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Failed Conventional Therapy Quotes from Selected Jurisprudence June 19, 2015

***C.S. v. M.S.*, 2007 CanLII 6240 (ONSC) (Volume I. Tab 18), affirmed in *C.S. v. M.S.*, 2010 ONCA 196 (Volume I. Tab 20)**

“[93]... To achieve success in repair and reestablishment of the relationship, you must start with the power – in this case, the father – and have him not only on board, but actively showing leadership toward all the children having a relationship with the mother. Without a child having permission to change, a therapist can achieve nothing. There was a need for the alienating parent to declare, “this is a crazy war, it needs to stop. I shouldn’t have done what I did.””
[emphasis added]

“[131]...I note particularly the father’s attitude toward the order for reconciliation counselling involving the third child during the protection case. The father was having none of it, and neither was the child as a result. So it would never happen.”

***L.(R.) v. L.(N.)*, 2007 NBQB 394 (Not in case book), affirmed in *N.L. v. R.L.*, 2008 NBCA 79 (Volume II. Tab 32.)**

“32 ...Ms. Brown discovered two indicators under the protocol which indicate parental alienation.”

“33 From the first interview, she felt obligated to report the abuse to Child Protection as she considered indicators present in the protocol, which were, isolating the child, only turning to one parent for support and mental illness or psychological difficulties present.”

“34 During the second session she felt that [the child] had regressed from the first session.”

“35 The third session for June 15th, A.L. did not show. Ms. Brown’s feeling at the end of the second was, “unless there was a change in the home environment there would be no value in continuing.” [emphasis added]

“46 I refer to Mr. Leger’s testimony: “in the present situation, it is my view that the Respondent cannot change her demeanor without a great deal of counselling by professionals.” He went on to state, “an alienating parent can undo any work that is done in therapy with the child instantly. “It only takes a statement, like I missed you when you were gone, and everything that was done in treatment for a child who has gone through that, it is gone. It is not effective. If a child is being alienated and goes to therapy and the alienation continues, there will be no progress.” [emphasis added]

Huckerby v. Paquet, 2014 CarswellSask 899 (Volume II. Tab 41.)

“195 Joint counselling (dyadic therapy) has proved to be ineffective because the children continue to be exposed to negative messages by the favoured parent and may simply cause the children to become more entrenched in their views. Including the rejected parent in counselling reinforces the children’s view that the rejected parent must be the problem. Weekly therapy may devolve into “hate sessions” where the children enumerate why the rejected parent is an object of contempt. The favoured parent is likely to sabotage the therapy if the children appear to be softening their opinions of the rejected parent.” [emphasis added]

C. (W.) v. E. (C.), 2010 CarswellOnt 5955, 2010 ONSC 3575 (Volume VIII. Tab 162.)

“143 Dr. Fidler acknowledged that the longer that alienation has existed the harder that it will be to resolve it.”

“150 Dr. Fidler was clear that in her own experience the prognosis is poor for reunification therapy being effective while the child remains with the favoured parent. She indicated that she were to receive such a file, she would not undertake the reunification therapy if the child remained with the favoured parent.” [emphasis added]

J.C.W. v. J.K.R.W., 2014 CarswellBC 758 (Volume VIII. Tab 38.)

“36 Dr. England considered the literature and treatment options, and in her recommendations stated:

RECOMMENDATIONS

The over-arching recommendation is that all efforts are made to reunite [K.] and [N.] with their father. Given the length of time the alienation has been occurring and the level of severity, the writer’s opinion is that very strong measures will need to be put in place in order to give the children the best chance possible to have their father in their life once more.

...Therapeutic options where attempts are made to address problematic issues while not changing the core family arrangement (such as have already been tried in this family), still cause distress and are likely to be ineffective.

...Given the considerable number of professionals who have been involved with the family to date, it is recommended that at the present time, only those professionals who are associated with the reunification programme work with any of the family members, and that appropriate releases are obtained to allow communication between these individuals." [emphasis added]

"80 I am satisfied from the report and evidence of Dr. England, that strong measures need to be put in place, and the children reunited with their father in a healthy relationship, and that the children become emotionally healthy. That can only happen if the conflict between the parties resolves, and certain of their behaviours are modified. It is obvious that what I will refer to as traditional counselling has not worked. The children — and the family as a whole — continue to have significant problems which need to be addressed." [emphasis added]

CAS Waterloo v. L.(K.A.), 2010 CarswellOnt 7373 (Volume 1. Tab 21.)

"[125] I am also not persuaded that a wait-and-see approach should be undertaken. The parties have had three years, the help of a parenting co-ordinator and several different counselling sessions to work out the issues and to allow this child to enjoy both her mother and father and extended families on both sides... The time has come to do something far more drastic to end the conflict... Moving N.L. to her father's home and imposing terms of supervision that the society will enforce will take N.L. out of the middle and give her time to adjust and reconnect with her father." [emphasis added]

Vucenovic v. Rieschi, 2012 CarswellON 13168 (Volume I. Tab 25.)

"64. Furthermore, it would not even be enough to have supervised visits with counselling as that was already tried and proved an insufficient safeguard."

A.A. v. S.N.A., 2007 BCCA 363 (Volume I. Tab 28.)

“[14] ...In her report of June 26, 2006, Ms. Blencato stated under the heading “Recommendations”

...The therapeutic influence given it occurs for one hour a week cannot penetrate her thinking or negative belief system. Thus making addressing her attachment issues, rage and distress impossible.” [emphasis added]

“[15] By July 12 Ms. Blencato indicated she could not effectively continue a therapeutic relationship.”

“[18] ...[trial judge] expressed the view that Ms. A had manipulated the professional relationship she had with Dr. McPherson in order to achieve her own ends in the litigation.”

Jachimowicz v. Jachimowicz, 2006 CarswellNS 644(NSSC) (Volume I. Tab 30.)

“[72] I am concerned about taking the drastic step of changing custody of Michael. However, I am left with no alternative. Access has not occurred between Michael and his father despite professional involvement and agreements. A further access order will not rectify the situation.”

“[73] ...The only way to ensure that he will have a relationship with both of his parents, which he needs and deserves, is to change custody.” [emphasis added]

T.L.L.L. v. J.J.L., 2009 MBQB 148 (Volume II. Tab 37.)

“[35] ...Dr. Rhodes felt that this constant analysis and intrusion was detrimental to the children. She was clear that the children needed a break from the mother’s continual stream of experts and analyzers. The court agreed with her recommendation and made it part of the April 2007 order.”

“[36] ...Upon reading the decision [Dr. Stambrook] realized he had been deceived by the mother and immediately terminated the sessions and advised the father.” [emphasis added]

“[37] Dr. Stambrook testified that he was involved again some months later when the child caring agency and the father retained him in an attempt to re-establish Jo.’s relationship with his father. It is significant that the child caring agency was willing to cost share his therapy. This action reinforced the fact that it was the view of the agency that it was in Jo.’s best interest to reconnect with his father and reinforcing, in the courts mind, that the agency did not view the father as any risk. These sessions were terminated by Dr. Stambrook as he felt that

they could not progress without the mother's willingness to do what was required to help Jo. feel comfortable seeing his father again." [emphasis added]

LDK v. MAK, 2015 BCSC 226 (Volume II. Tab 39.)

"[54] Despite the efforts of the claimant over the past three years to deal with her estrangement from the children through the intervention of counsellors, no success has been achieved."

"[105] ...Here, I reluctantly conclude that further counselling is not the answer given that nothing has been achieved over the course of three years."

L.(R.A.) v. R. (R.D.), 2007 CarswellAlta 183 (Q.B.) (Volume II. Tab 31.)

"189 In conclusion, the parties have received years of case management, counseling, have been to mediation, been subject to court order to co-operate and not to disparage the other parent, and had interim joint custody. None of these arrangements has resulted in the desired consequences for the child or the parents. At this point in time, the Court should not continue to force a co-operation that does not exist in fact."

"214 I was Ms. Ailon's opinion that it would be "very very difficult" for a child not to see a parent, however, it is sometimes necessary:

Although it was a complex scenario, that sometimes if the child was really in need of therapy the only way that you could do it constructively initially would be to have almost no contact or no unsupervised contact with the other parent until the child was able to sort of get their feet on the ground emotionally.[emphasis added]

PSM v. AJLC, 1991 QSC No. 500-12-184613-895 (Volume II. Tab 34.)

Page 10 "...His promise of cooperation was accepted at face value but, as time went on, he demonstrated again and again that he has no intention whatsoever of collaborating in any way so as to enable the children to acquire a more positive perception of their mother. The Court is of the opinion that he disregarded its order and that he continued to do everything that he could to indoctrinate the children to believe that their mother is the evil creature that he himself perceives her to be. As a result all attempts to influence the children by way of therapy, and to help them see their mother as she really is, were doomed to failure." [emphasis added]

Page 11 "...Mrs. Greenberg testified about the failure of her attempts at therapy, a failure which she attributes to the systematic obstruction of her efforts by the Defendant."

***Bains v. Bains*, 2009 BCSC 1666 (Volume II. Tab 40.)**

“[150] ...He can only see his way as the sensible way. With this kind of attitude, it is difficult to see how counselling can be effective.” [emphasis added]

***Re: H (Children)* [2014] EWCA Civ 733 (Volume II. Tab 42.)**

“44. At paragraphs 74 to 76 the judge then set her conclusions:

“74. I regard parental manipulation of children, of which I distressingly see an enormous amount, as exceptionally harmful. It distorts the relationship of the child not only with the parent but with the outside world...I am disappointed that the professionals in this case are unable truly to understand this message. The recent decision of the Court of Appeal, *Re M (Children)* [2013] EWCA Civ 1147 requires to be read by all practitioners in this field. Lady Justice Macur gave firm and clear guidance about the importance of contact. Parents who obstruct a relationship with the other parent are inflicting untold damage on their children and it is, in my view, about time that professionals truly understood this.

75. I am in no doubt that I am entitled to disagree with the view of both the Guardian and the social worker, both of whom, although expressing their own views forcefully, recognise that the decision is for me, having surveyed all the facts and depending upon the findings that I make. I disagree with them because they have not taken into account the degree of parental manipulation and the damages presented to the young children from the inappropriate power given to the eldest boy...

76. I am in no doubt that the boys must remain living with their father until this case can be looked at again. I see no chance of any significant change to divert me from that view... That simply detracts from the judicial role and, after all, it is not experts who make findings and decisions; it is the Court. I would like to see how things settle down.” [emphasis added]

***V.(S) v. I.(T.)*, [2009] W.D.F.L. 1720 (Volume V. Tab 103.)**

“28 The mother’s antagonism towards the father was at least in part transferred to Ms. Land, who I am satisfied was simply trying to do her best as a professional therapist, to assist mother, father and the children with their ongoing problems. At page 22, Ms. Land testified:

I was accused more than once or twice, I don't know whether I'm going to say several but certainly more than once or twice so I guess I'll say a few times, of being aligned

with (father) and ... taking (father's) side... I don't know whether that — those kinds of conversations occurred in the household, but I did increasingly have difficulty engaging (T.V.) in a relationship with me and in fact therapy was very, very difficult at the end because he was pretty much as rude and non-compliant with me as he was with his dad.”

“41 Ms. Land recommended further therapy but only if such therapy was supported by both parents. I agree with her assessment. Ms. Land noted "I continue to believe that (mother) needs professional counseling, however I do not believe that (mother) will comply because, I believe (mother) lacks insight into her role in the conflict and in the difficulties between T.V., B.V. and (father)". Whether mother is now in the process of finally realizing the harm she has done and will continue to do to her children by effectively attempting to eliminate father from their lives remains to be seen.” [emphasis added]

Pettenuzzo-Deschene v. Deschene, 2007 CarswellOnt 5095 (SCJ) (Volume II. Tab 45.)

“45 I therefore accept Dr. Hepburn’s conclusion that the children (particularly Jadyne) are the victims of parental alienation on the part of the mother against the father. I fear that the counseling administered to date may have had the unfortunate effect of entrenching and legitimizing the child’s view in her own mind.”

“59 It is true that Dr. Hepburn did not present a counseling or other plan of treatment. However, I take from his report that the problem has progressed to a level where such intervention is not likely to produce resolution. His opinion is that only court intervention can be effective. We are probably at a “last ditch” stage even now. He produced options of court intervention, but I think he was telling me clearly, although perhaps subtly, that a change of primary care may be the only effective solution... I conclude that Dr. Hepburn sees court-forced change in primary care as the only option bearing some chance of restoring the father/daughter relationship and assuring development of the father/son relationship. I agree.” [emphasis added]

M.P. v. N.M., 2008 BCSC 1501 (Volume VIII. Tab 164.)

“[65] Ms. Blancato continued:

I have provided the mother with suggestions regarding how to encourage the child to attend sessions...However, if the child’s primary environment does not support her therapeutic process, therapy is unlikely to be successful. Another appointment for the child was not arranged at this time.” [emphasis added]

“[76] ...Ms. Blancato considers that it is not in the best interests of the child to remain in therapy when the primary caregiver is clearly not supportive of the therapeutic relationship and the process.”

“[77] ...I received a further report from Ms. Blancato dated September 17, 2008. She states that her opinion regarding the child remaining in therapy under the current conditions is unchanged. However, she said that the sessions were continuing, despite significant resistance from the child.”

JKL v. NCS, 2008 CanLII 30289 (ON SC) (2011 Submissions. Tab 33)

“[36] As a result, making a recommendation to the court in such circumstances was clearly difficult for Dr. Awad. He concluded that there were three possible alternatives. First, the applicant could simply give up and accept the fact that she would not see her son. The second alternative was psychotherapeutic intervention however, Dr. Awad felt that the time for this had passed and none of the parties were amenable to such assistance. Thirdly, Dr. Awad suggested that the issue of custody be dealt through legal remedies. Dr. Awad was of the opinion that the case between the parties was so severe that only legal remedies “may” help.” [emphasis added]

“[125] Dr. Goldstein stated that he has never seen supervised access succeed in such a circumstance. He also stated that he has never seen family therapy involving the favoured parent and the unfavoured parent succeed in a case of alienation. That fact speaks, in his view, to the strength of a parent over a child in highly conflicted situations.” [emphasis added].

A.F. v. J.W. 2013 ONSC 4272

“[115] Throughout the course of his therapy, Dr. Ricciardi has taken a completely child-centric approach. He has been dealing with issues that are presented by the children and been attempting to show them that while things may be different in dad's house, different does not mean bad. Dr. Ricciardi candidly admits that he has not been successful at convincing the children of this. Despite the children being in therapy since December 2010, I find that they still appear to be rigidly fixated on their father as being bad, incapable, and a mean man”. [emphasis added]

“[116] Dr. Ricciardi agreed that A.F. has not shown that she has the ability to back off, and is convinced that she is the children's advocate, He also stated that he feels that she has not progressed very far since his intervention in this matter”.

“[121] ... Dr. Ricciardi did not feel that the children had managed to get beyond their distorted view of the reality of their father. He testified that there needs to be a fundamental change in the family dynamics in order for the children to have a better relationship with

their father. In his view, incidents like those recorded access exchanges could not happen again". [emphasis added]

"[127] I agree that Dr. Ricciardi must move to the next step of dealing with the family dynamics. However, I do not feel that this can be successful with the children receiving the same level of distortions they continue to receive on a daily basis...[emphasis added].

"[138) A.F.'s counsellor, Mr. Kerr, stated that he was only given a copy of my order and that it was not until recently that he read my judgment and my detailed findings of fact that the mother was the root cause of the children's reality distortions. He admitted that these types of findings would inform a counsellor on issues that would need to be dealt with in therapy. As he never read the judgment, that was never done, and the sessions continued based on AF.'s perception of the problem and her perceptions of the facts".

[139] As I noted above, Dr. Ricciardi testified that he did not see any evidence that A.F. was not complying with my order and he too could not recall if he read my judgment. This is despite the fact that my order in para. 3(h) states: "*The Children's Aid Society shall arrange for counselling for the children to deal with the emotional abuse, their distorted reality of their father and promote the reunification of the children with their father.*" It is difficult, and perhaps impossible, for the counsellors to adequately deal with the emotional abuse and distorted perceptions of the children if they did not have an informed and neutral understanding of the family dynamics, as expressed in my June 2011 judgment". [emphasis added]