple remained separated until Ms. S moved to Nova Scotia in 2021. Ms. S has a rare disease, Castleman's, this is a disorder of the lymph nodes, her disease is multifocal and causes significant swelling of joints, etc. He stated that she has been referred for specialist care, but this has not yet started. He said that while he was separated from Ms. S, he was involved in two relationships, one which was a good relationship and he remains friendly with his ex-partner and the second one which was volatile and he sates that his partner was charged with assault. He and Ms. S did not "intend to get back together" but were staying with his mother while they organized their housing; however, they go back together. Family and Children's Services became aware of this when the children were registered in school in October 2021.

...

He reports that he was sleeping in his car and Ms. S was residing at a hotel and Family and Children's Services were concerned that he had access to the children in an unsupervised fashion and that Ms. S was not "protecting them". He acknowledges there were also abuse allegations against him in relation to MI who had some "bruising". He explained that he was teaching MI what would happen if he was "taken down by a cop" and hat it was a role-playing exercise. He acknowledges that he will use "light" corporal punishment by smacking the children on the buttock or back of legs for a misdemeanor.

He acknowledged that he had been charged in the past with assaulting a female but says these charges were dropped. He also has gun charges for possession of a weapon, he said he pled guilty to this, and this happened over four years ago and is “seeking a pardon for this”. He reports that he has no outstanding legal charges.

He says he was diagnosed with Attention Deficit Hyperactivity Disorder and with a mood disorder at age 11 by Dr. Thira Ahmad in Halifax... he says that he was seen in hospital in Newfoundland at age 17 for a “mild” psychosis which he had partial insight into and around the time he was using street drugs and no medication treatments were recommended. He had an episode of self-harm at 19 and was seen in the emergency room but not admitted. He reports that in 2020 he went to the QEII for a week. He states that he was considered to have a “mild psychotic illness” again, at a time when he was misusing street drugs. It was recommended that he have a trial of Aripiprazole which he took for a two week period but stopped as he felt that hit cause him to “be like a zombie”. He has been on no medication since.

...

He acknowledges that in his adolescence and early adulthood he used street drugs including cocaine, and alcohol. He says that he now drinks in moderation. He **acknowledged that he has occasional cocaine in recent years and that he uses 1 gram of marijuana a day.**

He acknowledges that on both occasions that his older two children were taken in to care and he learned that his twin babies were taken into care in the past week that he made threats of harm towards Family and Children Services but states that it was out of frustration and that he has not followed up on either occasion.

...

He did not believe that he his viewpoints interfered with his ability to provide a stable and secure parenting for his children.

...

He believes he has a good parenting relationship with his older two children and hopes to establish the same with his twin babies.

While he has strong viewpoints... these do not constitute a psychotic disorder and are viewpoints held by a sizable minority of the population...these would best be seen as paranoid traits rather than that of a formal paranoid psychosis.

...

He does not believe he requires either therapy or psychotropic medication.

...

I do not believe that his “world viewpoint” would be amenable to therapy or psychotropic medication. I advised him that his use of street drugs and

amounts of marijuana need to be kept to a minimum in view of two documented periods of “mild psychosis” when misusing substances.

Should he have future involvement with his children, there would need to be clear guidelines and expectations and appropriate levels of supervision and longer-term involvement of supervising agencies. The concerns expressed by Family and Children Services in 2022 appear similar to concerns expressed in 2018.

Diagnosis

- Axis 1: 309.6 Adjustment Disorder, NOS, some stress related to Family and Children Services intervention.
- Axis 2: V71.09 Nil, paranoid traits.
- Axis 3: Nil.
- Axis 4: Psychosocial stressors: Children in care.
- Axis 5: Global Assessment of Functioning: Current 56, best in past six months 56.

While he wishes to have full access and custody of his children and continue a relationship with Ms. S, he says he is realistic enough to know that should this not be granted that he and Ms. S are likely to separate as in 2018 and that she would look to raise the children without him and that he would move elsewhere as he did in 2018.

There is no further time for “levels of supervision and longer-term involvement of supervising agencies.”

[215] Mr. L initially refused to participate in services, then indicated he would only participate in community services, then complained about how long it had taken the Minister to provide him with services. I do not believe he has benefited to any great extent from any services (which he identified himself at one point), and I do not believe he has a very good understanding of why the services are being offered to him. He has failed to focus on important goals and instead

focussed on issues such as MI's dog bite and others. Although at times he has stated he needs therapy and he should follow through, Mr. L did not provide evidence that any therapy had any positive impact on his views or ability to parent effectively.

[216] At trial in October 2023, Mr. L stated that the agency had identified the following concerns: his "anger issues"; his "absurd and overwhelming parenting ideology"; being "aggressive with his children"; and being "too aggressive" generally. As noted above, I accept Dr. Mulhall's assessment, and with respect to Mr. L, I "do not believe his world viewpoint would be amenable to therapy or psychotropic medication."

[217] In addition, based on the totality of the evidence, I don't believe Mr. L's beliefs about parenting practices are amenable to change. I do not accept that there has only been one incident of excessive discipline. I find it is more likely that the children have been exposed to what I would define as ongoing maltreatment first with Mr. L beginning with MA in 2016 then MI, (then with T most likely throughout 2018 – 2020), and then again with Mr. L sometime after Ms. S left T.

[218] Mr. L testified, confirming the children's history of care and the involvement of both the Newfoundland and Nova Scotia agencies, stating in part:

MS. SWANTEE: Okay. And is your position based on saying that there's no child protection concerns or that there's no longer any child protection concerns?

MR. L: I believe the agency has their own level of concerns, however, I believe that at the beginning there may have been couple of identifiable concerns, however, I do believe they've been remedied to where it should be satisfactory to the agency.

MS. SWANTEE: Okay. And what were those couple of identifiable concerns?

MR. L: The couple of identifiable is that I have anger issues, which I do identify in myself, always have, that I have absurd and overwhelming, so to speak, parenting ideology, that I'm aggressive with my children. There have been other accusations that were unfavourable and unpushable, but that's what I've collected. The agency just sees me as too aggressive. (my emphasis)

MS. SWANTEE: Okay. And do you believe that you're too aggressive?

MR. L: I can be.

MS. SWANTEE: Okay. Do you believe you have been with your children?

MR. L: In one particular instance, yes.

MS. SWANTEE: Okay.

MR. L: But overall, no, I do not believe I have. I believe I may have just went a little over.

MS. SWANTEE: Okay. What was that one particular incident?

MR. L: The one particular incident was where MA became belligerent and was non-responsive to disciplinary actions that were non-assertive to the point where he was causing damage and he assaulted myself to a point where I had to restrain him and separate him physically.

MS. SWANTEE: So, that would be the incident where MA was standing in the corner as a punishment—

MR. L: Yes.

MS. SWANTEE: ...was holding a four poundish book on his head—

MR. L: It was. Not even close. (Laughs) That's closer to 11, 12 pounds. The book in reference would have been closer to... these are identical?

MS. SWANTEE: They are, yeah.

MR. L: If you would just turn to tab 44 and that's about it. It's a Canadian map book, it shows all the regions, roads, back paths, trailways all across Canada.

MS. SWANTEE: Okay. So, your evidence is that the reason that you had to restrain MA and you actually ended up putting him on the floor was because while he was in his discipline he then became belligerent and assaulted you?

MR. L: Yes, but I would like to make it clear that the book on the head at that point was the third discipline.

MS. SWANTEE: Was the sorry?

MR. L: The third discipline. It was the third stage in disciplinary actions that I had taken before I made it to restraining him because there was no other action of control.

MS. SWANTEE: Okay. And you believe that your children should listen to you and obey you at all times?

MR. L: Most times, however, I believe in freedom, so with that being said, I give my children a level of freedom that is not only agreeable to their age, but also to the level of which I have had access to their parenting as well as my level of control over my children. I can't give my children freedom that will cause them harm. I can't give them freedom that will cause others harm. And I can't give them freedoms that will, you know, instinctively lead to something bad.

MS. SWANTEE: Okay.

MR. L: The way that my children presented from the time they came back to me up until the time that they were removed, when they came back, they were extremely violent, extremely assertive, there was very little boundaries. But over time, I was able to build those boundaries. Now, with MA was very much different from MI. MI is the time is that if he sees it reasonable, he'll take it 100 percent. But if he doesn't see the reason behind an order given to him, then as your staff have seen, he responds very negatively and it's, it could be any gauge of level, from throwing things at the wall, to throwing things at you, to attacking you, to just putting teachers in the hospital. (my emphasis)

MS. SWANTEE: Okay. So, Mr. L, you said that you gave your children freedom as long as it's not something that's going to hurt others of themselves, correct?

MR. L: Of course.

MS. SWANTEE: So, they would have freedom then to choose to get their hair cut for example?

MR. L: If the choice was theirs, of course.

MS. SWANTEE: Okay. Let's, in terms, you say when the children came back to you. So, are you talking once they had returned to Nova Scotia?

MR. L: Yes.

MS. SWANTEE: Okay. So, let's do a little bit of a timeline. So, when did you leave Newfoundland?

MR. L: I left Newfoundland the day after I got my grade 12, which was April 15th, 20... I wanna say 2018.

MS. SWANTEE: 2018, okay. Alright. And when did you and Ms. S begin living together or at least living the same house? When did your communication and contact with MA and MI start once they were in Nova Scotia?

MR. L: October 31st.

MS. SWANTEE: Of?

MR. L: Of, 20, sorry, the last three years is really hard. (Laughs)

MS. SWANTEE: (Laughs)

MR. L: 21?

MS. SWANTEE: Yeah. I was going to suggest it was 2021.

MR. L: Sure.

MS. SWANTEE: Okay. Alright.

MR. L: It's just with covid and everything, dates are so messed.

MS. SWANTEE: It, it's been, it's been a challenge. Agreed. So, you were away from the boys then from April 15, 2018. You came to Nova Scotia. And, did you have any contact with them up until they returned to Nova Scotia in October of 2021? (my emphasis)

MR. L: So, initially, when I had retained contact with Rosetta once I found out that she was ill, it was approximately two, two and a half months before I even allowed the children to partake in a conversation, and the reason for that was that we'd been separated for three years and up to that three year point, it was nothing but conflictual intervention from the agency, so there was really no real parenting background for me to jump into, you know what I mean? So, I wanted to do it very slowly, but I also didn't want them to, you know, just see me randomly and just go start saying oh well, I'm talking to my daddy again, because you guys don't like me (laughs), so that is, just, those words alone would have made, would have made Everest out of a molehill. (my emphasis)

MS. SWANTEE: Okay, so between April of 2018, when you left Newfoundland—

MR. L: Yes.

MS. SWANTEE: ...Ms. S and MA and MI were still in Newfoundland, correct?

MR. L: Yes.

MS. SWANTEE: And they remained there until the end of October 2021? (my emphasis)

MR. L: Yes.

MS. SWANTEE: So, during that time, you were in Nova Scotia, Ms. S was in Newfoundland, did you have any contact with MA and MI during that time?

MR. L: Okay, so, when I first came back in April—

MS. SWANTEE: Yep.

MR. L: I had contact back and forth. I was very frustrated about the situation, because at that point the agency had forced me and Rosetta to split. We didn't want to, and because of that there was tensions between us, but, it's kind of like flipping a coin. One sides good day, one sides bad. It just depends on the emotional everything of everything. Does that make sense? It just depends on how the day starts and how it goes. (my emphasis)

MS. SWANTEE: Okay.

MR. L: I tried to have a coparenting relationship with my children, which for a time worked out quite well, but it also came to my attention at that point Rosetta had started seeing T, and I met T on a couple of other occasions, I seen him as an okay guy, but not somebody I would trust with my kids, so that kind of created conflict, you know. I didn't have conflict with him, however, because of those interactions, there was one point where MA looked up and called me J. And I seen that as 100 percent disrespectful, I got escalated, however, I did hang up the call because these is going to get bad fast, I can't do it. After that, me, I mean myself and Rosetta got in, I believe, an argument that night and... she told me that the one of the kids was at risk of hurting themself on a four-wheeler that I built for them, so we came up with plans to sell the four-wheeler, contact resumed until the four-wheeler was sold, I didn't know that she was planning to move. So, once the contact end, about the bike ended and she got her half of it, I was blocked, she moved, I had no contact for... two and half years? (my emphasis)

MS. SWANTEE: Okay.

MR. L: Give or take?

MS. SWANTEE: So, and when you say she moved, that was within Newfoundland?

MR. L: She stayed in Newfoundland.

MS. SWANTEE: Okay. Alright. So, you had no contact with either MA or MI for two and a half years—

MR. L: Mhmm.

MS. SWANTEE: ...within the April 2018—

MR. L: That, sorry, no—

MS. SWANTEE: Okay.

MR. L: That would have been around early to mid June 20, 2018 where contact ended.

MS. SWANTEE: Okay.

MR. L: Yeah.

MS. SWANTEE: And then did you have any contact until she before she came to Nova Scotia on October 31st, 20—

MR. L: Contact between me and Rosetta resumed, I'm going to say... I just want to make sure I get this—

MS. SWANTEE: Yep. No, no, take your time.

MR. L: So, starting spring... early mid May, 21?

MS. SWANTEE: Okay. So, before she came here.

MR. L: Yeah, I may be incorrect on that date, but it's in the spring of 21, I know that for sure.

MS. SWANTEE: Okay. Alright, and so when you weren't having contact with Ms. S, you weren't having contact with the children?

MR. L: No, absolutely not.

MS. SWANTEE: Okay. Alright.

MR. L: I actually had no, I tried looking them up and I had even no way of finding them. She privatized herself very well. I taught her, I teach people how to privatize online, so at least she learned that (laughs).

MS. SWANTEE: What else did you try to teach her, Mr. L?

MR. L: Well, just like I try to teach every one of my partners or all of my friends, all of my family, anybody can attest, I'm a teacher, but not of typical means. I teach people how not only to lock yourself away, but how to get out of locked positions. I teach people how to understand legal wording, I teach people how to get over grief, how to, not in a typical sense, I teach them more or less exertions of grief, so that instead of crying about it, find another release so you can learn to better control it, right? So, the more grief you go through the less it hurts you. I mainly try to teach people about what's going on in the world, because at this point. Yeah. So, with that being said, it's matter of everything. I try to just make people aware of everything. I hope that answers your question.

MS. SWANTEE: It does. When Ms. S was in Newfoundland with the boys, did she reach out to for any help with her parenting?

MR. L: So, there was one time where she didn't reach out to me, but there was a post claiming that I wasn't providing any kind of support or money or anything of that nature.

MS. SWANTEE: Okay. Was that a post that Ms. S had made?

MR. L: Miss, post, yes. Now, this is, there was hostility between us, so I understand.

MS. SWANTEE: Okay.

MR. L: So, my cousin ended up sending this to me, and I ended up just getting rid of it, because I signed an agreement with the agency that I was no longer responsible for monetary care of the children because of the fact that I didn't leave willingly. I was forced out based on unlawful reasons that I couldn't defend against. So, that, that's the only other contact that could have possibly happened.

MS. SWANTEE: Alright, so she didn't, when you describe the boys when they came to Nova Scotia as being assertive and violent—(my emphasis)

MR. L: Mhmm.

MS. SWANTEE: ...so, were they that way when you left Newfoundland?

MR. L: I've only ever had up to a total of two months of experience with MI because of agency, and I only had one to two hour visits per week—

MS. SWANTEE: Okay.

MR. L: ...so, I really didn't, I can't, I can't speak on MI.

MS. SWANTEE: Okay.

MR. L: But MA, MA has been like me since he was born. He... ADHD is a very serious thing. And I know I'm not a professional to speak on it, however, I do understand it. And MA, since he was born, has had serious traits of ADHD. He's been highly focused since 10 minutes after he came out. There's not many babies that can lift their head up and focus on something, right? So, MA is a very progressive kind of person. He adapts to his environment. He adapts to the people around, his surroundings, the attitudes, the motives, what's going on in his mind, which 90 percent of the time he's got a whole fairy tale book going on in his mind. He could sit down for hours and just make up a story and it'll make sense, but you gotta listen, right? **But when it comes aggression, MA was never properly taught how to control his inner monster. In order to learn to control your monster, you first have to become a monster. There's no other way around that. MA loves monsters, but he has never taken any sort of time to sit back and understand what a monster is and what makes a monster a monster. You can be a beast, but a monster does terrible things.** (my emphasis)

MS. SWANTEE: How old was MA when you left Newfoundland?

MR. L: That's a tricky one. 2018... he would have been 4? Honestly, I have trouble with their birthdays (laughs).

MS. SWANTEE: That's okay. That's alright. So, in the documents we've been working with—

MR. L: Four or five.

MS. SWANTEE: ...he was born on January 29, 2016, does that sound right?

MR. L: Yes, it does.

MS. SWANTEE: And so you left Newfoundland on April 15, 2018. So, January, February, March, April.

MR. L: I just did the math. It would have made him closer to two.

MS. SWANTEE: Two.

VARIOUS VOICES FROM BACK OF COURTROOM: (Laughs)

MR. L: Yeah.

MS. SWANTEE: Alright.

MR. L: (Laughs)

MS. SWANTEE: So, he was two...

MR. L: There are so many numbers attributed to all of this (laughs).

MS. SWANTEE: That's okay. That's alright. I just, I wanna make sure that we're understanding the age and stage that MA would have been at when you—

MR. L: Yes.

MS. SWANTEE: ...left Newfoundland. So, was he talking when you left Newfoundland?

MR. L: Very little.

MS. SWANTEE: Very little. Okay. Alright. He was walking.

MR. L: I taught him to walk, yes.

MS. SWANTEE: Okay. Alright. And he was eating solid food and all that good stuff?

MR. L: Yeah. Actually, I taught him to walk when he was five and a half months and we had him on solid food at almost six months, because after he started walking and he started getting teeth, we were like, okay. And his first meal was potato and salt meat. And he destroyed it! So, it was a couple proud daddy moments (laughs).

MS. SWANTEE: (Laughs) And, Mr. L, MI was born on – “full date withheld – in March 2017,” correct?

MR. L: Yes. Honestly, I have some, I have more difficulty with that one—

MS. SWANTEE: That's okay.

MR. L: ...than any others. (Laughs)

MS. SWANTEE: (Laughs) And so, if you left Newfoundland on April 15, 2018, he would have been about a year old?

MR. L: Not even. Under a year.

MS. SWANTEE: Or a year and one month. He was born in March, you left in April the following year.

MS. S: (Laughs)

MS. SWANTEE: It's okay.

MR. L: Oh yes.

MS. SWANTEE: I'm not, I'm not trying to trick you—

MR. L: You're right.

MS. SWANTEE: ...with the math.

MR. L: You're right.

MS. SWANTEE: I'm just, I want to have an understanding.

MR. L: I wanted to come up here completely blindfolded, you know what I mean, so, sorry for the incorrecction, I'm trying.

MS. SWANTEE: No, no. Nope. And they're not designed to trick you.

MR.L: Absolutely.

MS. SWANTEE: So, then MA would have been about two. MI would have been about five. You said in your testimony that you only had a couple of months with MI—

MR. L: About one, not five.

MS. SWANTEE: Pardon me?

MR. L: You said about five. One, not five. MI was one, not five.

MS. SWANTEE: Oh, I'm sorry. See?

MR. L: It's okay.

MS. SWANTEE: I'm misspeaking as well.

MR. L: (Laughs)

MS. SWANTEE: So, you said in your testimony earlier that you had, I believe you said two months of contact with MI before you left.

MR. L: No, no, okay, when I say that—

MS. SWANTEE: Yep.

MR. L : ...I mean from the time MI was born—

MS. SWANTEE: Mhmm.

MR. L: ...to the time that I left.

MS. SWANTEE: Yeah.

MR. L: With agency involvement and all the time accumulated for that—

MS. SWANTEE: Okay.

MR. L: I've only had maybe, maybe two months.

MS. SWANTEE: Okay. So, was, in Newfoundland, was MI taken into the care of the agency there?

MR. L: Yes.

...

Objection raised regarding interference from the gallery and addressed by the court.

...

MS. SWANTEE: Thank you, my Lady. Alright, we're back to our math problems, aren't we, Mr. L?

MR. L: (Laughs) Yay.

MS. SWANTEE: Was he taken, was MI taken into the care of the agency in Newfoundland?

MR. L: Yes.

MS. SWANTEE: Do you recall if that was at his birth?

MR. L: That was 11 days after and the, and the undertaking was very, very violent on their end.

MS. SWANTEE: Okay. And did MI return to the care of Ms. S before you left Newfoundland?

MR. L: No. I believe I was gone for a week.

MS. SWANTEE: Okay.

MR. L: They had to make sure I was gone.

MS. SWANTEE: Okay.

MR. L: Yeah.

MS. SWANTEE: So, you really, until MI came to Nova Scotia in October of 2021, you hadn't really been in a parenting relationship role with him.

MR. L: I was able to form a very incredible bond with MI, most of the visits when he came to the house, he would just curl up in my arms, we'd sleep for an hour, then we'd have an hour of play with all of them. But I put more focus into MI because he was a fresh baby (laughs). But, I'm sorry, I feel I may have went a little off track there.

MS. SWANTEE: That's okay.

MR. L: Could you just refresh my, my question?

MS. SWANTEE: I was asking whether he had been returned to Ms. S' care before you left Newfoundland?

MR. L: No, it was a week, it was close to a week afterwards.

MS. SWANTEE: After you had left?

MR. L: Yes.

MS. SWANTEE: And so, you hadn't, MI hadn't been living with you and Ms. S together in Newfoundland?

MR. L: No, no. We were doing supervised visits with multiple supervisors.

MS. SWANTEE: Alright. So, in terms of, if we think of a parenting role being in the house living together—

MR. L: Mhmm.

MS. SWANTEE: ...with you and MI, that really only happened between the end of October 2021 and when they came into the agency's care.

MR. L: No.

MS. SWANTEE: Okay.

MR. L: So, just, just to be, to make it 100 percent clear—

MS. SWANTEE: Yep, thank you.

MR. L: From Oct, from the end of October to the middle of November, the children were in my care because of isolation due to covid and their housing situation falling through. They were never intended to come to me, but there was no choice. (my emphasis)

MS. SWANTEE: Right.

MR. L: So, after the middle of November, they were put into childcare in the, [X hotel]? No, it's not. It's not that good. Anyways, they were put into [X hotel] and they stayed for there for approximately another month. (my emphasis) [material in brackets added]

MS. SWANTEE: Okay.

MR. L: A little bit over.

MS. SWANTEE: Yeah.

MR. L: In that time, I had not seen the children at all, except for when I would pull in to meet up with Rosetta and they'd be up in the window calling down to me.

MS. SWANTEE: Okay.

MR. L: Because they wanted me to come up, but I couldn't.

MS. SWANTEE: Yeah.

MR. L: That was the only contact I had with them then. Then from the time the file was closed on December 21st until they were removed again, they were in my care. (my emphasis)

MS. SWANTEE: Okay. So, December 21st until...

MR. L: April 28th.

MS. SWANTEE: April 28th.

MR. L: I remember that date (laughs).

MS. SWANTEE: So, about four months. We're back to our math.

MR. L: Approximately, yeah.

MS. SWANTEE: Okay, alright, okay. So, that has been the entire time that MI has lived in the same home with you. Those four months, plus the two months in November when you were self-isolating after Ms. S and the kids came from Newfoundland.

MR. L: Yes.

MS. SWANTEE: I have that right?

MR. L: Absolutely.

MS. SWANTEE: Okay. Alright.

MR. L: And to make it very clear, they were never intended to come to my home. That was never, it was not supposed to happen. I had an hour's notice.

MS. SWANTEE: Right. Ms. S—

MR. L: It was government mandate that made that happen.

MS. SWANTEE: So, Ms. S arrived, thinking she had a place for her and the kids in Truro, I believe?

MR. L: Yes. Once they made it to Truro, I received a call while I was sleeping. Yes, so, somebody rented the house, can't go there, can't be homeless, what do we do? (my emphasis)

MS. SWANTEE: Right.

MR. L: Fuck. Alright.

MS. SWANTEE: And you were saying—

MR. L: We'll explain it later.

MS. SWANTEE: Sorry. I didn't mean to interrupt you.

MR. L: It's okay.

MS. SWANTEE: You were staying with your mother at that time, is that—

MR. L: No, I had my own house.

MS. SWANTEE: You had your own house, okay. Alright.

MR. L: Yes.

MS. SWANTEE: And when you and Ms. S and MA and MI lived together from December 21st till April 28th, were you in your own home at that time?

MR. L: We rented a separate home at that time. Or sorry, sorry repeat the dates again? (my emphasis)

MS. SWANTEE: Between December 21st of 2021 and April 28th of 2022.

MR. L: That was a rental unit.

MS. SWANTEE: A rental unit. So, it was you, Ms. S, MA, and MI.

MR. L: It was.

MS. SWANTEE: Nobody else in the house.

MR. L: Unborn babies? And dogs? (Laughs) But no.

MS. SWANTEE: Okay. Okay. Gotcha. Alright. Mr. L, you, I'm not sure if enjoyed is the right word, but you participated in family support work with Cheryl West. (my emphasis)

MR. L: I enjoyed it. Yes.

MS. SWANTEE: Alright. I didn't want to put—

MR. L: Honestly, I like working with Cheryl. She's a very down to earth person, she's very professional, and she took all of my requests and severities very seriously. (my emphasis)

MS. SWANTEE: Okay. Alright. And in your affidavit which is at tab 54, you outline a lot of your own view and responses to various affidavits, but there's nothing –

MR. L: Yes.

MS. SWANTEE: ...in there responding to Cheryl West's affidavit.

MR. L: I have nothing to respond. She did an amazing job from start to finish. She allowed me to vent and didn't take it as aggression or anger, because she would take the time to understand what I was saying. But aside from that, Cheryl did an amazing job. I have nothing to say about her or anything she said. (my emphasis)

MS. SWANTEE: Okay. So, is your experience that most people that you had interactions with over your life have been like Ms. West and have taken the time?

MR. L: I get along, if I don't get along with you, I'll tell you to eff off and walk away from you. Like, I've wasted so much time on braindead slow people that I gave up. So now, I only speak with people that are capable of reaching my intellectual level, which after all the social workers, I'm finally able to speak with Angel Sperry, because Angel Sperry was a teacher as with mass child experience as well as a master social worker, so there's a big difference in etiquette and

intelligence. If you can't reach my intellectual level, we're not going to have a conversation. It's just that simple. So, sorry. (Laughs) (my emphasis)

MS. SWANTEE: That's okay.

MR. L: Yeah.

MS. SWANTEE: Alright. Do you think that most of the people that you would have interactions with on a daily basis, do you think that they meet your intellectual level?

MR. L: No.

MS. SWANTEE: No.

MR. L: (Laughs) I'm an Instacart shopper. Like, seeing people on a daily basis... I see hundreds of thousands of people on a daily basis, interact with thousands of them, it's... I can't answer that question. They all suck. (Laughs).

MS. SWANTEE: Mr. L, those are all my questions for you. Thank you.

MR. L: Thank you.

[219] Mr. L has barely parented MI, as MI was taken into care at birth in Newfoundland and he remained in care until Mr. L left Newfoundland in 2018. MA was also in care in Newfoundland and by his own suggestion Mr. L was not co-parenting MA or MI for very long and he had no contact with the boys between April 2018 until about October 2021.

[220] He resumed contact with MA and MI between December 2021 and March 2022, then due to his own outbursts / behaviour, including concerns such as Mr. L carrying a knife on his person, a past history of suicidal ideation, conviction in relation to firearms, the incident at the agency offices in March 2022, his initial refusal to engage in services offered by the agency, the incident at the IWK hospital in September 2022 including all the troubling comments he made, and

both MA's and MI's repeated expressions of fear of Mr. L, Mr. L's parenting time did not normalize. I find it highly improbable that MA, MI, S, or J have a secure attachment to Mr. L.

[221] Based on my review of the evidence, Mr. L does not appear to have a solid concept of children's development generally or their developmental needs. He does not understand the underlying reasons for the parenting practices he is being encouraged to use with his children to support his children's needs. Further he has not recognized that his reactions to the children and around all the children are all extremely important and have had a huge and mostly negative impact on MA and MI during the short period he was involved in parenting them.

[222] Ms. Green described maladaptive parenting practices as those which do not fit a child's needs and could expose a child to more harm and positive parenting practices as those used to teach and keep a child safe.

[223] Ms. Green gave an example of maladaptive parenting, for instance: child hits child / parent hits the child – exactly the approach Mr. L was advocating for. She acknowledged the effects of using this parenting approach would depend on the child, and that with a child who was securely attached and had good coping skills the negative impact would be lessened – but for MA and MI, Ms. Green

stated that they needed understanding, patience, and support. That if hit, they may stop their behaviour in their tracks, but they would feel unloved, uncared for, and harmed.

[224] Ms. Green opined that with respect to a bully, the best way to them develop empathy for others is to help the child develop empathy for themselves – to feel cared for. If a child is told to hit back when hit, it will further entrench the belief that the world is not safe, that they should be scared, and that you deal with problems through aggression and violence. This in fact appears to be what Mr. L was attempting to do.

Law

[225] As the matter before the Court is a Disposition Review, the Court confirms that all previous orders on file were correctly made on the consent of or with no opposition by the parties.

[226] The Court has but two options: dismiss or make an order for Permanent Care.

[227] Section 42(1) of the *Children and Family Services Act* sets out:

At the conclusion of the disposition hearing, the court shall make one of the following orders, in the child's best interests:

- (a) dismiss the matter; ...

(f) the child shall be placed in the permanent care and custody of the agency, in accordance with Section 47.

[228] There are no other options available to the Court for the placement of MA MI, S, and J.

[229] The Court must determine whether the circumstances that allowed the Court to find the children in need of protective services still exist, or whether changes or new circumstances have arisen, which may allow the Court to find that MA or MI or S or J, are no longer a child in need of protective services.

[230] In all matters involving the welfare of a child, the Court must be mindful of the best interests of the child at all times using a child-centric approach. This is set out in section 2(2) of the *Children and Family Services Act*.

[231] The Court is also mindful of other legislative factors which highlight the best interest of the child, as set out in section 2(1) of the *Act* and include protecting children from harm, and promoting the integrity of the family.

Least Intrusive Measures

[232] I am aware I may not make an order removing the child from the care of a parent or guardian unless I am satisfied that less intrusive alternatives, including services to promote the integrity of the family pursuant to Section 13:

- (a) have been attempted and have failed;
- (b) have been refused by the parent or guardian; or
- (c) would be inadequate to protect the child.

[233] On review of the evidence, I am satisfied that less intrusive alternatives to promote the integrity of the family have been attempted and failed, and further, would be inadequate to protect the child.

First issue: Is returning the children to Ms. S and Mr. L the least intrusive alternative that is in the children's best interests?

[234] A final disposition hearing is a review application, governed by section 46 of the *Children and Family Services Act*. Ms. S and Mr. L, say that circumstances have changed since the previous disposition orders were made and the Agency's plan for the children has been carried out. They argue that returning the children to them is the least intrusive alternative that is in the children's best interests. The Minister disagrees.

[235] After the two eldest children were brought into care, their needs were determined to be great. The two older children have received speech and language services, have been receiving counseling, have completed psychoeducational

assessments, MI was further assessed, and they receive other supports through their school and their doctor.

[236] Although S and J do not present with any special needs, I find that exposing them to Mr. L's preferred parenting practices, which I find to be maladaptive, would more than likely result in S and J being negatively impacted in a similar way as MA and MI have been. Mr. L has not shown he can implement any of the information he reviewed or the parenting tools discussed with Ms. West.

[237] Mr. L has blamed the agency for the lack of opportunity to prove he can parent in an effective way. I find his argument to be an attempt to deflect his own responsibility for failing to immediately engage in a meaningful way in services. Regardless, I have found that his beliefs about parenting are not amenable to change in any event.

[238] On the other hand, despite evidence Ms. S has failed to protect MA and MI by allowing them to be exposed to repeated incidents of domestic violence with at least two partners, Ms. S has demonstrated she can effectively interact with the children and provide for their general needs during access visits. This is not enough. Aside from my findings that I do not believe Mr. L's parenting practices are amenable to change because of Mr. L's reluctance to participate in services and

his often troubling presentation, the Minister has not had an opportunity to assess Mr. L's and Ms. S's ability to parent four children together in their own home.

[239] Ms. S's and Mr. L's plan is to live together with the children in another jurisdiction. They have not explained to me if they intend to ensure the services currently available to MA and MI will continue or if they've made inquiries about services available elsewhere. I am left with questions about whether the children will attend public school or be homeschooled.

[240] In addition, throughout their involvement with the agency both Mr. L and Ms. S struggled to find a suitable home for the family, or for Mr. L and Ms. S and the children. The family needed a home to which the children could return to but did not have one until they claimed to have located one very recently. Despite the parties living out of their car at times, they have not provided a budget showing how the parties will meet the family's expenses and how they will be able to provide for four children.

[241] It has taken approximately a year for Ms. S and Mr. L to find what they have described as someone's summer home they can live in with the children.

Therefore, at the time of the hearing, the children's contact with Mr. L and Ms. S

together in their newfound home had never advanced to spending time in that home.

[242] Although agency staff have been inside what Ms. S and Mr. L have stated are their new accommodations, after they had lived in various locations including their van, from the Minister's perspective, there is nothing to show that Ms. S and Mr. L will be able to afford to live at the new home. In addition, and more importantly, agency staff couldn't observe Mr. L's and Ms. S's parenting in their new home. The Minister couldn't determine if their concerns about Mr. S and Mr. L managing the care of the four children was a realistic expectation.

[243] There is clear evidence of the very strong likelihood that MA and MI are suffering serious effects of exposure to maltreatment and domestic violence and neither party has convinced me they intend or are able to implement a plan that allows Ms. S to implement all discipline in the home. In addition, I am not convinced Ms. S will protect MA, MI, S, or J from Mr. L or any future partner who inflicts similar maltreatment or engages in domestic violence. The services already offered were insufficient to address the risk of ongoing and future physical and emotional harm to the children.

[244] Returning the children to Ms. S and Mr. L is not the least intrusive alternative that is in the children's best interests of the children, MA, MI, S, and J.

Second issue: Are the circumstances unlikely to change before October 20, 2023 for MA and MI and before February 22, 2024 for S and J.

[245] There is no time left for further temporary care orders in relation to MA and MI. I must either dismiss the matter and return the children to Mr. L and Ms. S or order that MA and MI be placed in the permanent care and custody of the Minister of Community Services. I am granting an Order placing the children, MA and MI in the permanent care and custody of the Minister with no access to Ms. S or Mr. L.

[246] With respect to S and J, I may make further temporary care orders only if I am satisfied that the circumstances which justified the earlier orders "are unlikely to change" before the final disposition deadline of February 22, 2024.

[247] The Minister is not required to wait until the absolute final deadline to bring their application for permanent care: *LLP and RFP v. Nova Scotia (Minister of Community Services)*, 2003 NSCA.

[248] Based on the history of harm to MA and MI and based on Mr. L's and Ms. S's plan, I find the risk of ongoing and future physical and emotional harm to MA

and MI, due to the real and substantial risk of maltreatment or domestic violence is clear, and I also find the risk of future physical and emotional harm to S and J, due to the real and substantial risk of maltreatment or domestic violence is also very clear.

[249] Because of the uncertainty all the children are experiencing, it's in their best interests that there is a resolution and a proceeding not be prolonged any longer than absolutely necessary: *TH v. Minister of Community Services and RW*, 2013 NSCA 83 at paragraph 87.

[250] I am satisfied that the circumstances which justified the earlier orders "are unlikely to change" before February 22, 2024. There has been too little progress to date to expect that these circumstances can change by February 22, 2024.

Conclusion

[251] Ms. S very much wants Mr. L to be part of her family and part of their children's lives.

[252] However, the agency has proven on balance of probabilities that since MA and MI's births, both MA and MI have most likely experienced repeated exposures

to “instances of maltreatment, attachment breaches, parental / caregiver drug and substance abuse, and domestic violence.”

[253] In addition, the agency has proven on balance of probabilities that both MA and MI are “experiencing significant mental health difficulties as a result of what they have been exposed to” while residing with Ms. S and/or Ms. S and Mr. L. Despite services being offered to Ms. S, and at times to Mr. L by both the Newfoundland and the Nova Scotia agencies between 2016 and 2023, both MA and MI have been harmed, at times physically, and they have been harmed emotionally.

[254] That the Minister’s evidence proves on balance of probabilities that the circumstances creating the risk are very unlikely to change within the mandated time period or at all, ever. Therefore, there is a serious ongoing and future risk of significant physical and emotional harm to MA, MI, S, and J should the matter be dismissed and any of the children, MA, MI, S, or J, be returned to Ms. S and Mr. L’s care and custody.

[255] The ongoing and future risk is due to Ms. S’s and Mr. L’s lack of insight into MA’s, MI’s, S’s and J’s needs, and resulting reluctance, inability, or unwillingness to do what is necessary to meet the children’s needs rather than

prioritize their own needs. Given the history of this matter including the ongoing and serious risks present over an extended period between 2016 and 2023, the risks to S and J are also significant and undeniable.

[256] Ms. S has diligently attended most appointments and the evidence suggests that during access visits Ms. S is able to provide adequate hands on care for the children and she is most often able to respond to their emotional needs, in particular when Mr. L isn't physically present. However, Ms. S has never been able to make the one decision she needs to make to keep the children safe and to remain a part of her children's lives.

[257] I place the children into the Minister's permanent care and custody. As required, I make an order for no access. I do this because the legislation requires me to do so.

Cindy G. Cormier, J.