

**SUPREME COURT OF NOVA SCOTIA**  
**FAMILY DIVISION**

**Citation:** *Veal-Brake v. Pitts*, 2026 NSSC 43

**Date:** 20260205

**Docket:** SFTPSA - 135974

**Registry:** Truro

**Between:**

Alicia Veal-Brake

Applicant

v.

Travis Pitts

Respondent

---

**LIBRARY HEADING**

---

**Judge:** The Honourable Justice Terrance G. Sheppard

**Heard:** December 3, 2025, in Truro, Nova Scotia

**Written Decision:** February 5, 2026

**Subject:** Parenting Arrangements

**Summary:** Both parents act in ways that are not in the children's best interests. The evidence was of intimate partner violence, problematic alcohol consumption, high conflict parenting, and serious criminal charges involving a child.

**Issues:** (1) What decision-making and parenting arrangements are in the children's best interests.

**Result:** Travis Pitts maintained primary care of the children with specific, detailed, overnight, unsupervised parenting time with Alicia Brake. Restrictions were placed on the consumption of alcohol while the children were in Alicia Brake's care.

Restrictions were placed on the parties' communication with each other and with the children.

The parties must consult on major decisions and follow the advice of third-party professionals. If there was no third party professional and there was a disagreement, Travis Pitts makes the final decision.

Detailed provisions were included regarding the parties' ability to receive information and reports from third party professionals, make and attend professional appointments, meet the needs of the children, etc.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***

**SUPREME COURT OF NOVA SCOTIA**  
**FAMILY DIVISION**

**Citation:** *Veal-Brake v. Pitts*, 2026 NSSC 43

**Date:** 20260205

**Docket:** SFTPSA - 135974

**Registry:** Truro

**Between:**

Alicia Veal-Brake

Applicant

v.

Travis Pitts

Respondent

**Judge:** The Honourable Justice Terrance G. Sheppard

**Heard:** December 3, 2025, in Truro, Nova Scotia

**Written Release:** February 5, 2026

**Counsel:** Alicia Brake, unrepresented

Pavel Boubnov for the Respondent, Travis Pitts

**By the Court:**

**OVERVIEW**

[1] Alicia Brake and Travis Pitts are the parents of two children:

- a) L.A.V., a son, who turned eleven years old on the date of the hearing; and
- b) S.K.V., a daughter, who was just shy of her eighth birthday at the time of the hearing.

[2] The parties separated in November of 2023. With one brief exception, the children did not see Alicia Brake until March of 2025 when parenting time commenced through the Supervised Parenting and Exchange Program. The month after separation, she was charged with several, serious crimes in relation to a child (not her children) and these were only fully resolved in October of 2025.

[3] There are significant differences in the evidence offered by the parties in relation to several incidents, including allegations of intimate partner violence by Alicia Brake. One thing the parties do agree on is that they generally despise one another.

[4] A trial was held on December 3, 2025. For the reasons that follow, the children will remain in the primary care of Travis Pitts and have regular, overnight, unsupervised, weekend parenting time with Alicia Brake and weekly telephone contact. There will be conditions on the children's parenting time with Alicia

Brake; for example, regarding the consumption of alcohol. Travis Pitts will make the major decisions in relation to the children after consultation with Alicia Brake and there will be conditions on their communication with each other and with the children to safeguard the children from being caught in the middle of their parents' conflict.

## **ISSUES**

[5] The two issues are what decision-making and parenting time arrangements are in these children's best interest.

## **BACKGROUND**

[6] The parties separated on approximately November 25, 2023. According to Alicia Brake, after returning home from an outing, Travis Pitts yelled at her, pushed her out the door, and locked the door of the house. No explanation for this behaviour is provided by Alicia Brake, who says she was sober. According to Travis Pitts, Alicia Brake came home very intoxicated, left the home, and did not come back. He admits that he insisted that she leave but says it was because she was drunk and he did not want the children see her in such a condition. He told her to go to her mother's and come back the next day when she was sober.

[7] Alicia Brake returned the following day although there is some inconsistency in the evidence on what happened on that date as opposed to another incident that occurred on Easter of the following year. However, the parties agree that Alicia Brake did return, either with her now husband, Benjamin Brake, or her mother, Bonnie Veal. She admits that she kicked the side of the home and the door aggressively. After they were phoned by Travis Pitts, the police came and Alicia Brake left.

[8] After that, according to Travis Pitts, Alicia Brake did not try to visit the children for a significant period, and when she did, she was intoxicated. According to Alicia Brake, she tried to visit the children numerous times, by visiting the residence, while sober, and phoning on numerous occasions. Also, she says that on one occasion, around Easter of 2024, she tried to attend the home with Easter and Christmas presents for the children, but Travis Pitts refused to let her see the children and threw the gifts down the driveway.

[9] After leaving the family residence on November 25, 2023, Alicia Brake began living with Benjamin Brake. The two were charged on December 16, 2023, three weeks after the separation, with the following offenses:

- a) Without lawful authority confined D.A., contrary to s.279(2) of the *Criminal Code*;

- b) Without lawful authority did take D.A. an unmarried person under the age of sixteen years, out of the possession of and against the will of C.A., his parent, who had lawful care of him, contrary to s.280(1) of the *Criminal Code*;
- c) Commit an assault on D.A., contrary to s.266 of the *Criminal Code*;
- d) In committing assault on D.A. threatened to use a weapon, to wit a knife, contrary to s.267(a) of the *Criminal Code*; and
- e) Knowingly utter a threat to D.A. to cause bodily harm to D.A., contrary to s.264.1(1) of the *Criminal Code*.

[10] These charges took until October 1, 2025, to fully resolve. Although the last four counts were withdrawn on June 13, 2025, the initial charge, unlawful confinement, was not resolved until Judge Hutchison acquitted Alicia Brake on October 1, 2025.

[11] According to Alicia Brake and Benjamin Brake, Benjamin Brake was having a visit with a former stepchild of his on December 16, 2023. D.A. was a friend of that former stepchild and accompanied the former stepchild to Benjamin Brake's home. After the former stepchild left, D.A. stayed on to wait for a drive. Instead of calling his parents for a drive, D.A. called the police and made up a story about being kidnapped, assaulted, and threatened by Alicia Brake and Benjamin Brake.

[12] I do not have enough evidence to make my own independent assessment of this bizarre story. Travis Pitts admits that, while he has heard stories in the community, he has no knowledge on his own of what occurred. It had the effect of

delaying a final resolution in the family law matter until these very serious allegations in relation to a child were resolved in Provincial Court.

[13] Alicia Brake waited until December 4, 2024, over a year after separation, before filing her application. She had not seen the children since November 25, 2023, except for a brief encounter at the Dollar Store in Truro, when Travis Pitts and the children coincidentally were there at the same time as Alicia Brake and her mother, Bonnie Veal.

[14] At the interim hearing on January 17, 2025, parenting time was reestablished through SPEP. There were approximately ten parenting times between the children and Alicia Brake between March 2, 2025, and September 14, 2025, through SPEP.

[15] The parties agreed to work out parenting time between the court appearance on September 11, 2025, and the trial scheduled for December 3, 2025. While parenting time was arranged, Travis Pitts quickly cancelled it because of vague reports from the children that Alicia Brake was being “aggressive.”

## **POSITION OF THE PARTIES**

[16] The position of Alicia Brake is:

- a) Travis Pitt assaulted her on November 25, 2023, and in fact, had assaulted her on thirteen prior occasions where she suffered pulled

ligaments to her shoulder, a broken nose, swollen ankle, dislocated finger, etc.

- b) Travis Pitts regularly denies the children parenting time with her and disregarded the court order by not allowing the telephone calls that were ordered with the children on May 6, 2025, once Alicia Brake completed the Parenting Information Program.
- c) The children have had lice on numerous occasions and Travis Pitts is not addressing it appropriately.
- d) Travis Pitts is not taking care of the hygiene of the children appropriately.
- e) Travis Pitts is not meeting their dental and medical needs. S.K.V. had glasses but was not wearing them at the SPEP visits. S.K.V. needs caps removed from her teeth and L.A.V. needs wires removed from his braces.
- f) S.K.V., who recently turned 8 years old, says she wants to live with her.
- g) She tried many times in 2024 to see the children by calling without receiving any answer and knocking on the door, but it was not answered.
- h) Her initial position was that she should have primary care of both children and Travis Pitts should have supported parenting time with them. Her position changed throughout the proceeding, but her position at trial was that she should have primary care of S.K.V. and shared parenting of L.A.V.
- i) She makes no specific request regarding decision-making, but I infer from her evidence, and in particular, her criticism of Travis Pitts' care of the children, that she wants involvement in the major decisions involving the children.

[17] Travis Pitts' position is:

- a) Alicia Brake was intoxicated on November 25, 2023, and that is why he asked her to leave, sober up, and come back the next day.

- b) He has never physically assaulted Alicia Brake, not on November 25, 2023, or on any other date. He says that there were verbal altercations, mostly to do with Alicia Brake's excessive drinking.
- c) Alicia Brake's drinking was problematic, and she showed up intoxicated on at least two occasions looking to see the children.
- d) He is very concerned about Alicia Brake involving the children in inappropriate conversations and adult topics.
- e) The children are well taken care of, including their hygiene. The children have a dentist and an optometrist, and he makes regular appointments. Further, he is addressing the occasional issues with lice appropriately.
- f) He seeks primary care of the children. In his Affidavit sworn December 1, 2025, he requested that the children's parenting time with Alicia Brake be supervised; however, at the hearing itself, his position was that the children could have parenting time every second weekend from 9:00 am until 6:00 pm on both Saturday and Sunday, but no overnight parenting time. Further, he agreed to an order allowing both parties to have access to all records of third parties involved with the children.
- g) Finally, Travis Pitts requests decision-making for the children.

## LAW

[18] This matter is governed by the *Parenting and Support Act*, R.S.N. 1989 c.160 which directs, at s.18(5), that the paramount consideration is the children's best interests. S.18(6) provides a non-exhaustive list of factors to consider in determining the children's best interest.

[19] Further s.18(8) requires me to, "give effect to the principle that a child should have as much contact with each parent as is consistent with the best interest

of the child”. The section goes on to specify that in determining the best interest, the court should consider the impact of any family violence, abuse, or intimidation.

[20] Many cases have interpreted the best interest doctrine; most recently the Supreme Court of Canada in *Barendregt v. Grebliunas*, 2022 SCC 22. There at paragraph 97 Karakatsanis, J. noted that the best interest analysis is “highly contextual”. The court must look to each child’s particular circumstances when determining what parenting arrangements are in their best interest.

[21] I turn now to the best interest factors set out in s.18(6) of the *Act*.

### **Physical, Emotional, Social, And Educational Needs**

[22] Both parties have modest homes. Alicia Brake lives in a one-bedroom plus den apartment with Benjamin Brake. Her plan is to sleep in the livingroom and allow the children to sleep in the bedroom and den. She says she is moving soon but does not have a specific location yet. Travis Pitts has a two-bedroom apartment. He sleeps in the livingroom, and the children have their own bedrooms. Despite protests by Travis Pitts at earlier court appearances that Alicia Brake did not have appropriate overnight accommodations for the children, it appears their homes are equivalent.

[23] Alicia Brake also says that Travis Pitts cannot meet the medical needs of the children. She appears to base this on the reoccurrence of lice in his home and the fact that S.K.V. showed up to a parenting time at SPEP without her glasses. It is unclear whether this was on one occasion or every visit. I do not have any evidence from the dentist about the children's caps and braces, only Alicia Brake's belief that these needed attending to.

[24] The children did have lice while in Travis Pitts' care. Alicia Brake takes this as an indication of his lack of ability to meet the needs of the children. Travis Pitts says that he has always taken every necessary measure to rid the children and the home of lice.

[25] Alicia Brake, Benjamin Brake, and Bonnie Veal have all testified to the poor hygiene of the children they witnessed while in Travis Pitts' care. Alicia Brake even states that the supervisors at SPEP have noted the poor hygiene of the children. However, when Alicia Brake advocated for the fact that the children's hygiene was not appropriate at the March 16, 2025, parenting time, the Parenting Supervisor specifically noted, "neither child seemed overly dirty or smelly to me."

[26] Based on the limited evidence presented by Alicia Brake, I cannot make a finding that Travis Pitts cannot meet the physical and medical needs of the children.

[27] That being said, since the parties separated in November of 2023, Alicia Brake has felt she has no ability on her own to meet the needs of the children and can only advocate for her children to Travis Pitts. That must change. Alicia Brake needs to know that if she feels, for example, that the children need teeth cleanings, she can schedule an appointment with the dentist. If the children have lice, she can treat it. She is a parent to these children and not only is she permitted to meet their needs, it is expected of her.

[28] Travis Pitts says that Alicia Brake cannot meet the emotional needs of the children. He is very concerned about her discussing adult topics with the children and being very critical of him. This is supported by the independent evidence of the Parenting Supervisors at SPEP. Some examples from their notes are:

- a) At the very first parenting time on March 2, 2025, Alicia Brake talks to the children about the court case and grills them about having overnight parenting time with her.
- b) On March 9, 2025, Alicia Brake passes messages to Travis Pitts through the children; for example, “tell daddy to wash your bunny [stuffed animal]” and “tell dad to let you call me tonight.”
- c) On the third parenting time on March 16, 2025, Alicia Brake is critical of how Travis Pitts cuts the children’s sandwiches and calls it the “lazy way.”
- d) Alicia Vael-Brake is also critical of Travis Pitts not doing laundry.

- e) On the fifth parenting time on March 29, 2025, Alicia Brake is critical of Travis Pitts for not answering her calls and not fixing the windows in the van.
- f) The staff observed Alicia Brake whispering to the children and had to repeatedly remind her of the rule against whispering.
- g) Alicia Brake is also critical of Travis Pitts for not contacting their school principal about a bully.
- h) Alicia Brake says to the children that Travis Pitts does not brush their hair well enough.
- i) Alicia Brake tells the children that Travis Pitts is not letting her have them more.
- j) On the sixth visit on April 13, 2025, Alicia Brake tells the children that she will see them on Easter, “if their father doesn’t get his ego in the way and cancel.” The staff had to tell her not to talk about the other parent. Also, Alicia Brake had to be talked to twice about whispering to the children.
- k) At the seventh visit on August 3, 2025, Alicia Brake’s phone dinged and rang on several occasions. She took the calls and had to step out on at least one occasion. The Parenting Supervisor had to remind Alicia Brake that phones were not allowed. Even after Alicia Brake apparently turned off her phone, somehow it rang again.
- l) Also, Alicia Brake was very critical of the children’s hair and undoes it.
- m) Alicia Brake also grilled the children about where they were moving. For a third parenting time in a row, she was observed whispering to the children, this time on at least two occasions.
- n) Alicia Brake was a no-show at her parenting time for August 24, 2025. Travis Pitts did not bring the children to the parenting time on August 31, 2025.
- o) For the last parenting time on September 14, 2025, Alicia Brake grills the children about their new address. There is also discussion about the hearing scheduled on L.A.V.’s birthday, although it appears it was Travis Pitts who told this to the children.

[29] I agree that this type of conduct by Alicia Brake is deeply harmful to her children. Alicia Brake initially asked to be excused from attending the Parenting Information Program, claiming she had no internet access. I pointed out that there were places in the community where she could access the internet free of charge. I ordered that her parenting time would only start once she completed the Parent

Information Program. She did complete the program but appears not to have understood how problematic it is to keep involving her children in the conflict she has with Travis Pitts. These comments clearly show her need to be critical of Travis Pitts even, or perhaps especially, to her children.

### **Willingness To Support Child's Relationship With The Other Parent**

[30] Alicia Brake argues that Travis Pitts is not supportive of a positive parenting relationship between her and the children and points to his cancelling of the nightly telephone calls that were arranged. Travis Pitts does not deny cancelling the children's telephone calls with Alicia Brake but points to the comments that Alicia Brake made to the children at SPEP, even while being monitored.

[31] Further, Travis Pitts says that during the phone calls, Alicia Brake would try to talk to him and raise issues and start arguments with him. He says that Benjamin Brake would talk to him during the telephone calls, further causing conflict in front of the children. Benjamin Brake was very hostile during his testimony, even more so than Alicia Brake. I accept Travis Pitts' evidence on the problems that occurred during the nightly phone calls.

[32] However, I find that Travis Pitts made little to no effort to support a relationship between the children and Alicia Brake for over a year after separation

until Alicia Brake made her application. I understand he had concerns with her parenting, but those concerns could have been addressed. It was only at the first court appearance on January 7, 2025, that he offered to recommence parenting time by having it supervised by Bonnie Veal. He ought to have made efforts to arrange for that parenting time and not waited for over a year until Alicia Brake's application was filed.

[33] I accept that it was because of Travis Pitts' own negative relationship with Alicia Brake that he failed to be child centred and did not attempt to establish contact for the children with Alicia Brake. At the end of the trial on December 3, 2025, while we were discussing interim parenting arrangements until a written decision could be released, he complained that Alicia Brake was staring at him. Alicia Brake was simply looking in his direction.

[34] At the September 11, 2025, Conference, the December 3, 2025, trial was scheduled. There was only one more supervised parenting time at SPEP, and I advised the parties to make their own arrangements for the children to continue to have parenting time with Alicia Brake until trial. Arrangements were made, however:

- a) it did not occur until the Halloween weekend, 7 weeks later;

- b) it was only between 1 – 3 hours at a time; and
- c) it only occurred for 2 weekends in a row before being canceled by Travis Pitts.

[35] Travis Pitts says he cancelled the parenting time because L.A.V.

complained that S.K.V. was being favoured by Alicia Brake. Also, L.A.V. was left alone with Benjamin Brake while Alica Veal-Brake, Bonnie Veal, and S.K.V. went somewhere. He does not know for how long. Neither of these would remotely justify cancelling the children’s parenting time with Alicia Brake.

[36] Travis Pitts also says that the children reported to him that, while in a vehicle, Alicia Brake became “aggressive,” “nasty” and “upset” with them. It was all very vague, and Travis Pitts admits that he did not “understand the concept of it” or “ask the finer details” of this incident. He did not discuss any of these concerns with Alicia Brake before cancelling any further parenting time.

### **History Of Childcare**

[37] At the time of their separation, and currently, both parents are off work due to various disabilities. Therefore, they were both at home and available to the children. However, they have different recollections of their roles during the relationship.

[38] Alicia Brake states that Travis Pitts was inattentive to the children and household responsibilities, focusing on video games and socializing with friends. Travis Pitts denies this and says that he was involved with the children from day one, including bathing, feeding, changing diapers, taking the children out, etc. He says that there were many occasions where Alicia Brake could not properly care for the children because of her excessive drinking. He says that he gradually became the primary parent.

[39] Since separation on November 25, 2023, the children have been in Travis Pitts' primary care. Other than a chance encounter at a Dollar Store, the children did not see Alicia Brake until March 2, 2025, just over fifteen months after separation. Since then, she has had sporadic telephone contact with them, approximately eight supervised parenting times through SPEP and a handful of daytime, weekend parenting times since the last SPEP parenting time ended in September of 2025.

### **Proposed Plans For Child's Care And Upbringing**

[40] There was little information provided by the parties about the plan for the children's care and upbringing. Travis Pitts wants the children with the same professionals they see currently and to keep them at the same school. Alicia Brake

did not indicate that she would change anything regarding the children's school or professional supports.

### **Child's Cultural, Linguistic, Religious & Spiritual Upbringing And Heritage**

[41] There was no evidence lead by either party on these factors.

### **The Child's Views & Preferences**

[42] I do not have any reliable evidence about the children's views and preferences. The only indication I have is at the end of the parenting time on April 13, 2025, S.K.V. crossed her arms, knit her brow, and went to the far end of the room to hide under a table. When Alicia Brake coaxed her to get ready to go, she said "I don't want to." Alicia Brake reminded her that they would see each other on Sunday for Easter and S.K.V. said, "I only want you." Alicia Brake handled this positively, picking up S.K.V. and hugging her. S.K.V. had tears in her eyes.

### **Nature, Strength & Stability of the Relationship Between the Children & Each Parent**

[43] There is no indication that the children have anything but a strong and stable relationship with Travis Pitts. However, the children have a fractured relationship with Alicia Brake having not seen her for a period of fifteen months from

November 25, 2023, until March 2, 2025. After that, they had short, infrequent contact with her through SPEP. They had sporadic telephone contact with her. And they have only had a couple of parenting times with her since the last parenting time with SPEP in September of 2025.

[44] That being said, based on the notes from SPEP, the children do seem to be bonded to Alicia Brake, particularly S.V.K.

### **Nature, Strength & Stability of the Relationship Between the Child & Each Sibling, Grandparent, & Other Significant Persons**

[45] I do not have information from Travis Pitts about any connection the children have with his extended family.

[46] Alicia Brake now resides with Benjamin Brake. She is also supported by her mother, Bonnie Veal. The children have just started having contact with these two individuals during their parenting time with Alicia Brake after SPEP ended in September of 2025.

### **Ability of Each Parent to Communicate & Cooperate on Issues Effecting the Child**

[47] It is impossible for these parents to communicate and cooperate in a positive manner regarding the needs of their children. They view each other in a negative and suspicious manner. Both are highly critical of the other's parenting.

### **Any Civil or Criminal Proceeding**

[48] Until October 1, 2025, there was a criminal proceeding involving Alicia Brake where she was accused of serious crimes against a child. All but one of the charges were dropped in June of 2025, and she was acquitted on October 1, 2025, after an earlier hearing, of the final charge.

[49] I have very little information about these charges and cannot base any decision regarding the parenting time and decision-making for these children on this criminal allegation against Alicia Brake. I recognize that she was acquitted based on the reasonable doubt burden of proof and I can make a different finding on the balance of probabilities standard of proof; however, I would need evidence to do so. Here, all I have are Alicia Brake and Benjamin Brake's evidence.

### **Family Violence, Abuse, or Intimidation**

[50] Alicia Brake alleges that she was physically assaulted by Travis Pitts on thirteen occasions. She suffered numerous minor injuries because of this physical

abuse. There were no witnesses to the physical abuse; however, various witnesses have seen the aftermath including Ellen Gale, Benjamin Brake, and Bonnie Veal.

[51] Travis Pitts simply has a blanket denial for any physical violence between them.

[52] I must “carefully evaluate” allegations of family violence taking a “dispassionate approach.” See *Shipton v. Shipton*, 2024 ONCA 624 at paragraph 27. I am also mindful that “domestic violence allegations are notoriously difficult to prove.” See *Barendregt v. Grebliunas*, 2022 SCC 22 at paragraph 144. I am attentive to the harm a child may experience through indirect exposure to domestic conflict. See *Barendregt v. Grebliunas*, *supra*, at paragraph 143.

[53] While Alicia Brake has corroborating evidence of the aftermath of these physical assaults, she has significant credibility issues. I am mindful of the factors and case law set out by Justice Forgeron in her oft-cited decision in *Baker-Warren v. Denault*, 2009 NSSC 59 at paragraphs 18 and 19 on credibility findings in family law.

[54] Alicia Brake has consistently failed to provide full and forthright information to the Court. The most glaring example of this is the status of her criminal charges. She said nothing about these serious allegations in her pleadings

and during the first court appearance on January 7, 2025. After Travis Pitts mentioned during that first appearance that there may be criminal charges against Alicia Brake, I requested her JEIN report which showed the charges.

[55] Alicia Brake suggested that her name was “in the report only because I was present in the house.” That is either a complete fabrication or gross misinterpretation of what occurred. Even if she meant that she was only *charged* (and not just “in the report”) because she happened to be there, that is unlikely given it took a trial to resolve whether she was guilty of the charge of unlawful confinement of a child.

[56] Alicia Brake repeated at subsequent court appearances and affidavits that her criminal charges were dismissed/withdrawn or are going to be dismissed at the next court appearance. For example, in her affidavit sworn August 12, 2025, she stated, “my charges are dropped” and attaches the Information with the running file. However, while the Information confirms that the Crown offered no evidence on counts 2, 3, 4, and 5 and they were dismissed on June 13, 2025, they did proceed to trial on count 1, unlawful confinement, on June 24, 2025. Alicia Brake makes no mention of proceeding trial on this serious charge.

[57] Further, in her affidavit sworn November 12, 2025, she stated that all charges were “dropped.” As noted, the unlawful confinement charge was not “dropped” but proceeded to trial where there was an acquittal on October 1, 2025. I do not accept that Alicia Brake was using “dropped” in a loose, non-legal manner. She was trying to mislead the Court.

[58] Alicia Brake stated that Parenting Supervisors agreed with her that the children’s hygiene was inadequate when they clearly disagreed.

[59] Alicia Brake says she tried to see the children by going to the home but then only later admits to kicking and banging on the home.

[60] I am cognizant that a party may be honest about one issue and misleading on other issues; however, it is difficult to accept that Alicia Brake is being completely honest about the intimate partner violence and misleading in so many other aspects of her evidence.

[61] The other difficulty in accepting her evidence on these allegations is that she provides minimal detail. Even if I accepted her evidence, it is hard to analyze it without more information. I know the number of incidents of intimate partner violence and the injuries suffered. I know nothing else about the context of these

incidents. It was only after questioning from me that Alicia Brake indicated that the children had witnessed most of the incidents of family violence.

[62] On the other hand, Travis Pitts' blanket denial of any intimate partner violence is simply not credible. He does not deny that Alicia Brake suffered the injuries she said she had but only says he has no idea how they occurred. If his partner had a broken nose, dislocated finger, pulled ligaments, swollen ankle, etc. it is difficult to accept that he never made inquiries of his partner and simply knew nothing about them.

[63] The other difficulty in assessing the allegations of intimate partner violence is that Alicia Brake is not clear about how this should affect the parenting arrangements. While she is clear that she wants me to accept that these incidents happened, she does not argue that the parenting arrangements should be any different because of them. Her trial position is that she should have primary care of S.K.V. because she is more connected with her than Travis Pitts and to respect S.K.V.'s wishes. She advocates for shared parenting of L.A.V.

[64] It is probable that Alicia Brake has little concept of the negative impact on the children of family violence even where they do not directly witness it. She has little understanding of the damage she causes to her children by involving them in

the conflict with Travis Pitts. It may be that if she had the assistance of experienced counsel, she would have asked for a different parenting plan.

[65] I accept that there has been intimate partner violence. Despite Alicia Brake's credibility issues, she has established that she suffered from various injuries and Travis Pitts' blanket denial is not credible. However, without knowing significantly more details about these incidents, it is problematic to assess how this finding of fact should affect the parenting arrangements.

[66] There was a significant period of time that intimate partner violence, even if it occurred, would not be led into evidence. If it was mentioned, it would only be in passing. The concern was that if the victim of the violence led evidence but was not able to prove it on a balance of probabilities, it would have a serious, negative impact on their credibility, they would be accused of attempting to alienate the children from the other parent, and there was little understanding of the impact of intimate partner violence on the children. It was thought that if the children did not witness the violence, it was of no concern. And, even if the children did witness the violence, the matter was resolved by the separation of the parents.

[67] This has significantly changed in recent years. There has been a sea change in the attitude of the legal community and judiciary that has led to amendments of

the *Divorce Act*, R.S.C. 1985, c. 3 and *Parenting and Support Act*, *supra*, that require the consideration of intimate partner violence when determining the best interests of children. There is a recognition that children are affected, sometimes profoundly, by intimate partner violence even if they do not directly witness it. Recent jurisprudence has reinforced this.

[68] However, evidence of intimate partner violence cannot be made in passing. Sufficient detail must be provided to properly assess the evidence. The evidence ought to be brought forward in a comprehensive, straightforward manner without exaggeration. And the victim needs to connect the intimate partner violence to the parenting plan they propose.

## **DECISION**

[69] The children have been living with Travis Pitts for over two years by the time this matter proceeded to trial. Alicia Brake has not persuaded me that the children are so ill cared for in his care that L.A.V. needs to live in the shared parenting of both parents and S.K.V. needs to live in her primary care. Although Alicia Brake has attempted to convince me that Travis Pitts cannot meet the medical, dental, educational, etc. needs of the children, her complaints are based on such things as:

- a) S.K.V. showing up for one parenting time without her glasses;
- b) the children having lice, which is a common occurrence and is not unusual to occur more than once;
- c) improper hygiene but this evidence is not supported by the impartial SPEP Parenting Supervisors;
- d) the dental needs of the children are not being met, but there was no independent evidence from the dental professionals on this;
- e) and even extends to cutting the children's sandwiches in a lazy way.

[70] Similarly, Travis Pitts did not satisfy me on a balance of probabilities that there is any concern with the children having overnight parenting time with Alicia Brake. The crux of his argument seems to be her historic excessive drinking and lack of accommodations. Alicia Brake's home is no more or less appropriate than Travis Pitts'.

[71] His knowledge of Alicia Brake's alcohol use is somewhat historic. He alleges that she was intoxicated on November 25, 2023, when the parties separated and attended at the home on two subsequent, unspecified dates demanding to see the children while she was intoxicated. Also, any concern about Alicia Brake's alcohol consumption while caring for the children can be addressed with specific provisions regarding alcohol consumption while she has care of the children.

[72] Regarding parenting time, I order the following:

- a) The children shall be in the primary care of Travis Pitts.
- b) The children shall be in the care of Alicia Brake every second weekend from Friday afterschool until Monday morning when they attend school. This will minimize the contact between the parents and, therefore, the potential for the children being exposed to parental conflict.
- c) If there is a holiday or in-service on Friday, the children's parenting time with Alicia Brake shall commence on Thursday afterschool.
- d) If there is a holiday or in-service on Monday, the children's parenting time with Alicia Brake shall be extended to the start of school on Tuesday.
- e) If there is no school at the start of the children's parenting time with Alicia Brake, the parenting time shall commence at 3:00 pm.
- f) If there is no school at the end of the children's parenting time with Alicia Brake, it will end at 9:00 am.
- g) These parenting exchanges will take place in a public location.
- h) The parents will ensure the parenting exchange is as pleasant and stress-free for the children as possible. Toward that end, they will communicate as little as possible and only regarding the children.
- i) During her parenting time with the children, Alicia Brake will not be under the influence or consume alcohol. She will not allow anyone in her household to be under the influence or consume alcohol. Further, she will not take the children to any establishment that sells alcohol.
- j) If the children are not scheduled to be in Alicia Brake's care on Mother's Day, she will have that weekend, and Travis Pitts will have the weekend immediately following and then the alternating weekend schedule shall resume.
- k) If Travis Pitts is not scheduled to have the children on Father's Day, he shall have that weekend, and Alicia Brake shall have the weekend immediately following and then the alternating weekend schedule shall resume.

- l) The children shall be in Alicia Brake's care for a one-week block parenting time from the first Monday in August until the following Friday. This shall include her regularly scheduled parenting time either the weekend before or the weekend after.
- m) The children shall not have nightly calls with Alicia Brake, but they shall have a telephone or video call with Alicia Brake every Wednesday at 6:00 pm. Travis Pitts shall initiate the phone call to Alicia Brake. Alicia Brake shall keep Travis Pitts informed at all times of the phone number he should call.
- n) Either child may request to contact the other parent and, if they so request, the parent shall facilitate that contact as soon as possible.
- o) Neither party will deny parenting time or telephone contact with the other party unless there is a substantial risk of harm to the children.

[73] Regarding communication I order the following:

- a) Neither party will speak negatively to or about the other party or permit others to do so in the children's presence.
- b) Neither party will allow any person to make negative or disparaging comments to the children about the other party or members of their family or household.
- c) At all times, the parties will encourage the children to have a positive and respectful relationship with the other party and members of the other party's family and household.
- d) Neither party will discuss adult matters with the children or in their presence.
- e) The parties will not communicate about issues or non-emergency arrangements when the children are present or nearby.
- f) The parties will not involve the children in conveying messages or documents between them.
- g) The parties will not question the children or comment to the children about the other party.

- h) The parties will communicate civilly and will only discuss the children.
- i) The parties will communicate mainly by text. Only for time sensitive matters shall the parties communicate directly. If a voicemail message is left, it will be responded to as soon as the party receives the message.
- j) Text messages will be brief, civil, and focussed on parenting.
- k) The children will not be shown communication between the parties.

[74] I order the following general provisions:

- a) Each party will inform the other of all changes to their:
  - i. Home address;
  - ii. Main phone number;
  - iii. Any other means of contact such as cell phone numbers, email addresses, etc.
- b) Either party may travel with the children within Canada as long as they provide an itinerary to the other party before the proposed travel. The itinerary will contain the dates of travel, the destination, the address at the destination where the children will be staying, and a telephone number where the children can be reached, other than the parent's own cell phone.

[75] Regarding decision-making responsibilities, I order the following:

- a) Each party will meaningfully consult with the other on all major health, education and religion decisions respecting the children. This consultation shall not take place in the presence of the children, and the children shall not be told about the consultation.
- b) If the parties cannot agree on a major health or educational decision respecting the children, they will follow the advice of a professional who provides care to the children.

- c) If there is no third party professional, and the parties cannot agree, Travis Pitts will make the final decision but only after sincere consultation with Alicia Brake.
- d) The party caring for the children will make decisions relating to the children's daily care while the children are in their care.
- e) In an emergency, each party can authorize the children's emergency medical care. The party authorizing the emergency medical care must notify the other party as soon as is practical to do so, considering the nature of the emergency.
- f) Each party can make inquiries and receive information from the children's educators, counsellors, caregivers, healthcare providers, religious leaders, coaches, instructors, and any other third-party professionals involved with the children.
- g) Each party can receive the children's school report cards, medical reports, dental reports, specialist reports, and information regarding the children's recreational activities.
- h) Each party is authorized to make medical, dental, and other professional appointments for the children. They must notify the other about all the children's medical, dental, and professional appointments as soon as they are booked and, if the other parent has not attended, provide full particulars immediately after the appointment.
- i) Both parties may attend the children's appointments, activities, and functions such as concerts, recitals, games, practices, medical appointments, dental appointments, recreational activities, and parent/teacher meetings. If the children are present, the parties shall communicate as little as possible and shall make it as pleasant and stress-free for the children as possible.
- j) Each party shall keep the other informed about the organizations and individuals involved with the children. Organizations include schools, hospitals, churches, care programs, and recreational associations. Individuals include teachers, school staff, daycare and childcare staff, doctors, dentists, medical specialists, counsellors, therapists, coaches, and trainers. Information will include the name, address, and contact details (telephone, fax, email, and website).

- k) If contacts are required for the children, both parties will be listed as contacts.
- l) Both parties can speak directly to the children's teachers, caregivers, physicians, dentists, and other healthcare providers about the children.
- m) This decision and the order are each party's consent and authorization to all persons, including teachers, doctors, dentists, and others involved with the children, to speak fully and openly with both parties.
- n) Each party must immediately notify the other if the children have a serious illness or accident while in their care.

## **CONCLUSION**

[76] I have concerns that neither party will fully follow the order. Alicia Brake may, for example, continue to involve the children in adult topics. Travis Pitts, for example, may deny parenting time for the children with Alicia Brake. All I can do is emphasize to the parties that they disobey this court order at their own peril. If either or both of the parties continue to be focussed on their hatred of one another instead of their children's best interest, those actions may form the basis of a variation application or contempt motion.

[77] Two orders need to be prepared: a separate order regarding the parties' access to third party professionals and records and then the main order containing the rest of the decision. Mr. Boubnov will prepare the orders and send them to

Alicia Brake within ten business days from the release of this decision and Alicia Brake has five business days to review the order and respond to Mr. Boubnov.

Sheppard, J.