

CITATION: *In the matter of the MJ, CC and AC children* [2012] NTMC 031

PARTIES: CEO – DEPARTMENT OF CHILDREN AND FAMILIES

v

HD

AND

MC

TITLE OF COURT: LOCAL COURT

JURISDICTION: Family Matters

FILE NO(s): 21142857

DELIVERED ON: 5 September 2012

DELIVERED AT: Darwin

HEARING DATE(s): 9 and 10 July 2012

JUDGMENT OF: Ms Sue Oliver SM

CATCHWORDS:

CHILD PROTECTION - DURATION OF PARENTAL RESPONSIBILITY DIRECTION
-- PROSPECTS OF REUNIFICATION OF PARENTS WITH CHILD –PERSON BETTER
SUITED TO BE GIVEN PARENTAL RESPONSIBILITY - SUPERVISION DIRECTION
Care and Protection of Children Act s 123(b) – (d), s 130(1)(c) and s 130(2)
Care and Protection of Children (Placement Arrangement) Regulations Reg 13

REPRESENTATION:

Counsel:

Applicant: Ms Tregear
Respondent Father: Mr Woodcock
Children’s Representative: Ms Morgan

Solicitors:

Applicant: Hunt & Hunt
Respondent Father: Woodcock Solicitors
Children’s Representative: Maley’s Barristers and Solicitors

Judgment category classification: A
Judgment ID number: [2012] NTMC 031
Number of paragraphs: 78

IN THE LOCAL COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. 21142857

[2012] NTMC 031

BETWEEN:

**CEO – DEPARTMENT OF CHILDREN
AND FAMILIES**

Applicant

AND:

HD

Respondent Mother

AND:

MC

Respondent Father

REASONS FOR DECISION

(Delivered 5 September 2012)

Ms Sue Oliver SM:

1. The Chief Executive Officer of the Department of Children and Families (DCF) has applied under the *Care and Protection of Children Act* for a Protection Order with a long term parental responsibility direction giving parental responsibility to a specified person being the CEO for three siblings until each child is 18 years old.
2. The children are MJ who was born on 25 December 2005, CC who was born on 27 December 2007 and AC who was born on 21 February 2010. The parents of the children are HD and MC.

3. Although the mother was initially legally represented, on 7 June 2012 leave was granted for her legal representative to withdraw. The mother was not present in Court at that time and did not attend the final hearing of the application. She had previously filed an affidavit in the proceedings.
4. The father was legally represented and he attended the hearing both by telephone and gave evidence via video-link. He was not able to attend the proceedings in person being presently incarcerated in Perth.
5. The children were legally represented pursuant to an order made under section 146 of the Act.
6. The father does not dispute that the children are each in need of protection within the meaning of the Act but asks that the order be for a period of only two years not until each of the children turns 18 years old.

The Proceedings

7. The applicant relies on five affidavits of Debra Harrison who is employed by DCF as a Community Welfare Worker. Ms Harrison was not required for cross-examination by either the father or the children's representative. I accept the contents of those affidavits as uncontested.
8. In addition to written reports, Ms McKenna, a psychologist who assessed the children and the mother, gave evidence and was cross-examined on her reports.
9. The father gave evidence and also called his aunt by marriage, JC to give evidence on his behalf. Affidavits of both were also tendered.

History

10. There has been involvement of the DCF (and its predecessor Department) with the family since 2007. The relationship of the mother and father has been characterised by high levels of ongoing domestic violence between

them, together with periods of separation and resumption of the relationship. The father is presently serving a term of imprisonment in Western Australia for wounding the mother, by a knife wound to her leg. The children were not present when this occurred but it is clear that they have been exposed to violence in their home throughout their lives. The abuse of drugs and alcohol has also been a constant feature of the on-again off-again relationship of the parents, by both mother and father. The children have frequently moved place to place and have been cared for by other family members at times.

11. The violence in the relationship was not confined to acts by the father. The mother has also been violent to him and the children. I accept the father's evidence that he has not been directly violent to the children, although on one occasion it would appear that CC was struck in the course of an incident between the mother and the father.

History of DCF Involvement

12. The children most recently came into the care of DCF following an incident when the mother was the sole carer for the children in the Northern Territory and their father was in Western Australia. The mother is presently charged with criminal offences with respect to MJ and CC arising out of this incident and an earlier incident.
13. The earliest involvement of DCF appears to have been around April 2007 when both parents joined the Peace at Home Project which was a joint DCF and Police initiative for families with domestic violence issues. The program does not appear to have been completed with the mother leaving the program on 30 May 2007. At this time, MJ would have been around 16 months old and the mother pregnant with the child, CC.

14. In August and September of that year, both DCF and Police responded to new domestic violence incidents. Following the incident in August, MJ was placed in foster care overnight.
15. In August 2008 there was a further domestic violence incident involving Police and DCF and CC and MJ were placed in foster care, ultimately under a temporary custody agreement that expired on 27 August 2008. MJ was placed back into the care of his father at the end of August and then CC was returned to his father on 19 September 2008.
16. MC appears to have had the care of the two children from that date, although the mother's whereabouts are unclear. In January 2009 he travelled to Broome in Western Australia taking the children with him. At that time DCF withdrew their application for a Protection Order on the belief that the issues for the children had been resolved as the parents had separated.
17. Clearly though, at sometime in 2009 the mother and father must have reconciled as the third child, AC, was born in February 2010. Just prior to the birth of AC, a notification was received by DCF and again on 13 March arising out a domestic violence incident between the parents. On this latter occasion it was reported that the mother was intoxicated and had assaulted the father whilst he was holding the baby, AC, who was at that time two and a half weeks old. The parents appear to have returned to Katherine at sometime during 2009.
18. Two days later DCF were informed that the children were with the maternal grandmother at a hostel in Katherine. The Temporary Protection Order sought for by DCF was not granted by the Magistrate before whom the application went on the basis that the children were being cared for by the maternal grandmother.
19. The children appear to have left the grandmother's care and gone to Western Australia shortly afterwards as reports were received by DCF in May 2010

as to their school attendance and having been seen at a local health clinic in that State. The parents appear to have reconciled. DCF closed the children's files on the basis that the contact between the parents was being monitored by a maternal aunt and uncle with whom they were residing. Why the view should have been taken that that provided a safe and secure environment for the children given the parents past history, is unclear and surprising.

20. I am not able to determine on the evidence that I heard what the movements of the family were between that period and October 2011 although at some point the parents separated as a result of a further incident of violence for which the father is now serving a term of imprisonment and that sometime about three weeks before 7 October 2011 the father returned to Broome with the three children.
21. The mother obtained a Recovery Order through the Family Law Court on 7 October 2011 and in late October the children were removed by police from their father's care and placed with their mother. By then she was living with a new partner in Palmerston.

The incident on 30 November 2011

22. On 30 November 2011, as a result of the attendance of police at the mother's residence, DCF attended and the children were transported to the Royal Darwin Hospital by ambulance. Police had attended following a phone call advising that the children's mother was intoxicated and physically abusing the children. Annexed to the affidavit of Debra Harrison sworn 14 December 2011 are statements of persons made to the police with respect to the events on 30 November 2011. These statements include that the mother purchased a large amount of alcohol around midday and began drinking. AC was shoved by her on a number of occasions during the afternoon and various times the children and each of them were verbally abused being told to 'fuck off' and that the mother would kill them if they didn't leave her alone. She is said to have told CC to 'smash AC' because she was crying. The mother

and other adults who arrived at the premises continued to drink through the evening. The mother was seen to hit both of the boys who were crying because they were either hungry or tired. Both of the boys were punched with a closed fist by the mother. They were punched in the face, chest and back area.

23. Later the mother said she was taking the children to bed and witnesses heard screams coming from the boys. Another witness went out to look through an outside window and saw the mother punching the boys. The police were called.
24. On examination at the hospital the child AC was found to have severe encrusted impetigo on both legs. MJ and CC also had minor impetigo and all three showed signs of having ear infections. MJ had a very slow heart rate whilst CC's was beating rapidly.
25. In addition to this incident, further statements allege that on or about 1 November, as well as swearing at the child MJ and threatening to kill him, the mother wrapped a length of garden hose around his neck and pulled it tight. It is noted that this incident occurred apparently shortly after the children were returned to the mother pursuant to a Family Court Order. Arising out of both incidents, the mother has been charged with criminal offences.

The medical and psychological assessments

26. The children have suffered considerable harm as a result of exposure to ongoing episodes of violence between the parents combined with alcohol and substance misuse. Physical abuse from the mother has added to this harm. A report from a psychologist, Louise McKenna, who saw the children, both together and individually, during January 2012 was tendered and Ms McKenna gave oral evidence. I have summarised some of her key observations and opinions as to each child.

MJ

27. MJ is described as a “slightly built, indigenous six year old boy who had numerous scars on his legs and arms and a small scar in the middle of his right eyebrow”. He is highly anxious and withdrawn. MJ gave an account to Ms McKenna of physical abuse by his mother including that she had cut him on the neck with a knife and that she “flogs me lots of time” with her hands, a stick or a garden hose. When asked if his father hit him he said “no just Mum”.
28. Ms McKenna’s opinion on MJ as a result of the tests she applied is that the regularity of abuse and assault of the parents on each other has inured MJ to this such that he cannot recognise or identify his own emotional responses. The reactions of MJ described by those who have attended the domestic disputes (either hysterical or sound asleep) are commonly observed in children who are traumatised. He is apprehensive about his mother but may be grieving the loss of his father.
29. MJ falls in the average range of intelligence but he has deficits in verbal reasoning and comprehension. He is lacking the foundation skills for literacy and numeracy and if he does not receive remediation he will not achieve his full learning potential. His adaptive behaviour skills (communication, social/emotional, social, self care, community use) are significantly delayed for his age.

CC

30. CC is four years old and was only just able to put one or two words together when seen in January. This speech delay was also noted by a paediatrician who examined CC in December and who referred him for a hearing test and speech therapy review but recommended that if the wait list was too long he have private speech therapy “because his time is running out for early intervention”.

31. Ms McKenna described CC's "overall affect" as "quite flat and blunted". He displayed physically aggressive behaviour to his sister AC and made no attempt to repair the relationship when she cried.
32. CC's intelligence was classified as borderline delayed. He achieved a Full Scale IQ of 72 on the test applied. Other tests of vocabulary and adaptive behaviour likewise produced results in the extremely low or borderline range. Ms McKenna concludes that CC has severely delayed cognitive, communication and social/emotional skills. His behaviour is quite challenging and he did not appear to have developed any attachment to his carer. He shows clear evidence of markedly disturbed and developmentally inappropriate social relatedness.
33. He meets the clinical criteria for reactive attachment disorder of the inhibited subtype, as he persistently fails to initiate and respond to most social interactions in a developmentally appropriate manner.

AC

34. AC at two years old shows no fear of strangers and can be picked up and hugged and moved away from her carer and siblings "without so much as a backward glance. It is highly unusual behaviour in a child of this age".
35. Her legs, arms and body are covered in round deep indented scars. She had more than 30 infected sores on her body when first placed with her carer which healed when she was treated with antibiotics.
36. She is not yet speaking. She made no effort to seek comfort when she hurt herself. The inability to seek comfort when distressed places her at risk of being disconnected from her own needs and emotions and if not addressed she will have difficulty connecting with others in a vulnerable way and is at long term risk of having relationship disturbances.

37. Ms McKenna's opinion is that AC displays a level of independence and self reliance that is atypical for a child of her age. She meets the clinical criteria for reactive attachment of the uninhibited type. Her adaptive behaviour and cognitive development is well below an age expected level. If she does not have access to a stable home environment where she is able to develop an attachment relationship to a significant other, her long term psychological and emotional well being will be severely compromised.

Summary and Recommendations

38. The children exhibit behaviours consistent with disrupted (MJ) and reactive (CC and AC) attachment disorder and extreme traumatisation. The children have had no one adult who appears to have taken ongoing primary responsibility for their care and as a result their welfare and emotional well being has been compromised.
39. All show developmental delays and adaptive behaviour skills well below age expected levels.
40. In her evidence, Ms McKenna stressed that these children had developed serious disorders that if not addressed would affect their lives in a major and significant manner. They will have very challenging behaviours for anyone caring for them and at this time require considerable intervention services to address the developmental delays produced by the traumas they have experienced.

Are the children in need of protection?

41. It is not disputed by the father that the children are in need of protection.
42. I am satisfied that MJ is a child in need of protection as he has suffered physical, emotional and psychological harm due to physical and verbal abuse by his mother and by being exposed to physical violence between his parents. CC is likewise a child in need of protection as he has suffered

physical, emotional and psychological harm due to physical and verbal abuse by his mother and by being exposed to physical violence between his parents. AC is a child in need of protection as she has suffered physical, emotional and psychological harm due to physical and verbal abuse by her mother and physical neglect and by being exposed to physical violence between her parents. The failure to provide a stable and secure home environment has further damaged all three children.

The Mother

43. Although the mother did not attend the hearing, it is in my view, still relevant to consider the prospects of reunification of the children with their mother and what contact should be permitted.
44. The mother was assessed at the request of her legal representative by Ms McKenna as to her capacity to care for her children, the children's relationship with their mother, observations of the children with their mother and recommendations for potential reunification of the children with their mother. Ms McKenna's report of 18 April 2012 was tendered.
45. The mother is 25 years old. From the background information provided by her to Ms McKenna it is clear that she had a very traumatic abusive upbringing which led to a pattern of substance abuse from her early teens, a pattern that has continued. She has detailed to Ms McKenna the history of her relationship with the father, MC, and the violence in the relationship. The extensive disruption of the children from place to place and family to family is apparent from the history. She denied having assaulted the two boys in November and denies having substance abuse issues.
46. She attended the Council for Aboriginal Alcohol Program Services (CAAPS) Healthy Families 12 week residential program from 31 January 2012 but was exited on 29 February 2012 due to non compliance. The report tendered from CAAPS states that her insight into her substance issues was poor as

well as her insight into why her children were removed. She was frequently distracted by relationship issues with her new partner.

47. The lack of insight into her alcohol and substance abuse and to understand how this has contributed to the harm to her children and her capacity to care for them is confirmed by Ms McKenna's assessment. She has failed to follow through with programs and in Ms McKenna's opinion is highly unlikely to comply with any programs at this point in her life as she does not accept responsibility for her issues and has limited insight. She has a clinical profile consistent with a diagnosis of post traumatic stress and without clinical treatment her symptoms are likely to get worse.
48. Ms McKenna says that the relationship between the mother and her children is best described as emotionally distant. She noted that at the visit with the children that she observed that the children all left happily with their carer and did not show any signs of distress on separating from their mother.
49. The mother believes on the other hand that she has a "close relationship with her children" and does not believe that they have any developmental problems or that they have been adversely affected by the lack of stability in their lives.
50. In the opinion of Ms McKenna, the mother does not have the capacity to meet the developmental, psychological and emotional needs of the children.
51. Taking all of this together there is not, in my view any realistic possibility of reunification of the mother with the children. Unless and until the mother gains insight into the disastrous impact that her alcohol and substance misuse and violence in the relationship with the father and to the children has had on her children there is little, if any prospect that she will undertake the programs necessary to deal with her own issues that affect her parenting capacity.

52. Indeed, it is my view that any contact by the mother with the children should be under supervision until she is prepared to accept and complete the necessary interventions. The assaults on MJ and CC so shortly after she resumed their care under a Family Court order indicates the potential danger to the children from unsupervised contact in her present circumstances.

The Father

53. The Father, MC is currently in prison in Western Australia on a 15 month sentence for wounding HD in the leg with a knife. He will be due for release in mid February 2012 unless granted earlier parole. As a consequence no psychological assessment of MC with respect to his parenting capacity has been able to be undertaken.
54. An affidavit of MC was tendered and he gave evidence by video link.
55. MC appears very genuine in his desire to repair the circumstances of his children and provide a safe and secure future for them. He appears to have some insight into the harm that has been caused to the children although I think that he does not fully appreciate the degree to which they have been harmed and what is now required to address the developmental delays and the attachment disorders that they have acquired.
56. There is no doubt that he loves his children and I am satisfied that in contrast to the mother he has never been violent to them, though CC was inadvertently struck in an altercation with HD. On that occasion, MC immediately took the children to DCF, a fact confirmed in HD's account of the history between the parents to Ms McKenna. This indicates, in my view, a capacity to act protectively towards his children.
57. He says that he will do whatever programs he can to be a good parent and will accept whatever assistance is offered from Children's Services. I believe him to be genuine about this.

58. MC also indicated that he accepts responsibility for his part in the harm to the children. He expresses a strong wish not to go back to a lifestyle of alcohol and other substance misuse and says that he will never again be part of a relationship marred by violence. He did deflect some responsibility to the mother however given the entire history I have heard, including that the mother's behaviour has likewise been influenced by her alcohol and substance misuse, this is not unreasonable on his part. The important issue is that he should understand the impact of his behaviour on the children's wellbeing and he does appear to appreciate this, although tragically at what is now a late stage in their development notwithstanding their young ages. In this he is distinct from the mother who does not understand those issues nor has insight into the effect of her alcohol and substance misuse on her ability to parent the children.
59. Although he said in his evidence that he believed that he was a good role model for his children, and clearly on past behaviour this is not the case, I understood that what he meant was that he could be a good role model in the future.
60. MC has strong family support. His aunt by marriage, JC, gave evidence also by video link and outlined the numerous relatives including herself and her husband who are eager to support MC and the children if they are returned to him. It was clear that she has been shocked and distressed to learn of the extent of the harm suffered by the children. She believes that MC can be a good parent with proper support and that he should be given the opportunity to demonstrate this.

Children's Wishes

61. The children's legal representative has seen the children on two occasions and they did not express any view as to where they wished to live. Given the attachment disorders that is not surprising and, in my view, it would not

have been reasonable to press such young children, recently affected by the acts of the mother, on the issue.

Length of the parental responsibility direction

62. MC would not oppose a protection order with a short term responsibility direction to the CEO for two years. He opposes an order until the children turn 18 years which is sought by the CEO and supported by the children's representative.
63. I have no doubt that the intentions expressed by MC are most genuine. The difficulty is that he is presently incarcerated. He has been incarcerated before. It is well recognised that the transition from prison to the community, particularly after a relatively lengthy sentence, is a difficult one. There are many adjustments to be made in moving from an institutionalised setting to the community, not the least of which is obtaining permanent accommodation and employment and avoiding a resumption of the habits that have contributed to offending.
64. MC believes that he must be close to obtaining public housing because of the length of time he has been on the waiting list, but the date for this is as yet unknown. He will have to seek and gain employment and, it would have to be of a nature that also allows him to be available to look after his children. Ms McKenna made clear that the children cannot be placed into a home situation again with a parent that comes and goes even if that is for positive reasons such as work, because they need the stability of a constant parental presence to overcome the attachment disorders that they have developed. They must have someone who can be responsible for their primary care on a daily basis.
65. Ms McKenna made very clear that the children's behaviours will be challenging for any caregiver even in a stable environment because it would be expected that they would demonstrate rage and rejection. They would

still have regression even in a qualitative environment. MJ has six years of instability to overcome, and a carer will need to understand that his behaviour is not naughty behaviour and react and deal with it appropriately. Children with reactive attachment disorder (CC and AC) refuse to attach to a person. In the short term this presents as anti-social behaviour, learning difficulties and a lack of empathy. Long term it may lead to involvement in the criminal justice system. CC needs special education because his IQ function is low. Return to a toxic environment would cause further damage. If they were to be returned to a family situation that again fell apart due to violence and substance abuse this would be devastating for them.

66. MC would therefore need to be in an emotionally stable situation to deal effectively with them and provide for their special needs. There would need to be, in my view, demonstration of the maintenance of a drug and alcohol abuse free lifestyle and the ability to provide a stable home environment, for some considerable period in order for there to be certainty that the children were not returning to a situation that might fall apart and cause further damage to them.
67. If an order for two years were to be made, and assuming that he is not granted parole, MC will only have been back in the community for around 18 months at the time of the cessation of the protection order. This is a relatively short period post institutional release particularly for someone who has had a significant history of alcohol and substance misuse and violent offending to not fall back into old patterns of behaviour and demonstrate rehabilitation. His situation would present some risk and difficulty in the resumption of parenting even for children without emotional and developmental difficulties, and these children require very special and directed care without any risk of further traumatisation if they are to develop to their full potential.

68. The CEO has arranged for the assessment of the children's paternal aunt, VC, who resides in Broome to be completed by authorities there. VC has been assessed as a suitable carer for the children. The CEO's proposal is that the case manager will liaise with the children's psychologist, Ms McKenna, to strategise and plan the timing of the placement of the children in Broome with MC. It is clear that no fixed time is presently able to be ascertained as that move is dependant on the progress made in addressing the children's developmental delays.
69. This proposal has the benefit for the children that they will be in a situation where they will come to know their extended C family and have the love and support of those relatives. The family, on the evidence of JC, clearly want to be part of the children's lives and try to repair the damage that has been done. MC plans to return to Broome and will likewise have the opportunity to be in close contact with the children.
70. Mr Woodcock submitted that section 130(1)(c) and (2) would preclude the making of an order until the children turn 18 years of age because there is a person (VC) who has been identified as suitable to care for the children.

130 Court to consider certain matters

(1) In making the decision, the Court must consider:

(a) any matters arising from a mediation conference for the child; and

(b) the wishes of the following:

(i) the child;

(ii) a parent of the child;

(iii) a person proposed to be given daily care and control of, or parental responsibility for, the child under the order;

(iv) any other person considered by the Court to have a direct and significant interest in the wellbeing of the child; and

(c) if the CEO proposes that daily care and control of, or parental responsibility for, the child be given to a person (including, for example, the CEO):

(i) any report or recommendation given to the Court by the CEO about the proposal; and

(ii) whether there is another person who is better suited to be given daily care and control of, or parental responsibility for, the child; and

(iii) the needs of the child for long-term stability and security; and

(d) any other matters the Court considers relevant.

(2) Without limiting subsection (1)(c), the Court must not give a person who is not a parent of the child parental responsibility for the child under a long-term parental responsibility direction unless the Court is satisfied:

(a) giving the responsibility to the person is the best means of safeguarding the child's wellbeing; and

(b) there is no one else who is better suited to be given the responsibility.

71. There are a number of problems with this interpretation. First, VC is not proposed to be given a order under the Act that would confer daily care and control (or parental responsibility). It is these directions under section 123(b) [daily care and control] and (c) and (d) [short or long term parental responsibility] to which section 130(1)(c) refers. VC has been identified as a suitable care placement for the children. Carers are identified in the Act and their duties are set out in regulation 13 of the *Care and Protection of Children (Placement Arrangement) Regulations*. Those duties are not identical to parental responsibility or daily care and control and children placed with a particular carer can be moved at the instigation of the CEO. Persons on the other hand who have had parental responsibility or daily care and control conferred by court order cannot have the children removed unless a further court order is obtained. If it were to be argued that VC was person better suited to be given daily care and control of, or parental responsibility for, the children then she should have been joined as a party to the proceedings. Her identification as a carer under a placement agreement is not a matter for consideration under the terms of section 130(1)(c) or section 130(2).
72. Secondly, the children have been identified as requiring intensive therapy of various kinds. The CEO is in a position to provide these therapies and to do so under the oversight of a psychologist as to when the children might be able to be returned to a family environment in Broome. They are not yet ready for this move. Whilst VC may be well suited to care for her nephews and nieces once the disorders they have acquired have been addressed to a

satisfactory degree, there is not in my view, anyone other than the CEO who can safe guard their well being in the long term. The nature of the children's disorders, on the evidence, is such that long term intervention and services will be required. Indeed some features of their disorders, particularly CC, may never fully resolve. The children's well being¹ is best safeguarded at this time by an order giving long term parental responsibility to the CEO and in my view there is no-one else better suited to that responsibility.

Conclusion

73. The father's proposal for a two year order only, does not in my view provide sufficient protection for the children. The timing of the return of the children to the family environment in Broome depends on the progress that is made with their individual treatment. Although there was no direct evidence on this point, I think it is a reasonable assumption on the evidence that management of their attachment disorders need to see all of the children remaining together until all are ready to relocate. It would seem highly unlikely that separation of the children would be desirable and meet their needs. Given CC's particular difficulties it may be that the children cannot be sent to their aunt in Broome until his situation has sufficiently progressed to allow that to happen.
74. Consequently, in my view, making an order for two years only is fraught with difficulties in terms of ensuring the best interests of these children. There may become a time when the father's situation is clear and he is able to provide a stable and nurturing home environment that will meet the high level needs of his children. However, that this will actually occur and when it may occur are uncertainties at this time. Returning the children prematurely or worse, returning them to a home situation that again becomes a toxic environment would, as Ms McKenna said, be disastrous. Oversight of

¹ Section 14 defines well being as including the child's physical, psychological and emotional wellbeing.

the children's living situation and wellbeing, the provision of services to address their needs, will be required for a very lengthy period, a period that is not capable of determination at this point in time. It cannot be in the children's best interests to simply hazard a guess at a period because the prospects for reunification with the father present as an unknown, given his current circumstances and past history.

75. Further, if an order for only two years is made, there is nothing that would prevent that mother both resuming contact with the children and attempting removal of them from the father. Such an action would clearly be detrimental to the children's best interests. In my view the mother must be considered to pose a risk to the physical safety of the children and any action involving their removal would inflict further trauma on them. In my view the mother should not be permitted unsupervised contact with the children until such time as she addresses her substance misuse.
76. I am satisfied for these reasons that no order other than a Protection Order for each child to 18 years of age is sufficient at this time to meet the protection needs of the children.
77. I stress that I do not want to discourage MC in his efforts to become the father that his children deserve. He is sincere in that intent and with the help and support of his family he should at the very least be able to develop a strong relationship with his children whilst they remain in the stable environment of his aunt's care, once the children are placed with her. Eventually, there may be potential for reunification, and a variation or revocation of the current order sought, but at present I could not be satisfied that is realistic in the time period MC proposes or any other period that could now be specified to consider the prospect of reunification without risk of further harm to the children.
78. I make the following Orders:

1. A Protection Order for the child MJ, giving parental responsibility of him to the CEO until he is 18 years of age.
2. A Protection Order for the child CC, giving parental responsibility of him to the CEO until he is 18 years of age.
3. A Protection Order for the child AC, giving parental responsibility of her to the CEO until he is 18 years of age.
4. A Supervision Direction that the mother is only to have contact with each of the children under supervision as arranged by the CEO.

Dated this 5th day of September 2012.

Sue Oliver
STIPENDIARY MAGISTRATE