



Moving Past Supervised Parenting

Case commentary on *ANM v. DRH* 2019 ABPC 209

By Jonathan F. Griffith

Resolving family matters involving family violence is always difficult. The law must ensure all parties and, more importantly, any children are protected while creating a framework that permits parents to continue to care for children and meet other familial obligations. In *ANM v. DRH* 2019 ABPC 209 (*ANM*) that balance was on the Court's mind as it established a test for determining when an order for supervised access should be lifted.

The Court found that both parties had engaged in family violence but noted the father's engagement in same was more concerning, citing incidents of physical violence and threats. In several cases the family violence had taken place around the parties' single child, PH, who was an infant during the period in question. Nearly a year prior to the commencement of the trial the father had been criminally charged, those charges being resolved by way of peace bond.

At trial, the mother took the position that supervised access, which had previously been ordered on an interim basis, should continue until a detailed risk analysis could be conducted by a qualified professional. The father took the position that the circumstances that gave rise to the family violence had changed so much that the requirement that his time with the child be supervised should be lifted.

Up until *ANM* the caselaw in this area provided little guidance for when Courts should consider lifting supervised access requirements. Every case can be very different, and Courts often just conduct a contextual analysis based on the evidence presented. In this case the Honourable Judge LaRochelle based his decision on a 3-part analysis:

1. Have the concerns which led to supervision in the first instance been made out?
2. If so, have these concerns been ameliorated by the parent to a satisfactory degree?
3. If the concerns have been sufficiently addressed by the applicant parent, what factors should be considered in order to properly transition a child from supervision to unsupervised parenting time?

Often courts impose supervised parenting on an interim basis and without full evidence to ensure all parties are protected until a full hearing can be conducted. The first part of the *ANM* test provides the court with the opportunity to properly assess the allegations that gave rise to the interim (or initial) order. Presumably if the claim that gave rise to the requirement for supervised access is not made out then the court will remove the restriction on parenting time.

The second part of the analysis calls on the parent against whom the claims were made to show evidence that they have taken steps to resolve the conditions that call for a child's protection. Finally, the final part of the

analysis requires the Court to consider the impact of transitioning a child from supervised to unsupervised parenting to mitigate any risks of harm associated with same.

In *AMH* the allegations respecting family violence were largely admitted making the first part of the analysis unnecessary. The Court accepted the father's evidence respecting the counselling he'd undertaken and found that the family violence in which the father had engaged was situational and that the father had taken appropriate steps to ensure the violence wouldn't happen again. The fact that the most recent incident of family violence was nearly a year in the parties' past also helped assure the court that there was a lower risk of ongoing family violence.

In this case, the Court ordered a measured transition away from supervised access with the father's access with the child increasing over time. This addressed the third part of the analysis as it provided the Court with a period to monitor the parties' parenting as it transitioned towards unsupervised access.

Supervised parenting is not ideal. Children should have unfettered access to their parents following separation or divorce. A supervised parenting environment can create an artificial environment for raising children. Additionally, supervised parenting can raise barriers to parenting that can make it difficult or even impossible for parents to connect with their children. *ANM* is a helpful case because it provides parents with a framework to transition out of supervised parenting once same has been imposed by the courts.