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**IN THE FAMILY COURT
AT ROTORUA**

**FAM-2000-063-000511
[2016] NZFC 3156**

IN THE MATTER OF	THE CARE OF CHILDREN ACT 2004
BETWEEN	BRIELLA ADAMS-COY Applicant
AND	LLOYD COY Respondent

Hearing: 15 April 2016

Appearances: L MacLennan for the Applicant
M Hine on behalf of L Te Kani for the Respondent
M McCarty as Lawyer for the Children

Judgment: 15 April 2016

ORAL JUDGMENT OF JUDGE A C WILLS

[1] The parties to these proceedings Ms Adams-Coy and Mr Coy are the parents of Leilah Adams-Coy, born [date deleted] 2007, Anahera Adams-Coy, born [date deleted] 2008, Hemi Adams-Coy, born [date deleted] 2010 and Ari Adams-Coy, born [date deleted] 2011.

[2] Today's hearing has effectively been a safety hearing to consider whether the children will be safe in the unsupervised care of their father. Although there have been previous proceedings between these parents, the current proceedings began when Ms Adams-Coy filed a without notice application for a parenting order on 1 May 2015. An interim parenting order was made at that time. The protection order which had been in place, in fact since 21 February 2001, was varied to include the children born after that time.

[3] Although the parents were separated from the end of 2000, they reconciled in 2007. Clearly the relationship between them had resumed before then because Ms Adams-Coy was pregnant with Leilah at that time, and those three younger children were born in 2008, 2010 and 2011.

[4] The fact that a protection order is in place and that Mr Coy has been convicted of domestic assaults and breaches of the protection order against him mean that a safety enquiry is necessary pursuant to ss 5(a) and 5A Care of Children Act 2004. In particular, it is acknowledged that Mr Coy hit the couple's eldest daughter Tamara who is now 18.

[5] It is the welfare and best interests of these particular children and their particular circumstances that must be the primary consideration in making my decision. The Care of Children Act 2004 sets out the principles which have to be applied in assessing what is in the children's welfare and best interests. The children must have the opportunity to express their views and their views must be taken into account.

[6] The risks that the applicant Ms Adams-Coy identifies for the children in the unsupervised care of their father were as set out in her affidavits:

- (a) That Mr Coy had breached the protection order which might mean that he cannot stick to the rules.
- (b) There was an incident where Mr Coy went on a school trip to [location deleted] with Leilah, and inappropriately as he now accepts, pointed out to her a police officer who Leilah says, “Had beaten her father up.”
- (c) The history of breaches and Ms Adams-Coy’s lack of trust as a result of that.

[7] Today Ms Adams-Coy really acknowledges that she believes that unsupervised contact for a short period is in the children’s welfare and best interests, describing it as important for the children to have their father in their life. That is a change of view on her part, and I will go into the reasons for that a little more later.

[8] Mr Coy proposed in his affidavits that he have contact with the children on Saturdays from 9.00 am to 7.00 pm and that he would pick them up and return them. He identified the base for contact to be at the home where he lives, owned by a couple of people who are also members of the [Denomination deleted] faith and the church to which Mr Coy belongs.

[9] Mr Coy has confirmed his recent conviction history. He has confirmed again today the breaches of the protection order and the assault conviction. He was sentenced in relation to those charges on 16 October 2015 to a community work sentence and nine months’ supervision. As part of the supervision sentence, Mr Coy was directed to attend a Men’s Living Without Violence programme at Family Focus. At the time his affidavit was sworn he gave evidence (that was on 25 November last year), that he had attended three quarters of the sessions.

[10] The Court file shows that Mr Coy has completed his programme and he has confirmed that today.

[11] In assessing whether the children will be safe in their father's unsupervised care, it is helpful to consider the reports that have been provided by the supervised contact facilities. Family Focus supervised four visits of one hour on 3 September, 10 September, 17 September and 24 September 2015. They stopped the supervised contact because that organisation ceased to provide supervised contact not for any reason associated with Mr Coy. The reports describe all visits as positive, that the children were comfortable with their father including on an occasion when they were quite unwell. They were able to engage well and comfortably in conversation and activities with him and no issues arose during the visits.

[12] Open Home Foundation undertook an assessment before they began the supervised contact visits. They assessed Mr Coy as being suitable to have contact with the children. What happened of course was that there was quite a substantial break in the contact from 24 September 2015 until the first visit with Open Home Foundation on 7 January 2016. That break in contact would, I assess, have been quite difficult for the children and for Mr Coy. There may, in fact, have been some underlying issues for the children as a consequence of that break and it is to Mr Coy's credit that the contact that then took place was very appropriate.

[13] The contact occurred on 7 January, 25 February, 3 March, 10 March, 17 March, 24 March, 31 March and 7 April 2016. Open Home Foundation described Mr Coy as intentional and positive when interacting with his children during contact. The supervisor felt that Mr Coy's relationship with the children was consistent with a caring and vested parent. He said that the children were somewhat ambivalent but warmed to their father over the course of 15 to 20 minutes and would interact and engage freely in play and conversation. None of the children appeared fearful. A recommendation was made for regular contact visits to continue.

[14] Mr Coy has completed the Men's programme that he was directed to complete. Supervised contact has proceeded positively. The children do not show any fear or concern when with their father. To the contrary, they engage well with him. That has been fully supported by Ms Adams-Coy today who has had the opportunity recently to observe the children's relationship with their father.

[15] What is clear is that there has been a significant change in the children's relationship with their father. Ms Adams-Coy described the way in which the children would cling to her and not want to be parted from her if she left the home. That willingness of the children to be with their father, spend time with him and receive and give affection is very positive from her perspective, and also from the perspective of the Court.

[16] The primary question of course is whether there is a risk to the children of violence to them or exposure to domestic violence in the care of their father. There is also that risk that must always be considered about whether the children's relationship with their mother would be undermined by Mr Coy if unsupervised contact were to take place. In that regard, there are two things that need to be considered. The first is whether there are other outstanding issues which need to be resolved, particularly in this case over property as the last breach of a protection order arose in that area. I am satisfied having heard from the parties and what turned into a rather general discussion rather than evidence, that issues around property are easily capable of resolution and the opportunity is likely to be taken to sort those matters out finally in the near future.

[17] The other issue is whether the relationship between the parties is ongoing or is not. That is a very difficult issue for the parties to deal with but there has been the opportunity today for Mr Coy to hear from Ms Adams-Coy that for her, the relationship between the two of them as a couple must end, but the relationship between the two of them as parents must continue in a positive and constructive way.

[18] Both parties agree that they would benefit from a referral to communication counselling to enable them to continue to work together and to talk about issues surrounding their children. There are some very significant issues which need to be discussed between these two parents. Some of that relates to the religious difference but that religious difference creates other substantial issues, including things like the availability of blood transfusions to the children, medical treatment, attendance at religious services and congregation for [denomination deleted], and the teaching of the children about spiritual matters. It is clear that Ms Adams-Coy is in agreement with many of the teachings of [denomination deleted] in terms of moral values and

approach but that does not mean that the parties are on the same page in relation to all matters.

[19] There has been some discussion about the use of a communication notebook to advise of specific issues for the children at contact but for two parents to parent well and together, they need to be able to talk to each other. I consider that the parties' agreement to attend communication counselling is a very positive and constructive approach which will assist in making this decision about safety.

[20] I have considered all of those matters, including the history, the violence that has occurred, its severity and how recent it was. I have had regard to the breaches of the protection order and to the steps that have been taken by Mr Coy to reduce any risk of re-offending. I have also had regard to the children's views, which have been expressed in Ms McCarty's most recent memorandum filed on 15 April, where she said that the children provided the following information and views: "During contact visits they enjoyed drawing, reading books, playing golf and watching videos on their father's laptop. They know Tessa, Vince, their children. They like the children and play with them. The only things that are not so good about contact is that the prayers are too long and the hugs are too tight." These are matters which I am sure Mr Coy has taken on board and, indeed, described himself as having a good chuckle at. They also said it would be okay if Simon, that is the supervisor, was not there when they had their visits with Dad and it would be okay if they had visits at Vince and Tessa's house. They said they would like to see their dad on Saturdays from 10.00 am to two or 3.00 pm. They do not want to go to congregation with Mr Coy.

[21] What is clear from Ms McCarty's report and the evidence of both parties, and the reports from Open Home Foundation, is that the children's relationship with their father is loving and appropriate. I am satisfied that the children are not fearful. Their views must be taken into account.

[22] Having considered all of those factors I am satisfied that the children will be safe in the unsupervised care of their father providing that the conditions of the contact are complied with. Those conditions are ones that Mr Coy agrees to.

[23] I discharge the existing interim parenting orders and I make a final parenting order as to contact. That order provides as follows:

- (a) Mr Coy will have contact with the children on Saturdays from 10.00 am until 3.00 pm. The base for that contact is to be at the home of Tessa and Vince Cameron.
- (b) Mr Coy may have contact at such other times as agreed upon between the parents.
- (c) The following conditions apply to the contact order:
 - (i) There is to be no adverse comment to the children about their mother.
 - (ii) There is to be no physical discipline of the children.
 - (iii) Communication about the children should occur by way of a notebook that accompanies the children to the visits until there is agreement between the parties that that communication notebook is no longer necessary.
 - (iv) The children are not to be removed from the Rotorua area during contact.
- (d) The parties are directed to specialist communication counselling in order to give effect to this order and to promote its operation. A maximum of eight sessions is directed. The direction is made pursuant to s 46G Care of Children Act 2004.
- (e) The first contact visit will take place on 23 April 2016.
- (f) Mr Coy will be responsible for picking up the children from their home and returning the children to their home, and for the sake of

clarity, such an arrangement will not constitute a breach of the protection order.

- (g) Ms McCarty I terminate your appointment with the thanks of the Court.

A C Wills
Family Court Judge