

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: *D.B. v. S.L.*, 2024 NSSC 186

Date: 20240627

Docket: SFHPSA-118915

Registry: Halifax

Between:

D.B.

Applicant

v.

S.L.

Respondent

LIBRARY HEADING

Judge: The Honourable Justice Samuel Moreau

Heard: September 25 & 27, 2023, December 20, 2023, in Halifax,
Nova Scotia

Written Decision: June 27, 2024

Subject: Parenting arrangements, decision making responsibilities,
self-represented litigant, credibility.

Summary: The father initially applied to address the issue of parenting
time. Ultimately, he sought primary care of the child. The
mother wished to retain primary care and residence.

Issues: (1) Credibility;
(2) Parenting arrangements best for the child;
(3) Decision making responsibilities.

Result: The Court found it is in the child's best interests that he be
placed in the primary care of the father. Sole decision making
responsibility was assigned to the father.

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SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *D.B. v. S.L.*, 2024 NSSC 186

Date: 20240516

Docket: SFH PSA 118915

Registry: Halifax

Between:

D. B.

Applicant

v.

S. L.

Respondent

Judge: The Honourable Justice Samuel C. G. Moreau

Heard: September 25 & 27, 2023, December 20, 2023, in Halifax,
Nova Scotia

Released to the Parties: May 16, 2024

Counsel: Zoe Busuttil for the Applicant
S. L., Self-represented

By the Court:

Introduction

[1] It would not be an overstatement to observe that this has been a very challenging and contentious matter.

[2] D.B. (the father) and S.L. (the mother) are the parents of D., born in 2008. The issues addressed in this decision pertain to the parenting arrangements and decision-making responsibilities for D.

History of Proceedings

[3] The trial eventually commenced on September 25, 2023, continued on September 27, 2023, and concluded on December 20, 2023.

[4] An overview of the court appearances in this case provides a contextual basis and understanding of the manner in which the matter evolved:

- Conference held on December 10, 2020. The father was self-represented, and the mother was represented by legal counsel, R. K. The matter was scheduled for a settlement conference before Justice Williams on January 20, 2021. Filing deadlines for the settlement conference letters were provided.
- Settlement Conference, January 20, 2021. The father filed his settlement conference letter as directed. The mother did not file a

settlement conference letter and appeared self-represented, indicating that she was no longer represented by R.K.

- Conference held on February 2, 2021. Both parties appeared self-represented. The mother's request to adjourn was granted as she had retained new legal counsel.
- Conference held on March 30, 2021. The father appeared self-represented. The mother appeared, however her new legal counsel did not attend. An appearance was scheduled for May 26, 2021.
- Conference held on May 26, 2021. The father appeared self-represented. The mother appeared with legal counsel, S.S. The parties agreed to exchange and consider settlement proposals.
- Conference held on June 23, 2021. The father appeared self-represented and the mother with legal counsel, S. S. The father informed the court of his attempt(s) to retain legal counsel. S.S. believed the matter could be resolved if the father had legal counsel.
- Conference held on September 2, 2021. The father appeared represented by L.H. and the mother by S.S. The preparation of a Voice of the Child Report was discussed. The parties agreed to schedule a settlement conference before Justice Dellapinna to take place on October 14, 2021.
- Correspondence received from L.H. on October 13, 2021, indicating that the parties agreed to the removal of the Settlement Conference scheduled for October 14, 2021, due to their vastly opposing positions.
- On January 18, 2022, an Order for the preparation of a Voice of the Child Report was issued. The parties agreed on M.W. as the assessor.
- Pre-trial Conference held on May 31, 2022. The father appeared represented by L.H. The mother and S.S. appeared. S.S.'s Motion

to Withdraw as legal counsel for the mother was granted. The matter was adjourned in order to allow the mother an opportunity to retain new legal counsel.

- Pre-Trial Conference held on September 7, 2022. The father appeared represented by L. H. and the mother self represented. The matter was adjourned to allow the mother further opportunity to retain legal counsel.
- Pre-trial Conference held on October 25th, 2022. The father appeared represented by L.H., the mother did not appear. The Court was satisfied that the mother was aware of the October 25, 2022, pretrial conference, as it had been scheduled during the September 7, 2022, appearance. Potential witnesses were identified, and the matter was scheduled for a case management conference on December 5, 2022, (before Justice Morris) and a pre-trial conference before this Court on January 4th, 2023.
- Case Management Conference held on December 5, 2022. The father appeared represented by Z.B. (L.H. had moved to other employment). The mother did not appear. Z.B. provided a sworn Affidavit of Service confirming that on November 25, 2022, the mother was served with, inter alia, Notices to Appear in Court on December 5, 2022, and January 4, 2023.
- Pre-Trial Conference held on January 4, 2023, the father appeared with legal counsel, Z.B. The mother appeared self-represented. The matter was scheduled for a trial to commence on September 25, 2023. Direct evidence would be by way of sworn Affidavits. Filing deadlines were provided.
- Pre-Trial Conference held on May 10, 2023. The father appeared represented by N.D. (for Z.B.). The mother appeared self-represented. The Court addressed the father's Notice of Motion requesting an Order for Production in relation to D.'s school records and the mother's Notice of Application filed on April 13, 2023. With the exception of child support, the issues raised in the mother's Notice of Application (parenting time and primary care)

were issues already slated for trial. The mother opposed the granting of an Order for Production in relation to D.'s school records. Oral submissions on the motion were scheduled for May 24, 2023.

- Motion Hearing/Conference held on May 24, 2023. The father appeared represented by Z.B. and the mother appeared self-represented. After hearing oral submissions, the Court granted an Order compelling production of D.'s school records.

[5] On September 25, 2023, the father was cross-examined by the mother and on September 27, 2023, M.W. (the assessor of the Voice of the Child Report) appeared as the court's witness and was questioned by Z.B. and the mother. On December 20, 2023, the mother was cross-examined by Z.B.

[6] Throughout the duration of the trial the Court and members of the Court Administrative Staff were quite accommodating to the mother by photocopying various materials which she had previously filed but neglected to include in her Affidavit evidence. Despite previously imposed filing deadlines, I permitted the tendering of new exhibits by the mother (on December 20, 2023). I recognized that as a self represented litigant the mother may not have fully comprehended the nuances of the trial process. In doing so the Court endeavoured to ensure a fair trial. I note the comments of Justice Lauwers of the Ontario Court of Appeal in *Morwald-Benevides v. Benevides*, 2019 ONCA 1023, addressing a Court's obligations to self-represented litigants:

[34] It is no longer sufficient for a judge to simply swear a party in and then leave it to the party to explain the case, letting the party flounder and then subside into unhelpful silence. As this court has noted, "it is well-accepted that trial judges have special duties to self-represented litigants, in terms of acquainting them with courtroom procedure and the rules of evidence": *Dujardin v. Dujardin Estate*, [2018] O.J. No. 3545, [2018 ONCA 597](#), 423 D.L.R. (4th) 731, at para. [37](#), repeated in *Gionet v. Pingue*, [2018] O.J. No. 6661, [2018 ONCA 1040](#), 22 R.F.L. (8th) 55, at para. [30](#). The court added, at para. 31 of *Gionet*: "In ensuring that a self-represented litigant has a fair trial, the trial judge must treat the litigant fairly and attempt to accommodate their unfamiliarity with the trial process, in order to permit them to present their case", citing *Dauids v. Davids*, [1999 CanLII 9289 \(ON CA\)](#), [1999] O.J. No. 3930, 125 O.A.C. 375 (C.A.), at para. [36](#). See, also, *Manitoba (Director of Child and Family Services) v. A. (J.)*, [2006] M.J. No. 171, [2006 MBCA 44](#), at paras. [19-20](#).

[7] Copies of the new exhibits tendered by the mother on December 20, 2023, were provided to the father at the conclusion of the September 27, 2023, appearance. The father was provided the opportunity to reopen his case on December 20, 2023, (based on the new exhibits tendered by the mother). He chose not to do so.

[8] On December 20, 2023, during Z.B.'s closing summations, I directed the Sherriff's Staff to remove the mother from the Court room due to her disruptive behaviour and noncompliance with my directions.

[9] At the conclusion of the matter on December 20, 2023, it was discovered that Court Exhibit 1 was missing and could not be located after a subsequent search.

[10] On March 20, 2024, during an in-person appearance, the father's legal Counsel, Z.B., provided the Court with an original copy of the missing exhibit

(identical to the one tendered and marked as Court Exhibit 1 on September 25, 2023). The original copy was marked as Court Exhibit 1.

Issues

[11] The issues I shall address in this decision are as follows:

- a. Credibility;
- b. The parenting arrangement best for D.; and
- c. Decision making.

Credibility

[12] The issue of credibility is at the forefront of my analysis. The seminal and oft quoted test in *Baker-Warren v Denault*, 2009 NSSC 59, commencing at paragraph 18 is considered in this first step:

[18] For the benefit of the parties, I will review some of the factors which I have considered when making credibility determinations. It is important to note, however, that credibility assessment is not a science. It is not always possible to “articulate with precision the complex intermingling of impressions that emerge after watching and listening to witnesses and attempting to reconcile the various versions of events:” **R. v. Gagnon** [2006 SCC 17](#), para. [20](#). I further note that “assessing credibility is a difficult and delicate matter that does not always lend itself to precise and complete verbalization:” **R. v. R. E. M.** [2008 SCC 51](#), para. [49](#).

[19] With these caveats in mind, the following are some of the factors which were

balanced when the court assessed credibility:

- a) What were the inconsistencies and weaknesses in the witness’ evidence, which include internal inconsistencies, prior inconsistent

statements, inconsistencies between the witness' testimony, and the documentary evidence, and the testimony of other witnesses: **Re: Novak Estate**, [2008 NSSC 283](#) (S.C.);

- b) Did the witness have an interest in the outcome or was he/she personally connected to either party;
- c) Did the witness have a motive to deceive;
- d) Did the witness have the ability to observe the factual matters about which he/she testified;
- e) Did the witness have a sufficient power of recollection to provide the court with an accurate account;
- f) Is the testimony in harmony with the preponderance of probabilities which a practical and informed person would find reasonable given the particular place and conditions: **Faryna v. Chorney** [1951 CanLII 252 \(BC CA\)](#), [1952] 2 D.L.R 354;
- g) Was there an internal consistency and logical flow to the evidence;
- h) Was the evidence provided in a candid and straight forward manner, or was the witness evasive, strategic, hesitant, or biased; and
- i) Where appropriate, was the witness capable of making an admission against interest, or was the witness self-serving?

[20] I have placed little weight on the demeanor of the witnesses because demeanor is often not a good indicator of credibility: **R v. Norman** (1993) [1993 CanLII 3387 \(ON CA\)](#), 16 O.R. (3d) 295 (C.A.) at para. [55](#). In addition, I have also adopted the following rule, succinctly paraphrased by Warner J. in **Re: Novak Estate**, *supra*, at para 37:

There is no principle of law that requires a trier of fact to believe or disbelieve a witness's testimony in its entirety. On the contrary, a trier may believe none, part or all of a witness's evidence, and may attach different weight to different parts of a witness's evidence. (See **R. v. D.R.**, [1966] 2 S.C.R. 291 at 93 and **R. v. J.H.** *supra*).

[13] In *Salah v. Salah*, 2013 NSSC 308, Justice Beaton addressed the issue of credibility, referencing the test set out by Justice Forgeron in *Baker Warren v. Denault*, *supra*:

[21] Much has been written in the case law about the exercise of assessing credibility. I could go on at some length about what Courts have had to say and how credibility assessment has, by times, been described as more of an art than a science. But for the purposes of this hearing, I will explain to the parties that I am cognizant of discussions about credibility which are found in any number of Court of Appeal decisions in this province, not the least of which would be the discussion by Justice Cromwell in R. v. Mah, [2002 NSCA 99](#). It's a criminal case, but the discussion about the legal analysis of the credibility finding or credibility determination exercise as it relates to the burden of proof is one which is entirely apropos in the family law context, as well.

[22] Counsel for the Applicant had also referred me to the Court of Appeal decision in Hurst v. Gill, [2011 NSCA 100](#) which cites with approval from a decision of my colleague, Justice Forgeron in Baker-Warren v. Denault which is a 2009 decision reported at NSSC 59. I'm also cognizant of the case ... it's probably best described as the "old chesnut," Faryna v Chorney [1951 CanLII 252 \(BC CA\)](#), [1952] 2 D.L.R. 354. It's discussed in Baker-Warren v. Denault. Faryna v Chorney, goes back to 1952 and the principle enunciated there is still good law and still applies with respect to whether the evidence is in harmony with the preponderance of probabilities that a reasonable and informed person might expect in the circumstances.

[23] It may be helpful to the parties to reference a very succinct but useful list of factors taken into account when balancing credibility as enumerated by Justice Forgeron in Baker-Warren v. Denault. That list is found at paragraph 19 of the decision.

[14] A frank assessment of the evidence when applied to the factors summarized above calls the mother's credibility into question:

- i. From the onset of this matter the mother's modus operandi has been to portray the father in a negative light, highlighting his past association with supposed gang activity, seemingly nefarious individuals and his past criminal history;
- ii. The mother's evidence was presented in a scattered and inconsistent manner. (Even when considering her status as a self represented litigant). To use a colloquial phrase, she employed the shotgun approach, whatever could "stick" in order to present a negative impression of the father was utilized. There was no consistency and/or logical flow to her evidence;

- iii. Counsel for the father cross examined the mother, inter alia, on D.'s awareness of this Court process, and specifically information she (the mother) may have passed on to the child about this case. The Mother testified that she does not discuss Court matters with D. I note that during one of the Pre-Trial Conference's (January 4, 2023, held in person) D. attended in the Court room with the mother. I directed that the child was not to participate in the Court proceedings and that he wait outside of the Court room. The mother felt it appropriate to have D. in the court room because the issues addressed in this matter pertain to him. I submit it is reasonable to conclude that the mother has directly involved D. in the court process and the circumstances of this case.
- iv. During Counsel's cross examination of the mother my frequent intrusion was required to provide some form of clarity to her responses (in some instances to the most basic of questions) and also to steer her responses in a direction relevant to the particular issue. I find the mother was strategic, evasive, self serving and incapable of making an admission against her interest;
- v. I question the credibility and reliability of the mother's evidence including, but not limited to the following:
 - Allegations that the father assaulted a child who had bullied D.;
 - The B.B. gun incident and the mother's claim that the B.B. gun never existed;
 - D.'s school attendance and academic performance, including additional supports required by the child.

[15] The above is not an exhaustive list.

[16] In keeping with the tenets of the case authorities and on a balance of probabilities, I find the vast majority of the mother's evidence was not credible or reliable. The theme of her presentation was to paint the father in the most negative

light as possible, regardless of the issue. Her focus angled more toward her prior relationship with the father and the wrongs she experienced during their relationship rather than D.'s circumstances and his best interests.

[17] I assign minimal weight to the mother's evidence.

[18] The father's evidence was presented in a logical and candid manner. He attempted to respond to the mother's questions during cross examination in a pragmatic fashion (as much as was possible).

Parenting Arrangements

Positions of the Parties

[19] The father requests that D. be placed in his primary care with the mother having reasonable parenting time.

[20] The mother maintains that the status quo (D. remaining in her primary care) is in the child's best interests.

Best Interests Analysis

Legislation and Case Authorities

[21] The legislated factors I am to consider when conducting a best interests analysis fall under Section 18(6) of the *Parenting and Support Act*.

[22] Several case authorities have addressed factors to be considered in a best interests analysis. In *Foley v. Foley*, 1993 CanLII 3400(NSSC), Justice Goodfellow articulated a number of factors to be considered when analyzing parenting arrangements:

Nevertheless, there has emerged a number of areas of parenting that bear consideration in most cases including in no particular order the following:

1. Statutory direction Divorce Act 16(8) and 16(9), 17(5) and 17(6);
2. Physical environment;
3. Discipline;
4. Role model;
5. Wishes of the children if, at the time of the hearing such are ascertainable and, to the extent they are ascertainable, such wishes are but one factor which may carry a great deal of weight in some cases and little, if any, in others. The weight to be attached is to be determined in the context of answering the question with whom would the best interests and welfare of the child be most likely achieved. That question requires the weighing of all the relevant factors and an analysis of the circumstances in which there may have been some indication or, expression by the child of a preference;
6. Religious and spiritual guidance;
7. Assistance of experts, such as social workers, psychologists, psychiatrists, etcetera;
8. Time availability of a parent for a child;
9. The cultural development of a child;

10. The physical and character development of the child by such things as participation in sports;
11. The emotional support to assist in a child developing self esteem and confidence;
12. The financial contribution to the welfare of a child.
13. The support of an extended family, uncle's, aunt's, grandparent's, etcetera;
14. The willingness of a parent to facilitate contact with the other parent. This is a recognition of the child's entitlement to access to parents and each parent's obligation to promote and encourage access to the other parent. The Divorce Act s. 16(10) and s. 17(9);
15. The interim and long range plan for the welfare of the children.
16. The financial consequences of custody. Frequently the financial reality is the child must remain in the home or, perhaps alternate accommodations provided by a member of the extended family. Any other alternative requiring two residence expenses will often adversely and severely impact on the ability to adequately meet the child's reasonable needs; and
17. Any other relevant factors.

The duty, of the court in any custody application is to consider all of the relevant factors so as to answer the question

With whom would the best interest and welfare of the child be most likely achieved?

The weight to be attached to any particular factor would vary from case to case as each factor must be considered in relation to all the other factors that are relevant in a particular case.

[23] Subsequent cases considered the factors identified by Justice Goodfellow. At paragraph 6 of *Gray v. Reynolds*, 2010 NSFC 14, Judge Sparks writes:

[6] On an application of this nature, it is always important to remember the overarching principle of the best interests of the child, as the lens through which all the evidence must be viewed. Under the rubric of the overarching principle of the best interests of the child identified in several leading cases including *King v. Low* (1985) 1985 CanLII 59 (SCC), 44 R.F.L. (2d) 113, *Foley v. Foley* (1993) 1993 CanLII 3400 (NS SC), 124 N.S.R. (2d) 198 and *Dixon v. Hinsley* (2001) 2001 CanLII 38986 (ON CJ), 22 R.F.L. (5th) 55 among others not cited here, courts are constantly reminded to ensure any and all custodial and access arrangements for a child

are consistent with the primary needs of the child for stability, security, protection and guidance. And, furthermore, for an upbringing during those formative years which will provide maximum growth and development with as few intrusions and conflicts as possible. In *Dixon v. Hinsley*, *supra*, Zuker, J, articulates the best interests principle thusly:

The best interests of a child is regarded as an all-embracing concept. It encompasses the physical, emotional, intellectual, and moral well being of the child. A court must look not only at the child's day to day needs but also to his or her longer-term growth and development. It is characterized by its fluidity and flexibility to respond to the circumstances of each child. This is its strength.

[24] Within these frames of reference, I shall address the legislated factors set out in Section 18(6):

- a. The child's physical, emotional, social and educational needs, including the child's need for stability and safety, taking into account the child's age and stage of development.

[25] D. will be 16 in 2024. The credible and reliable evidence establishes that D.'s overall academic standing is less than satisfactory. During the 2022-2023 school year, D. missed more school days than he attended. This improved during the current school year (2023- 2024) with no days missed as of disclosure of the school records. It is evident D. requires additional assistance outside of the school environment in order to close the academic gap. The father has been diagnosed with having attention deficit hyperactivity disorder. He suspects D. may have inherited ADHD.

[26] The father acknowledges his own troubled past and is concerned that D. is heading down the same or a similar path.

[27] Unfortunately, the evidence leads me to the conclusion that the mother lacks the insight to self reflect and focus on D.'s needs.

- b. each parent's or guardian's willingness to support the development and maintenance of the child's relationship with the other parent or guardian;

[28] Both parents recognize the importance of D.'s relationship with the other.

However, it appears the mother permits contact between D. and his father, based on the current state of her relationship/circumstances with the father and not the child's needs or wishes.

- c. The history of care for the child, having regard to the child's physical, emotional, social and educational needs;

[29] D. has been in the mother's primary care since his birth.

- d. The plans proposed for the child's care and upbringing, having regard to the child's physical, emotional, social and educational needs;

[30] The parties each request that D. be placed in their primary care, with the other having parenting time.

- e. The child's cultural, linguistic, religious and spiritual upbringing and heritage;

[31] The parties and D. are of African Nova Scotian heritage. In his affidavit sworn August 21, 2023, (Court Exhibit 1, Tab 3) the father comments on the “intergenerational trauma” within the mother’s family which he says impacts D. and the child's “ability to manage his emotions and conflict”. Earlier in this

decision I referenced the mother's disruptive behavior in the courtroom and her inability to focus on D.'s needs independent of her circumstances.

- f. the child's views and preferences, if the court considers it necessary and appropriate to ascertain them giving the child's age and stage of development and if the views and preferences can reasonably be ascertained;

[32] A Voice of the Child Report dated March 18, 2022, was prepared by M.W. M.W. testified that his interview with D. was done virtually as a result of the COVID-19 pandemic. D. was in the mother's home during the interview. M.W. was not under the impression that D. was coached by either parent. The mother's examination of M.W. revealed that she was in the room during his interview with the child. M.W. was previously unaware of the mother's presence in the room. At page four of his report M.W. states in his concluding comments:

- D. was interviewed via zoom on one occasion where he presented as calm and friendly. He tended to answer questions without much expansion of the ideas. He clearly recognized the purpose of my report and appeared eager to finally be asked "What changes would you like?" His response was immediate and to the point. The change he is requesting is control over when he and how long he will spend with his father. No desire to terminate his access, just control over when and how long.

There was no indication that D. was coached or influenced by comments made by his parents. It was strongly felt that repeated meetings would reveal the same outcome.

- The parenting statement of D.B. implies that he has made minimal contact with his son over the past year, which was not consistent with the comments made to me by D. This is concerning as it does bring up the issue of the overall validity of the information contained within this report.

[33] Notwithstanding M.W.'s conclusion on whether D. was coached or influenced, I find it concerning that the mother was in the room during the interview, unbeknownst to M. W. at the time. D. was 13 years old when the interview took place. I have not been provided with any evidence to suggest he required the mother's assistance or support during the interview. Given the circumstances in which the interview took place, I am concerned M.W. may not have garnered D.'s impressions accurately and comprehensively.

[34] On September 27, 2023, after M.W.'s testimony, I suggested the parties consider the preparation of an update to the Voice of the Child Report, with M.W. interviewing D. twice; once at the mother's residence and correspondingly once at

the father's residence. M. W. had earlier testified that since the onset of the pandemic he no longer retains office space. The mother responded in the affirmative to my suggestion, however the father felt that the update would prolong the matter and my eventual decision.

- g. The nature, strength and stability of the relationship between the child and each parent or guardian;

[35] I am satisfied D. has strong and stable relationships with each parent.

- h. The nature, strength and stability of the relationship between the child and each sibling, grandparent and other significant person in the child's life;

[36] I was not provided with any evidence which would suggest or lead me to conclude that D.'s relationship with his younger sibling (not a biological child of the father) is problematic or raises any concerns. Likewise, I am without any such evidence as to other significant persons in D.'s life.

- i. The ability of each parent, guardian or other person and respect to whom the order would apply to communicate and cooperate on issues affecting the child; and

[37] The parties inability to communicate and cooperate on issues affecting D. is clearly evident. The evidence suggests that the periods during which communication between the parties was/appeared to be effective, was/are minimal. I strongly suggest the parties consider participating in co-parenting counseling in an effort to address their communication difficulties. A culturally appropriate counselor may be of great assistance to these parents.

- j. The impact of any family violence, abuse or intimidation, regardless of whether the child has been directly exposed, including any impact on
 - i. the ability of the person causing the family violence, abuse or intimidation to care for and meet the needs of the child, and
 - ii. The appropriateness of an arrangement that would require co-operation on issues affecting the child, including whether req requiring such cooperation would threaten a safety or security of the child or of any other person.

[38] The evidence indicates that each party has been arrested on a previous occasion for allegedly assaulting the other. These interactions took place many years ago (2009 and prior) and there is no evidence to suggest that family violence is currently pertinent to this analysis.

Decision on the parenting arrangement best for D.

[39] Both parents love and want the best for D. Unfortunately, they are unable to consistently reach consensus on how to provide for him or mutually effect decisions in his best interests.

[40] I am satisfied that this is not an appropriate case in which to implement a shared parenting arrangement. The factors present do not support such an arrangement. *A.N v. J.Z.*, 2018 NSSC 146, *Griggs vs Brooks*, 2016 NSSC 268.

[41] My earlier finding on the issue of credibility informs my conclusion here, in conjunction with the determinations reached in the best interests analysis and overall view of the evidence.

[42] I find that the thrust and focus of the mother's evidence, centered on her past relationship with the father (and the wrongs she experienced as she now perceives them) rather than on D. In contrast the father focused on D. and his best interests.

[43] I find it is in D.'s best interests that he be placed in the primary care and residence of the father for the reasons that follow (not an exhaustive list):

- The mother's clear lack of insight as to the involvement of D. in the court process;
- The mother's clear lack of insight as to her conduct and the resultant effects on D.;
- D.'s subpar academic standing;
- The validity of the Voice of the Child Report given the circumstances of D.'s interview with M.W.; and
- Being in the father's care would provide D. with greater potential for his long-term growth and development.

[44] The mother's parenting time and the parties contact time during holidays and special occasions shall be addressed at the conclusion of this decision.

Decision Making

[45] Section 17 A (2) of the *Parenting and Support Act* provides me the authority to assign decision making responsibilities to one or both parents. This case can be characterized as a high conflict matter. I am satisfied that the circumstances of the parties including their level of mistrust and conflict deem a joint decision-making regime unworkable. *K.G. v. H.G.*, 2021, NSSC 43. I find it is in D.'s best interests that the father be assigned as his decision maker.

Conclusion

[46] The father submits that he does not seek child support from the mother should D. be placed in his primary care. The Order flowing from this decision shall be silent on the issues of child support, special or extraordinary expenses and financial disclosure. I am satisfied the father currently has the resources necessary to adequately provide for D. without financial assistance from the mother.

[47] A term of the order shall provide that either party may address the issues of child support, special or extraordinary expenses and financial disclosure, without having to establish a change in circumstances.

[48] After a thorough review of the evidence, the parties' arguments, relevant legislation, and jurisprudence, I order as follows:

- a. The father shall have primary care and residence of D.
- b. The father shall have decision making authority with respect to D.
- c. The mother shall have parenting time with D. every other weekend from Friday after school to Sunday at 5:00 pm.
- d. The parties shall have equal parenting time with D. during the following holiday periods: Christmas, March break, Easter, Summer vacation (July and August) and on his birthday.
- e. On Mother's Day, D. shall be in the mother's care regardless if it is her regularly scheduled parenting time. If D. is scheduled to be in the father's care on Mother's Day, the father shall drop off D. to the mother at or before 5:00pm., on the Saturday evening immediately prior to Mother's Day.
- f. On Father's Day, D. shall be in the father's care regardless if it is his regularly scheduled parenting time. If D. is scheduled to be in the mother's care on Father's Day, the mother shall drop off D. to the father at or before 5:00pm on the Saturday evening immediately prior to Father's Day.
- g. The mother shall have any other reasonable parenting time as mutually agreed upon by the parties.

- h. Neither party shall make any disparaging remarks about the other to D. or in his presence and neither party shall permit another person to do so.
- i. Neither party shall discuss Court matters with D. (including but not limited to this case) and neither party shall permit another person to do so with and/or in the presence of D.
- j. The father shall keep the mother apprised of D.'s circumstances, including but not limited to his sporting events and other extracurricular activities.
- k. Either party may apply to the Court to review/address the issues of child support, special or extraordinary expenses and financial disclosure, without having to establish a change in circumstances.

[49] I also grant the issuing of a Third-Party Information Order, whereby the mother may independently access information related to D. from third party service providers.

[50] Counsel for the father shall prepare the Orders.

[51] The parties may file written submissions on costs 30 days subsequent to the issuing of the primary order.

Samuel C.G. Moreau, J.