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| Applicant(s) / Requéran(t)e(s): | Babetti |
| Respondent(s) / Intimé(e)(s): | Kadri |

Aug. 17/20

(1)

H. Witsa - Applicant
L. Blokter - Respondent

This Zoom motion was brought by the Respondent, seeking an order that he be granted interim access to the children of his marriage to the Applicant. The children are aged 11, 9 and 6 yrs. The Respondent seeks access each Tuesday and Thursday from 3³⁰ pm to 7³⁰ pm; 1 day on the weekend from 1³⁰ pm to 7³⁰ pm; change in Sept 26 to alternating full weekend access, and such additional terms as the Court deems to be in the children's best interests. The access would be supervised by the Respondent's ^{brother or} sister-in-law. The Applicant opposes the motion.

Background

On May 24, 2019, the Respondent incurred 8 charges w.r. to an alleged attempt to murder the Applicant. The alleged incidents occurred in or about the garage at the family home and the children were not direct witnesses to the events underlying the charges. The Respondent was arrested that day. He was ~~not~~ released but on June 19, 2019 he is alleged to have breached ~~for~~ a term of his release order by contacting the Respondent. He was incarcerated until June 19, 2020, when he was released to reside with his brother and sister-in-law, the proposed access supervisors. The Respondent has had no contact with his children since his initial arrest.

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The terms of the Respondent's most recent judicial interim release order do not prevent him from having access to his children. He is, however, required to maintain a 24/day curfew by remaining in his brother's residence, unless out in the community while in his company or the company of his sister-in-law.

The children ~~have been~~ ^{were provided with} ~~receiving~~ some form of trauma counselling by Laura Bellhouse, who has a Masters of Education in Counselling Psychology, between July and December 2019. A letter from her is appended as Exhibit A to the Applicant's affidavit. Ms Bellhouse comments that the children "described missing their father, but also feel confused, angry, scared and sad about the alleged assault." These feelings have likely only all compounded in the 8 months since they have seen Ms Bellhouse.

The Applicant describes the children as vastly improved since they have had no contact with their father. Perhaps, but I suspect that a ~~part~~ they may still harbor feelings of missing him, as they told Ms Bellhouse.

The Applicant describes a (perhaps less than) chance encounter with the Respondent on August 9, 2020 at a public rally in support of Lebanon, following the recent explosion in Beirut. She says that the children were extremely upset at seeing their father, and told her that they had to leave immediately. She describes them as "crying and shaky", but in fairness also concedes that they were upset at seeing her being upset.

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The ~~Applicant~~ Applicant reports that two of the children spoke against their father, one says that ~~she~~ ^{she} harbored no desire to see him. Another said he would kick his father if he saw him. The Applicant, however, notes that she understands that these things were said to protect (and, I suspect, support) her. She also acknowledges that "it is clear that their ~~history~~ ^{history} feelings about their Dad are complicated by our history."

That is likely the most accurate statement of all. I do not agree that the children should have not contact with their father at this time, but it cannot, in my view, simply occur in the manner proposed by Mr. Blokner. We do not know how, once they see their father apart from their mother, they will react. They may reject him for now. That remains to be seen.

What I do agree with Ms. Bellhouse about is that the access should be supervised. ~~Mr.~~ The Respondent does not dispute that. I do not think that a family member should be the supervisor, nor should Ms. Bellhouse. I agree that an impartial third party should supervise the Respondent's access until such time, if ever, in the short term, the children are ready to know that they would see their father in a family setting, supervised by relatives.

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At this point, it seems Merryment presents the best option to allow for the Respondent to have supervised access overseen by a neutral third party. It is also possible that the Muslim Family Resource Centre may present an option, but I leave it to counsel to look into it as a possible alternate access supervisor.

Given these views, an order shall issue as follows:

- ① The Respondent shall have a right of access to the children of the marriage between the parties, ~~the~~ Hend Mohammed Kadri, born Dec. 30, 2009; Raed Mohammed Kadri, born July 29, 2011; and Adam Mohammed Kadri, born November 26, 2013. Such access shall occur once every two weeks for a period not exceeding 2 hours. The access shall be supervised and shall occur at Merryment Children's Services on days, dates, times and under such conditions as Merryment prescribes for its supervised access program.
- ② The access shall commence in accordance with Merryment's timelines, once the Respondent has completed the necessary intake forms for the Merryment Supervised Access program.
- ③ Both parties are granted leave to return this matter before the court for such changes to this order as may be required by events occurring subsequent to its making, whether positive or negative, relating to the access.

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⑤

④ The access supervisor may be changed to an alternate neutral, non-family third party organization offering supervised access services, if counsel and the parties agree.

⑤ If costs are sought by either party for this motion, written submissions not exceed 2 pages, together with any Offers exchanged and a draft Bill of Costs may be sent to me through the Trial Coordinator. The ~~Bill~~ submissions are to include a statement of the amount that their client should pay in costs to the other party, if the other party is found by me to have been the successful party on the motion.

⑥ If no submissions are received by me by 2:30 pm on August 28, 2020, there shall be no order as to costs.

