

CAROLYN J. LORSON,
Plaintiff

vs.

PETER A. LORSON,
Defendant

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
: CIVIL ACTION - LAW
: NO. 00-20,356
:
:
: CUSTODY/VISITATION

Date: July 13, 2001

CUSTODY/VISITATION ADJUDICATION AND OPINION

Findings of Fact

Plaintiff Carolyn J. Lorson (hereinafter referred to as “Mother”) resides at 1103 West Southern Avenue, South Williamsport, Lycoming County, Pennsylvania.

Defendant Peter A. Lorson (hereinafter referred to as “Father”) resides at 2817 Jacks Hollow Road, Williamsport, Lycoming County, Pennsylvania.

Mother and Father are the natural parents of five Children as follows: Krystle Lynn Lorson, date of birth May 28, 1985, age 16, entering 11th Grade; Stephanie Jean Lorson, date of birth September 2, 1987, age 13, entering 9th Grade; Nathan Francis Lorson, date of birth November 14, 1990, age 10, entering 6th Grade; Broc Anthony Lorson, date of birth August 25, 1994, age 6, entering 1st Grade; and Olivia Brook Lorson, date of birth November 5, 1995, age 4, Preschool.

The current custody schedule was established by an agreement negotiated at the time of an initial custody trial in September 2000. *See* Order of September 2, 2000 filed on September 8, 2000. The Order provides the parents shared legal custody of all the Children with Father having primary physical custody of Stephanie and Mother having primary physical custody of the other Children. The schedule provides Father will exercise physical custody of all the Children two out of every three weekends and every Wednesday evening from 4:30 p.m. to 7:30 p.m. Mother has physical custody of all the Children

every Tuesday evening from 3:00 p.m. to 7:30 p.m. and on every third weekend. The Order also provides for the Children to alternate between the parents for physical custody purposes during the school summer vacation and makes an equal allocation of the time the Children spend with each parent during the holidays.

Father initiated this current custody dispute with a petition filed September 22, 2000 and amended September 25, 2000 in which he sought primary physical custody of the Children because Mother was no longer a stay at home mom as he had envisioned when the September 2, 2000 Order was entered. Father also asserted the Children were having problems with the custody provisions. Father had also had a disagreement concerning the summer schedule. The parties agreed only that the case would again be listed for trial and that the summer schedule would also be addressed.

Mother is age 35, her date of birth is January 27, 1966; she is employed as an Administrative Assistant for LPL Financial Services earning approximately \$10,000 per year. She works Monday, Wednesday and Friday from 8:30 a.m. to 5:00 p.m.

Father is age 36; his date of birth is May 27, 1965; he is employed at Kvearner Pulping, Inc. as Traffic Manager/Project Coordinator with an income of \$50,000 per year. He typically works at least 50 hours per week Monday through Friday, ending work most days about 4:30 p.m.

Mother and Father were married on October 27, 1984 as teenagers and separated on February 26, 2000. It was the first marriage for both. Both parents are Caucasian. Both parents are of the Catholic faith and attend the same church with essentially the same regularity.

The trial testimony established the family appeared to function appropriately during the first 15 years of marriage. When Mother chose to leave home she moved into an apartment having three bedrooms. Mother remains in the same home today and voices thoughts of obtaining a larger apartment or

home upon receiving an equitable distribution award but has no definite plans and has not provided any testimony of specific available and affordable housing. The room that Krystle uses is small and accommodating two persons in that room is difficult. Nathan and Broc share a room. Olivia typically sleeps in her Mother's room.

Father remained in the marital home after separation. This is a single-family residence in a rural suburb area approximately ten miles from Mother's home. Both homes are in the South Williamsport School District. Father's home has four bedrooms with sufficient space to accommodate all the Children at the same time. Curiously, after separation Father has permitted Stephanie to take over the master bedroom with access apparently to a private bathroom, however, Father continues to keep some of his clothing in that master bedroom closet.

Prior to separation Father was often at work and in other activities outside of the home without a significant showing that those activities had much to do with the lives of the Children, except for attendance at their various sporting events such as soccer and football. Father was prone to work long hours, often working in excess of 50 hours per week. Mother at this time had no employment and very few activities outside of the home and was the primary caregiver to the Children. Father was somewhat domineering, a little angry and demanding and would perhaps over-impose his will on Mother through the use of verbal, emotional and physical acts. Nevertheless, it appears the Children functioned well without any discernable issues or problems.

The reasons for the parents' separation are not entirely clear from the testimony. Mother alleges that Father started to become over-abusive and demanding of her. Father denies this and attributes the separation to Mother's desire to spend a great deal of her "personal" time outside of the home, often

going out with girlfriends as opposed to spending time with him and the Children. What is clear is that Mother yielded to her desire to get outside of the home and away from Father and her mothering responsibilities. On at least one occasion, within a month prior to February of 2000, while spending an evening out on the town with several girlfriends, she met a gentleman by the name of Ron DeParlo (RD) at a bar/restaurant. She and her friends conversed with R.D. at the first location and also at a second bar/restaurant. Upon parting Mother and RD exchanged phone numbers and promises that they would be in touch with each other. Mother moved out of the house in February of 2000 taking a great deal of the marital furnishings with her and also all of the Children. The two oldest girls, Krystle and Stephanie, however, returned to Father's home within a day.

This Court's role is not to determine what gave rise to the separation. Nevertheless, the reasons for separation to the extent they still continue to exist and impact the lives of the Children, are material. Mother's sudden departure supports her claims that Father's attitude of anger and intolerance was accompanied by emotional or physical abuse and significant fear of further abuse. At the same time, Mother lost focus of her responsibilities to the family and relationship with her Children and husband. Instead, she became focused upon acting as if she had no responsibilities, acting more as a young, single person in her 20s enjoying the companionship of other young women and a social life that did not center upon her family.

Mother did not leave the family household in order to take up with another specific male partner. After separation she did quickly enter into a sexually intimate relationship with RD, but it is clear this was not otherwise a particularly intimate or domestic-type relationship. There is no indication that RD was ever introduced to the Children in any way. Upon obtaining part-time employment in July 2000 Mother became socially involved and then sexually involved with her boss, Donald Kriner, as early as

September of that year. This relationship continues to this date with Mr. Kriner being involved in a significant amount of Mother's life including having developed a friendly relationship to the Children. There is no evidence that any of the Children particularly regard him as a father figure, however, they certainly regard him as a friend. They recognize and respect his position in Mother's life which can be described as being sexually intimate on an exclusive basis with each other, as well as a traveling and every day companion. Although they assert loving each other, the relationship of Mother and Mr. Kriner has not developed to the point of stability of sharing the same household, nor was there any testimony that they intend to do so in the immediately foreseeable future.

Father's relationships with other women appear to be mostly confined to an acquaintanceship that moved relatively quickly to a sexually intimate and exclusive companion with Donald Kriner's ex-wife, Heather Kriner. This relationship apparently began after Father and Ms. Kriner had contact with each other to discuss concerns they shared regarding the appropriately caring and custodial relationship as would relate to their respective Children. Donald and Heather Kriner have two Children between them who are primarily in Heather Kriner's physical custody although they spend alternate weekends with Mr. Kriner. This introduces another significant issue into determining the best interests of the Lorson Children, since while Mr. Kriner and Father at least can speak to each other and have mostly a passive interaction, Mother and Mrs. Kriner are constantly at odds, obviously exhibiting their jealousy and antagonism toward each other in front of the Children. This attitude is not well hidden from the Children and while the two women acknowledge the Children are aware of this they at the same time seek to assert the Children are not aware of their sexual involvement with the current men in their lives. It is obvious to the Court that to the extent the Children, Krystle, Stephanie and Nathan to a lesser extent, are of an age and

maturity to understand the nature of a sexual and intimate relationship they obviously do have an understanding of what is going on. This points again to Mother (and Ms. Kriner's) proclivity to ignore the reality of dealing with their lives in relation to the effect it has upon the Children. Father also seems to be content that the Children are not impacted by the nature of his intimacy with Ms. Kriner in a similarly unrealistic manner.

There is no question that the sudden separation and dissolution of this marriage has had an impact upon the Children. This is apparent in many aspects of their lives including school as well as their attitudes toward their parents, siblings and family.

The school impact may be most evident in Krystle. The grades that Krystle was able to achieve in the 1998-99 school year when the family was intact and stable show her academic subject grades ranging from 83-88 and consistent grades being achieved throughout the year in a range of 76-90. In the school year of the breakup, 1999-2000 her grades in the first two marking periods were consistent with the prior year and in fact with some grades showing better work than the year before (9th grade compared to 8th grade). However, Krystle's grades dropped for the third marking period in academic subjects, to a range of 63-78. In the fourth marking period, although some grades showed a slight rebound to the expected 86-88 range, her algebra grade remained failing at a 58 and a failing 64 average for the year.

In the current school year Krystle completed 10th grade in June 2001; her dismal academic performance and a generally poor attitude about school continued (excepting her social activities there). Her academic subjects' grades ranged from 62, failing in algebra and English through an 82. She is barely passing Spanish as well. In addition, she has received an in-school suspension for tardiness both for arriving

late at school as well as late for class. Krystle merely brushes this off as being due to the fact she has a long way to walk between classes. She also has a high absentee rate.

Each parent points to this change in grades of Krystle as evidence of the other parent's shortcomings. Father says that Krystle's grades during this last school year are evidence of Mother's inattentiveness to her Children. Mother indicates that Krystle's problems all started to arise during the period of time when she was living with her Father from February through the end of May 2000. The Court, however, is unable to attribute Krystle's deficient grades to a lack of parenting skill of a specific parent but rather finds it is evidence of the discord between the parents and their lack of willingness to recognize there is a need for a unified approach to the discipline and parenting of their Children.

There is no question that Krystle's grades deteriorated during the time immediately after the separation when she was in Father's custody and although the parents both realized she was failing math they took no corrective action during or after the school year. Each blames the other for stalling in regards of implementing either a tutoring or summer school program to address Krystle's deterioration.

The parties obtained psychological consultation evaluations from Dr. Daniel Egli, Ph.D.¹ who in his report of January 30, 2001, commented upon Krystle's deteriorating grades. His comments make it clear the parents were unwilling to take appropriate joint responsibility for parenting issues in their Children's lives.

Illustrative of Dr. Egli's findings is that despite Krystle's poor performance during this last school year, there has been no parenting plan implemented to address these concerns but rather both parents seem to be resigned that Krystle simply cannot do algebra. Neither parent could supply to this

Court any information as to either attempting to help her in this or her other failing and near-failing subjects nor did they supply any testimony indicating to which they make sure she devotes herself to her studies or that they even check to make sure she attempts to complete homework assignments. It is particularly clear in viewing Mother's attitude in this regard. Krystle has been with her throughout the school year, yet Mother has absolutely no idea the extent to which Krystle does, or not does not attempt to do any school work.

Stephanie's grades also suffered a slight decline at the time of separation but now have returned and remain steady and appropriate. The notable exception is that Stephanie failed some of her final exams. Again both parents seized upon this to scream about the others role in failing to see she appropriately prepared for the exams. Again, this demonstrated a mutual failure to approach a known issue in Stephanie's life with a common goal of promoting her interests. This is particularly notable since Stephanie's problems with final exams had been demonstrated in the previous school year. Neither parent could give any example of any action taken by either of them to correct Stephanie's difficulties with finals.

Broc continues doing well in school after a slight decrease in grades that could largely be attributed to the dramatic effect of the breakup. Broc has had some encouragement from his Mother in his school work which she is quick to point out but his success is mostly attributable to his self-determination to do well in school.

Both Broc's and Stephanie's attendance and attitude in school show no adverse qualities in marked contrast to Krystle. Of course, Broc has been with his Mother since the separation and Stephanie with her Father.

¹ The evaluation of Dr. Egli will be discussed in detail hereafter.

In concluding what is in the Children's best interest as far as education is concerned the Court can differentiate little between the parents.

To either prepare for the custody battle, or hopefully to avoid it, the parties obtained the assistance of evaluations from Dr. Dan Egli, Ph.D.

Dr. Egli's reports are helpful as to ascertaining the best interest of the Children. Essentially those reports indicate that for the best interest of the Children to be served the parents must engage in family therapy and individual counseling to address each of their personal issues that gave rise to and persist after their separation. This Court believes both of these issues still remain significant in the lives of each parent.

Dr. Egli initially completed an evaluation of the parties and the Children, which included contact with extended family members, for this first evaluation dated July 13, 2000. It was submitted in anticipation of the custody trial that was going to be held in September of that year. The parties resolved that custody dispute at the time of trial (with the current Order set forth at the beginning of this decision). The parents' agreement reached in September 2000, however, was not one that gave either of them much satisfaction.

The parties returned to Dr. Egli for a further evaluation and he issued a report dated January 30, 2001 in which he stated he did not recommend any significant change in the current custody or visitation arrangements.

Dr. Egli, on the eve of the current trial, was again consulted, with this last consult apparently being initiated by Father. Dr. Egli has issued an update as to his evaluations dated June 26, 2001.

The impact of the parent's separation on their Children's lives as it affects other aspects of their lives, especially their relationship to their parents and each other.

The testimony received by the Court and found to be credible supports most of the significant findings made by Dr. Egli in his three evaluations. In fact, during the process of receiving the testimony the Court had begun to make essentially the same observations and reach many of the same conclusions that the Court later found in reviewing the observations Dr. Egli had also reached. It is appropriate to summarize from those evaluations the following facts and observations, which this Court also adopts as its findings and observations based upon the testimony at trial.²

Evaluation of July 13, 2000, Father's Exhibit 1:

- While able to acknowledge the general parenting ability of the other the parents tend to be critical and condemning of each other with Father being unwilling to acknowledge faults or problems that he has caused.
- Both parents have support, encouragement and help through fairly large extended families

For the most part these extended families of each parent seem to act appropriately and to do the best to see to the Children's needs. To some extent the parents each make some effort to isolate the Children from the extended families of the other. It is also noted that, at least from the Children's perception, Father's family is very critical of Mother and her lifestyle and the choices she has made. While this criticism can certainly be expected given the status of the separation and alliance of Father's family with him, it is entirely inappropriate for this attitude and comments to carry over in such a way that is readily recognized by the Children. Only Olivia is ignorant of this attitude on the part of Father's family. This attitude coupled with Father's attitude towards Mother tends to alienate, particularly Krystle and Nathan, from him.

² The summary of facts from Dr. Egli's reports will be designated following the date of each evaluation. The indented, bullet-marked statements, are the Court's phrase and summary of the material in the reports and not necessarily direct quotes from the evaluations.

- Mother felt abused and controlled by Father who does acknowledge some physical contact at times with Mother. Mother most likely was not physically injured by Father but became fearful of him. The effect on Mother was increased by her compliant and passive attitude. Father fails to recognize the extent of the impact his actions had upon Mother and the family.
- Krystle, Nathan and Broc consistently express a desire to be with their Mother.
- Stephanie is much more ambivalent, generally.
- Stephanie is quickly brought to tears. It was evident she was very much in conflict about what to say or do and demonstrated a significant amount of pain about the family situation, particularly about being separated from younger siblings. She was concerned about hurting either parent's feelings (in the Court's view, particularly Father's).
- Olivia was for the most part oblivious to the proceedings.
- A number of events (some) confirmed by the Children raise a legitimate concern that Father does not know how to appropriately manage his anger, particularly in the presence of the Children.

Father's inappropriate expressions of anger are demonstrated in the manner in which Father reacts to disobedience on the part of Krystle or Nathan, using harsh and hostile words without realizing the weight and impact words have upon the Children, particularly Krystle and Nathan. Father is quick to tell them that if they don't like the way he does things they should go and be with their Mother, or words to the effect that he really did not care to have them at his house or he did not want them around. Similar harshness and hostility would be expressed by Father when he would get into discussions with the Children about Mother.

- Both parents love the Children and the Children love them. With each parent having the basic capability of exercising primary physical custody.
- The family should engage in family therapy including all seven family members.
- Father should be involved in individual therapy for impulse control and anger management. Mother should be involved in individual therapy to work on self-image and how to deal with her life in connection with things that are valid in her life as opposed to appearance and fitness matters.
- The family therapy should concentrate on Nathan and his relationship with Father as well as the injury and hurt that Stephanie is undergoing.
- The parents should cooperate in allowing the Children to be with the other parent if during the time of physical custody one parent cannot be with the Children.

- Consideration should be given to a joint custody arrangement as long as both parents are involved in a treatment/therapeutic process.
- Father should have ample opportunity for contact with the Children.
- At times of exchange of custody both parents must be sensitive as to their attitude and conduct and words and must demonstrate more positive attitudes of encouraging the Children to be with and spend time with the other parent.
- Father's family must be more responsible in recognizing their actions cause conflicts between the Children and the parents.

Dr. Egli's July 13, 2000 evaluation included a recommendation that Mother be given primary physical custody mostly based upon the fact that she did not work full-time and would continue to be primarily available to the Children except for the one day per week that she was then working.

Evaluation of January 30, 2001.

- The situation between Father and Mother was significantly worse due to the decisions, actions and behavior of both parents.
- Both parents actively refused and were unwilling to get involved in family treatment and blamed each other for this failure.
- Krystle and Nathan are much more alienated from their Father and Stephanie is much more alienated from Mother.
- Both parents had become quickly and intimately involved with other individuals, taking them away from the Children, confusing the Children and ignoring the emotional trauma that the loss of the marriage and family relationship had upon the Children and added to that trauma by entering these new relationships.

The Court, in addition, observes that the parents do not recognize the impact that the bringing of the Kriner Children into each of their respective households when those Children are either with Mr. Kriner when he is with Mother or Mrs. Kriner when she is with Father. The Children, particularly Broc have difficulties in dealing with the fact there are additional people vying for the attention of their parents. This no doubt will also have an adverse impact upon Olivia, although that cannot be ascertained in discussing things with her at this point. Nathan also appears to be somewhat impacted by the presence of the Kriner Children, which also impacts Krystle and Stephanie, but less apparently. The adverse impact

seems to be much more evident and adverse to the relationship of Nathan and Broc to their Father than to their Mother. Father's relationship with his sons is more affected by the Kriner Children due to the limited amount of time the boys are with Father and most of the time they are with Father Mrs. Kriner and her Children are also present.

- The interaction of the parents continues to be destructive impairing their relationship and communication with each other. Krystle and Stephanie are spoiled having their way far too often without appropriate consequences for improper conduct, particularly as to their lip attitude and school performance (which this Court believes mostly true as to Krystle).
- Krystle's visitation with her Father has not been sufficient or appropriate with both parents being the cause. To a lesser extent Stephanie has not had adequate contact with Mother, again as a result of the actions of both parents with neither parent being willing or able to take responsibility for their own acts and failures to act that contribute to the custody travails and dysfunction of the family.
- Neither parent demonstrates insight into themselves or the situation and both have refused to pursue family or individual therapy (the Court finding this to be completely unacceptable conduct on the part of both parents as this need had been stated to them by Dr. Egli in July of 2000).
- Olivia has the potential to suffer from separation anxiety because of the way she is treated.
- Mother's introspection and concentration on herself leads to concerns she does not give appropriate attention to the Children's schooling, particularly evident in Krystle's grades (and attendance), the Children's teeth and their language. However, these concerns are amplified and made significant because of the unwillingness of both parents to work together to resolve these issues in the best interest of the Children. This inability is based upon the parents concentrating more on their relationship with their current paramours than their relationships to each other as divorced parents of their Children.

The Court also finds from the testimony that the problems the Children have are amplified by the jealousy and anger that arises between the parents and in the conduct of the Kriners towards each other. Adding further fuel to this fire of jealousy and resentment is the attitude of Mother to Mrs. Kriner and vice versa as these two women clearly attempt to one-up the other and do not hesitate to make disparaging

remarks about each other. This grew to such an extent they were even under an order to stay away from each other and to not attend public events where the children of the other may be participating. At least Mrs. Kriner has shown disdain for that order. In addition, Mother's actions and jealousies were sufficient to allow Father to obtain a Protection From Abuse Order against her prohibiting her from having any contact with Father outside of the exchange of custody of the Children. The exchange of custody was (and still may be) mandated to occur at a publicly accessible store parking lot. Despite these obvious conditions placed on the parents by Dr. Egli and apparent from the Court-ordered public exchange, the custody exchanges have still far too often been causes by both parents to display their anger and disdain for the other parent in front of their Children.

- Neither parent is likely to voluntarily become involved in therapy/counseling programs.
- The work schedule of Mr. Lorson would be adverse to his having primary physical custody, particularly compared to Mother, however, she also has conflicts during the three days she works.

At trial the testimony from both parties indicated they would make suitable alternate caregiver arrangements to provide appropriate supervision of the Children during this school year and summer when working during their respective times of physical custody. As agreed upon by the parties during this trial, during the 2001 school summer vacation the alternate caregivers, for the most, will be the maternal or paternal grandparents. In the past neither party has chosen this realistic and beneficial alternative but have often left the older Children unsupervised, particularly after school as would relate to Krystle and Stephanie, and also unsupervised during the summer vacation times. Mother has provided various daycare arrangements for the three younger Children, however, on her workdays has scattered

these Children among different care providers. This has led to difficulty in communication with, as well as accessibility to, Father and has not promoted unity among the Children.

Dr. Egli concluded in January 2001 that there was no conceivable, workable custody arrangement under the then existing parental conditions attitude and behaviors. This was based upon his view that all of the choices would unnecessarily and inappropriately expose the Children to things they should not be exposed to as both parents would put their personal needs ahead of the Children's needs. This Court agrees that this was the status in January 2001 and for the most part remains the same today. Dr. Egli did not recommend any significant change in the then existing custody arrangements but did note that the relationship between Father, Krystle and Nathan needed significant attention and repair as did the relationship between Stephanie and Mother. These observations also remain true today.

June 26, 2001 Report

- The overall relationship between the parents has not improved. They continue to act in negative and inappropriate ways and have ignored family therapy or other programs that would address the custody and relationship issues, as well as the problems with the parents' "significant others."
- Broc and Olivia continue to be reasonably well adjusted. Slight improvements in the relationships between Krystle and Nathan and their Father and Stephanie and her Mother were noted. Krystle had contact with her Father very sporadically with Mrs. Lorson actively in contempt of the custody order in refusing to force Krystle to spend time with Father.
- Krystle has developed a major attitude problem concerning her relationship with Father. A major division in the family has appeared with Stephanie aligning with Father and Nathan and Krystle aligning with Mother. Mother continues to be far more focused on herself than the Children and basically lacks control over Krystle.
- The credibility of both parents remains questionable.
- The family's involvement in couple and family therapy is a critical need.
- Nathan is significantly at risk.
- Father continues to need ways to manage his anger.

While the Court found the foregoing observations and findings of Dr. Egli to be substantiated by the testimony, the Court also found the testimony disclosed from the findings some differences reported by Dr. Egli in the June 26, 2001 report. This may be attributable to the fact that the testimony gave more insight to this Court over the three days of trial than was given to Dr. Egli as he was no doubt hurried into updating his evaluation at the end of June. Significantly, the findings of Dr. Egli's other reports and evaluations which this Court has accepted as stated above, continued to exist without any significant abatement.

Dr. Egli in June found Father to be far more consistent in making sure the Children attended church than did Mother and Father also asserted this through his testimony and that of his witnesses. This finding, however, is contradicted by Mother's witnesses who indicate the Children are usually in attendance at church regardless which parent has them. It is also contradicted by Father himself, when he complains that when Nathan is at church with Mother he refuses to acknowledge Father's presence. In making this complaint about Mother's alienation of Nathan Father gives a clear implication that this occurs every time Nathan is with Mother on the third weekend. This is also one of the issues concerning lack of credibility the Court finds concerning Father.

It is noted by Dr. Egli that Mother asserts she has an awareness of where Krystle is and what she is doing, yet Krystle's description of her day and what occurs is significantly different than what Mother understands. In addition, with both parents asserting they make absolutely sure their Children do not taste or experiment with alcohol, particularly at family birthday, wedding and other similar celebrations, the testimony of the Children is to the contrary.

The Court did not find Nathan to exaggerate his complaints concerning Father's treatment and conduct as Dr. Egli suspected. The Court cannot say that Father ever physically abused Nathan, but certainly Father has used physical discipline on him. More significantly Father expresses anger and attitudes towards him that cause Nathan to react negatively to the concept of being with Father. It also appears Nathan had been advised by someone of Dr. Egli's finding that his relationship with Father had shown some slight improvement, as he was quick to point out that he would not know why anyone would come to that conclusion.

Father contends Mother is purposely alienating Krystle and Nathan. This may be. An example, in addition to the foregoing comments would be that Nathan talks about doing such things as riding a four wheeler at his Father's home and enjoying that with friends and yet would also maintain that these type of things become boring that there are not really friends present. This seems to be an indication of thoughts implanted or suggested to him that are inconsistent with some of his actions.

What is striking to this Court from the testimony of the Children and the parents, particularly in view of the skill and experience of each attorney who has represented the parents in these proceedings, is the lack of testimony indicating specific things and activities that reveal any interaction demonstrating the quality of relationship, affection and bond between the parent and each Child.

Certainly there was testimony of some parent-child activities, such as special trips to Hershey Park and other such outings. A lot of that testimony indicated that in addition to the Lorson Children that the Kriner Children were involved. The videotape supplied by Father as Exhibit Number 8 is an example of this. The Kriner children and Mrs. Kriner appear to be present in all scenes – except the Father's Day scene, which includes Mrs. Kriner. The Court recognizes that such videos may often be

staged to show a parent's relationship with a child in the best of circumstances. This video did display the concern of the Court. Except for a smattering of interaction at an Easter Egg Hunt Father is shown to be disengaged from the activities of the Children. At the Father's Day pool party he is shown, not frolicking in the pool with any one of the kids, especially neither Broc nor Olivia, but reclines in a pool side chair flexing his muscles, hamming a very little bit for the camera at the request of one child, and receiving a very non-spontaneous embrace from Olivia.

When each Child was given the chance to be spontaneous and talk about things they did with a parent, whether individually or with the other Children, there was a notable lack of indication of any such events. Nor did either parent, other than some references to some shopping and activities of a general nature of spending time with the Children, enunciate specific things they would do with a particular Child or several or all of the Children. Another example that quickly comes to the Court's mind relates to Father and Nathan concerning football. Father is disappointed with Nathan's decision to quit football, which Father suspects Mother prompted, since Father is the coach of the football team. Nevertheless, neither Father nor Nathan could talk about Father being involved in football on a one-to-one basis such as tossing the ball around on Sunday afternoons or just spending time together at, say, a high school or college game, outside of their own team practices. The same applies to the other various activities of the Children including soccer. The parents attend the soccer games, but beyond that there is little indication they devote themselves individually to a particular activity of the Children. This re-enforces the findings of Dr. Egli and this Court that the parents are more interested in themselves than the Children.

Another difficulty, not commented upon by Dr. Egli but obvious to this Court, concerns the home-life the Children would have if they were to all reside in the same home with Father. There is a

marked lack of testimony of Father having sufficient nurturing and care giving skills to provide such things as meals, laundry and other direct assistance to and supervision of daily needs. An example of this again is that it is Stephanie who arouses Father from sleep in the morning and takes care of getting herself out the door, rather than Father being actively involved in that morning routine. While not particularly harmful to Stephanie, perhaps, this certainly is not suitable as would relate to Nathan, Broc and Olivia. Father's Mother also seems to be the provider of most meals, usually of a casserole type, when all the Children are with Father. There was no testimony of significance about how Father and Stephanie handled the household routine, in demonstration to this Court of Father's abilities to be a suitable homemaker. Likewise, there was little of this testimony presented on behalf of Mother, with some innuendoes about her keeping a messy house being raised by Father's witnesses and countered by Mother's witnesses. It does appear; however, Mother has provided sufficient nurture and daily care and parenting assistance on a daily basis in the past. There are no observable or testified-to problems with Olivia. The Court believes Mother has the ability to parent all of the Children on a daily basis, if she decides to make the effort to so do.

Discussion

Currently the Children range from Krystle -- a young teenage woman about to enter 11th grade, Stephanie -- typical bouncy teenage girl going into 9th grade, Nathan -- a savvy pre-teen boy ready to start 6th grade, Broc -- a young entertaining enthusiastic boy ready to start the 1st grade, and, Olivia -- a shy smiling, make you feel warm all over preschool girl. Therein lies the difficulty in making a custody decision in this case. A family of five Children spread out over this age range would present a challenging parenting situation to the most intact and stable of parents. It befuddles this Court's imagination to presume that any judge, after three days of testimony and review of three psychological evaluations, is going to be

able to make a custody determination which will better effect the best interests of the Children than can their parents. Nevertheless, this is the task left to us because of the anger, jealousy, bitterness and strife existing between these two parents.

After all the necessary factors are taken into consideration the decision in this custody case, where there is certainly no really appropriate nor obviously workable custody solution, as Dr. Egli has observed, depends upon the factors of the Children's preference, the alienation that occurs that is caused by the parents, the significant past care giver, the stability of the parents current living arrangements, which parent is most likely to ensure that the other parent's custodial rights will be fulfilled and maintaining the relationship between siblings. Unfortunately, seeking to give effect to one of these factors is often contrary to giving effect to another factor of importance.

The Children's real preference is to keep the custody arrangement as it is. This might certainly prevail and dictate the entry of an order that accomplishes this desire; however, this is not in the best interest of either Krystle or Stephanie. Unfortunately, Krystle is with Mother and Stephanie is with Father. The Court believes Krystle needs significantly more time with Father and the structure that he is likely to impose upon her. Stephanie needs the nurturing and companionship of her Mother, but more importantly the relationship and togetherness that she clearly misses and sorely needs to have is the relationship with her younger siblings which can only come from living with them. It is no surprise that Stephanie and Krystle are now at an age that they do not necessarily need to be in the same household to have an appropriate relationship. They certainly can live independently of each other and maintain, for now, a friendship that is appropriate given their expected and acknowledged sibling rivalry. However, Stephanie is of an age where she still needs and has an interest in having a close relationship with the younger siblings.

That is not to say that Krystle does not enjoy her relationship with her younger siblings, but she certainly intends to and does act very independently from the rest of the Children. This is not unusual for her age as a 16-year old with interests that are no longer focused on family togetherness activities. A simple solution might to simply transfer custodial arrangements as to Stephanie and Krystle. Such switching, however, given Krystle's declared independence from her Father and lack of a good relationship with him at this time and Stephanie's close attachment to her Father would create emotional upheaval in both of them. Without appropriate therapy or counseling actively in place they more likely than not could not survive a switch in custody without serious consequences. The Children's wishes therefore, while significantly important to this decision, are not controlling.

The alternate solution of putting all the Children with Mother creates a situation, which strains the adequacy of the physical accommodations of Mother's home. This solution also does nothing to address Mother's lack of control over Krystle. To some extent Mother left the family relationship because of a desire to concentrate on her own interests rather than that of her family. Returning Stephanie to the family unit and adding the additional responsibility of this young teenager upon Mother full-time might have the impact of causing Mother to further flee from the responsibilities of motherhood.

Father advocates he has the stability that is needed to have full-time custody of all the Children. He asserts this based upon Mother's dalliances and quick up-take with Mr. Kriner, without recognizing his own shortcomings and the impact and lack of stability in his establishment of a relationship with Mrs. Kriner. Further, Father's stability and parenting ability have really been demonstrated only as would relate to full-time responsibility of only one Child who is quite capable of many self-sufficient functions. His relationship with Mrs. Kriner certainly is not stable; there is conflict that potentially exists in

the constant presence of she and her Children in his home life. It is not at all foreseeable in what direction that relationship is likely to go in the next year to two years. The same can be said as to the stability of Mother's relationship with Mr. Kriner, although it does not appear that his Children are often present when Mother has physical custody of the Children. Mother asserts she can provide a stable home and will as soon as equitable distribution occurs and financially permits her to obtain more suitable accommodations. It is unknown where those accommodations are likely to be or to what extent Mr. Kriner or some other adult male may or may not be part of her next home. Mother is very vague about a location, availability and affordability of alternate living arrangements and is unprepared to make suitable changes. Mr. Lorson apparently intends to remain in the marital home, however, there is no assurance that until equitable distribution occurs he will necessarily retain possession of that home. In addition, there is no clear indication his home is suitable for Mrs. Kriner and her children as well as his should their relationship progress to one of residing together. Some 50 months have passed since the parties separated yet their lives and relationships to other individuals and physical home settings remain in a state of flux and potential flux.

Both parties' actions have had the impact of alienating the Children one against the other. Father's outbursts of anger are perhaps a less conscious attempt to alienate his Children than Mother's overt actions, yet they have clearly done so. Father has also engaged in discussions in the Children's presence, which are degrading to Mother. Mother certainly has made specific remarks to the Children, and conducted herself in such manner that she obviously intends to alienate Father from the Children. Mother has contemptuously failed to appropriately encourage the Children to have a relationship with their Father. Really the alienation exists to the degree it does today because neither parent has taken the initiative to engage in the therapy and counseling recommended in July of 2000 by Dr. Egli. Given the emotional status

and attitudes of the Children, family and individual therapy would have seemed to be an appropriate action to have taken long before Dr. Egli made his recommendations. No doubt there was also an obvious need for these parents to have engaged in such counseling prior to the time of separation. Rather than seek counseling to try and unify and hold the family together they took actions that intentionally drove them apart, by ignoring the obvious emotional needs in their lives and the illness being suffered by their marriage before separation. The problem continues even to this date. The parents just simply refuse to consider the interests and needs of anybody other than their own individual selves. These actions have exasperated, confused, provoked and angered their Children. The parents' actions are a completely opposite to the type of action taught parents by the religion which each of the parents profess as important in their lives. Similarly, neither parent has a moral advantage over the other. They both tend to believe that their inappropriate relationships are not observed or taken note of by the Children. Both really have the same attitude toward the use of alcohol. Despite what words they may say to the Children and despite what blinds they may wish to pull, the Children actually see the moral behavior that is modeled by both of their parents and it has an adverse impact upon all of them.

It might be easy to assume that it would be Father who would most ensure that Mother's times of physical custody of the Children will be respected, as opposed to Mother respecting the same in relation to Father. This is particularly true based upon Mother's failure to take action to compel Krystle and to a lesser extent Nathan to spend time with and establish an appropriate relationship with Father. While Stephanie does spend the allotted time with her Mother, it is certainly much easier for Father to have her do so given her eagerness to be with her younger brothers and sisters. But Mother is not the only one to blame in this regard. As noted by Dr. Egli, Father's anger certainly causes alienation without any additional

prompting by Mother and makes Mother's task of encouraging the Children to have a relationship with Father extremely difficult. Father's refusal to take any initiative in relation to counseling contributes to the Children's reluctance to visit him. Father failed to insist that Krystle adhere to specific scholastic standards and did not see that she receive tutoring or summer school, which were well within his sphere of influence and ability to accomplish. These actions and inaction support the conclusion voiced by Dr. Egli that this alienation is attributable to the actions of both parents.

At the same time, it is also clear that Stephanie is very much aware that she must always make sure she shows allegiance to Father. This has resulted in significant impact upon Stephanie which the Court believes she is able to just keep under the surface and in control but is unlikely to be able to do so for a significant period of time in the future without the help of family counseling.

The testimony established to a great degree the importance of the factor of keeping the siblings together. In fact, Father's complaint about the lack of doing this, particularly in the summer led to the parties agreeing on a summer schedule of custody which puts the Children together in the same home at the same time. As noted above, this may not be particularly important as relates to Krystle. Nevertheless, this Court believes there is a definite need that Stephanie and the younger Children all be together in the same household. The question now becomes how to accomplish this.

Having gone through this analysis the Court is tempted to opine, as did Dr. Egli that there is no controlling factor or suitable arrangement for custody which this Court has the capability of imposing on this family, the parents have agreed, somewhat surprisingly, but also very appropriately, for a reasonable alternating weekly schedule for sharing the custody of the Children during the summer in which all are together in the same home at the same time.

Alternating family homes on a weekly basis is probably appropriate during the summer given the vacation schedule that Father is able to arrange and Mother's work schedule together with the availability of appropriate grandparents as caregivers. Alternating homes weekly, however, does not seem to be sufficiently stable and appropriate during the school year. In addition, while the parties do reach agreement on some things, this court is not satisfied that there is a level of agreement and cooperation between the parties that would make alternating weekly workable when the complexities of the school year scheduling and other activities that go on during the school year have to be accommodated. Mother's home, despite its physical limitations, has been determined by the parties to be suitably adaptable during the summer for all the Children and the Court therefore presumes it also can be appropriately adapted during the school year for times when all the Children are there.

The Court intends, in the order to be entered, to see that both parents are actively involved in the lives of their Children and have the opportunity to exercise appropriate joint control and influence on their lives. The Court believes the order to be entered will most significantly keep all the Children in the same home, will for the most part maintain the same routine of the Children spending two out of every three weekends with Father, will give Father more direct interaction with Krystle, especially on weekends; both parents will be able to have a positive impact on the school life of the Children; all parties will be required to engage in the counseling recommended by Dr. Egli and found to be necessary by the Court. With no assurance as to its workability and recognizing that the following order is likely to derive the wrath of all the parties, the following Order will be entered with the Court noting that the arrangements for the school summer vacation are that which have been agreed upon by the parties as evidenced by a separate order entered during the course of the trial.

CUSTODY ORDER

This Order is entered after a custody trial for the reasons set forth in the foregoing Opinion.

1. **Legal Custody.** The parents, Carolyn J. Lorson, “Mother,” and Peter A. Lorson, “Father,” shall *share legal custody* of their Children, Krystle Lynn Lorson, Date of Birth May 28, 1985, age 16; Stephanie Jean Lorson, Date of Birth September 2, 1987, age 13; Nathan Francis Lorson, Date of Birth November 14, 1990, age 10; Broc Anthony Lorson, Date of Birth August 25, 1994, age 6; and Olivia Brook Lorson, Date of Birth November 5, 1995, age 4, (hereinafter, collectively “Children” and individually by their first name).

2. **Physical Custody.** The parents shall share *physical custody* of the Children as follows.

A. During the school year Father shall have *physical custody* of the Children as follows:

(1) Two successive extended weekends out of every three weekends from Thursday after school until the following Monday at the end of the school day. This schedule shall begin with the first Thursday of the school year. In 2001 this shall be August 30th.

(2) On the Monday following the weekend in which Father does not have custody from after school until 7:30 p.m.

At all other times during the school year Mother shall exercise *physical custody* excepting as provided by agreement of the parties and the holiday schedule incorporated herein.

B. During the summer school vacation the parents shall share physical custody in accordance with the same terms of the agreement reached in Court and represented by Court Order dated June 28, 2001, as follows:

- (1) The summer schedule will be on a week-to-week basis. The parent who has custody for the first weekend following the end of the school year shall continue in physical custody for the following week until the next Sunday at 7:00 p.m., at which time physical custody shall shift to the other parent. Thereafter, physical custody shall be exchanged each Sunday at 7:00 p.m.
- (2) This summer schedule shall end the Sunday before the school year begins, at 7:00 p.m., at which time the Children shall be placed in the physical custody of Mother to commence the schedule set forth under A. above.
- (3) On a parent's week, if the parent is working on any of their days, then the time for child care of the Children will be equally split with the maternal and paternal grandmothers. The Children will not be placed in any type of a daycare or any other facility, but instead will go to the grandparents' or if necessary another suitable relative (and not necessarily the parent or relative of the parent who has physical custody). During each week the parent who

does not have custody will have a period of time with the Children
on each Wednesday from 4:00 p.m. until 8:00 p.m.

3. **Holiday Physical Custody**. On the following holidays physical custody of the Child shall be shared between the parents as indicated originally in the Order of September 2, 2000, as follows:

- a. The minor holidays of New Years Day, Easter, Memorial Day, Fourth of July and Labor Day shall alternate yearly, with Father having New Years Day, Memorial Day and Labor Day in 2001 and odd years hereafter. The periods of partial custody shall be from 8:00 a.m. through 8:00 p.m. If the holiday immediately follows or precedes one of the regularly scheduled weekends of the party having custody for that weekend and that holiday, the weekend schedule may be extended to include the holiday.
- b. The Christmas holiday shall be as follows and alternate from year to year from party to party. Beginning with the year 2001, Mother shall have all five Children from 6:00 p.m. Christmas Eve until 2:00 p.m. Christmas Day and Father shall have all five Children from 2:00 p.m. Christmas Day through 6:00 p.m. December 26th. This arrangement shall alternate from year to year with Father and Mother reversing the times.
- c. With respect to Thanksgiving, Mother shall have the Children from 9:00 a.m. until 2:00 p.m. in the year 2001 and Father shall have them from 2:00 p.m. through 8:00 p.m. The Thanksgiving holiday schedule will alternate

from year to year as well.

- d. Mother shall have all five Children on Mother's Day from 9:00 a.m. until 7:00 p.m. and Father shall have all five Children on Father's Day from 9:00 a.m. until 7:00 p.m. regardless as to whose weekend that day falls.

4. **Parental Obligations as to Counseling, Parental Training.** Each party hereto, shall initiate Family Therapy and individual counseling for all of the Children and both parents, within ten days of the receipt of this Order, as recommended in the evaluations of Dr. Dan Egli, Ph.D., dated July 13, 2000, January 31, 2001 and June 26, 2001. Counsel for the parties shall immediately contact Dr. Egli to obtain the names of recommended counselors and therapists who are capable of providing the recommended programs. Counsel shall then agree as to which counselors/therapists to use and shall refer their clients to those programs. If counsel cannot agree within two business days the Court will hold a telephone conference to determine the appropriate programs, therapists/counselors.

The expenses of the counseling, to the extent not covered by insurance or third party payments, shall be divided between the parents in the same ratio in which their child support obligation is established from time to time and each parent's share shall be paid to the provider as the same becomes due.

The parents shall use reasonable efforts to assure the involvement of any additional individuals in the programs as may be recommended by the counselor/therapist from time to time.

The parents and Children shall carry out the suggestions and recommendations of the programs to the utmost best of their ability. The failure to timely initiate and carry out the recommendations

of the programs or the leaving of the programs against the recommendation of the provider, may constitute a contempt of this Order.

The counselors/therapists shall report to the parties and this Court any non-attendance/cooperation in the counseling program. The parties shall execute appropriate releases to allow Dr. Egli to fully discuss the information in his files with the program providers and also to allow the providers to verify to either party the compliance or non-compliance of anyone subject to this Order.

5. **Exchange of Physical Custody.** Physical custody of the Children shall be exchanged by the party who is to receive physical custody calling at the home of the other parent or care provider at the designated time in order to receive custody of the Child. The parties however, shall cooperate in avoiding unnecessary travel to effect changes of custody. If it is convenient for one of the parties to make an appropriate exchange of custody by delivering a Child to the other (whether personally or by a third party or by the Child delivering him or herself) under the circumstances which may exist warrant from time to time, custody should be exchanged in that manner.

6. **Extensions of Times of Partial Physical Custody.** In the event that any period of a parent's physical custody is scheduled to end on a specific day which would be followed by the same parent beginning another time of partial physical custody on the immediately following day, the ending time of the physical custody shall be extended through an overnight period of time so as to extend into the following day and not interrupt such parent's period of time of physical custody.

7. **Telephone Contact.** Each parent shall have reasonable telephone contact with the Children when they are in the physical custody of the other parent. It is also specifically DIRECTED that the parent who does not have physical custody of the Children on a particular Sunday or Holiday shall have

access to the Children by telephone for a period not to exceed a total of 15 minutes on each Sunday and Holiday evening at 8:00 p.m., except this provision shall not apply if the parent has actually enjoyed a time of physical custody on that particular day; if the time of 8:00 p.m. is not suitable to accommodate the plans of the in-custody parent for the Children an alternate time acceptable to the calling parent shall be agreed upon. The parent placing the telephone call shall pay for any telephone tolls involved.

8. **Obligations of Shared Legal Custody.** All decisions affecting the Child's best interests, including, but not limited to, medical and dental treatment, religious, education, day care, and similar other social/community activities shall be considered major decisions. The parents shall consult with each other with a view towards obtaining and following a harmonious policy in jointly making such decisions in the Child's best interests.

Each parent shall keep the other informed of the progress of the Child's health, education, religious and social matters of significance. Neither parent shall impair the other parent's right to shared legal custody of the child. Each parent shall give support to the other in the role as parent and to take into account the wishes of the other for the well being of the Child.

With regard to any emergency decisions which must be made, the parent with whom the Child is in physical custody at the time shall be permitted to make the decision necessitated by the emergency without consulting the other parent in advance; however, that parent shall inform the other of the emergency and consult with the other parent as soon as possible.

Day-to-day decisions of a routine nature will be the responsibility of the parent having physical custody at that time.

Each parent shall be entitled to complete and full information from any hospital, doctor,

dentist, psychiatrist, psychologist or medical care provider, any education or religious institution, teacher or other person, entity or authority having information about or authority over the Child, including the right to examine any documents concerning the Child or to receive copies of files or reports concerning the Child which any parent may have the right to examine or receive. Such documents include, but are not limited to, medical records, psychiatric records, academic records, school report cards, birth certificates or other governmental records.

Both parents may and are encouraged to attend school conferences and other activities of the Child. Each parent's name shall be listed with the school as the parent to be contacted in the event of an emergency and to be notified regarding school events. It will be the responsibility of a parent with physical custody to provide the other parent with copies of report cards and all notifications of school conferences and events or other activities involving or concerning the Children or parental participation therein.

Neither parent shall schedule activities or appointments for the Child which would require the Child's attendance or participation at said activity or appointment during a time when the Child is scheduled to be in the physical custody of the other parent, without that parent's express prior approval.

9. **General Parental Obligations**. Each party shall make reasonable efforts to adjust their work schedules to provide them the maximum time possible with the Children during their time of physical custody.

The Children under 14, shall not be left unattended nor unsupervised, either by appropriate babysitter (including a sibling who is 14 or older) or childcare provider, as may be appropriate under the particular circumstance of a parent's absence.

As to Krystle and Stephanie, and eventually the other Children, as they attain the age of 14, the parents shall discuss the circumstances under which it is appropriate for them to be left without parental supervision or the supervision of another responsible adult. Parents shall develop a uniform rule between the households in this regard. Ultimately, however, the responsibility for such a decision will be with the parent who has physical custody. When a 14-year old child is either left alone or in charge of other younger siblings, the parent having physical custody shall make sure there is appropriate adult assistance and supervision available and that appropriate supervision is made of that child to reasonably assure the child does not engage in inappropriate behavior. Such actions shall include restructuring and verifying who else is in the home where the child may be and that those companions are appropriate, as well as employing a means that enables the parent to ascertain where the child may be and the means to contact the child and for the child to contact the parent when necessary.

The parents shall endeavor to avoid the use of day care and other child care facilities but instead utilize grandparents, the other parent and other relatives for purposes of providing child care when they are necessarily absent for work or other purposes during a time they are in physical custody of the Children. The parents shall provide each other with the names, addresses and phone numbers of the child care provider each intends to use and reasonable notice in advance as to when a Child will be receiving such care. Where a third-party child care provider, particularly a public or semi-public facility is used, the parties shall consult as to the appropriate facility and shall choose one that is mutually convenient to the needs of each parent as would relate to the parent delivering or picking up the child from such facility.

While in the presence of the Children, neither parent shall make, or permit any other person to make, any remarks nor do anything which could in any way be construed as derogatory or

uncomplimentary to the other parent. It shall be the express duty of each parent to uphold the other parent as one whom the Child should respect and love.

It shall be the obligation of each parent to make the Children available to the other in accordance with the physical custody schedule and to encourage and cause the Children to participate in the plan hereby ordered.

Each parent shall have the duty to notify the other of any event or activity that could reasonably be expected to be of significant concern to the other parent.

The parents shall communicate directly with one another concerning any parenting issue requiring consultation and agreement and regarding any proposed modifications to the physical custody schedule which may, from time to time, become necessary and shall specifically not use the Children as a messenger. Furthermore, neither parent shall discuss with the Children any proposed changes to the physical custody schedule or any other issue requiring consultation and agreement between the parents prior to discussing the matter with the other parent and making a good faith effort to reaching an agreement.

Both parents shall be cooperative with each other in all communications and shall encourage ongoing contact between the Children and the other parent. Each parent will provide the other parent with the location and phone number of their respective residences and in the event that during the period of having physical custody a parent plans to be away from that residence over night reasonable notice thereof shall be given to the other parent including a manner of contacting in the event of emergencies.

Neither parent shall abuse alcohol or drugs while in actual physical custody of the Children. Neither parent shall now allow the use of alcohol or drugs to impair their judgment or ability to perform parental functions.

9. During the Labor Day weekend in the year 2001, the Children shall be made available to attend the wedding of the relative/friend of Mother's as indicated during the Court proceedings.

BY THE COURT,

William S. Kieser

cc: Joy R. McCoy, Esquire
Janice R. Yaw, Esquire
Family Court
Dr. Daniel Egli