

CITATION: *CEO Territory Families v VSS, RJO & VO [2021] NTLC 016*

PARTIES: Chief Executive Officer of Territory Families
Applicant

V

VSS Mother

RJO Father

VO Child

TITLE OF COURT: Local Court of the Northern Territory

JURISDICTION: Family Matters Jurisdiction

FILE NO(s): 2020-02818-LC

DELIVERED ON: 8 July 2021

DELIVERED AT: Darwin Children's Court

HEARING DATE(s): 24 February 2021

JUDGMENT OF: Judge Elisabeth Armitage

CATCHWORDS:

Care and Protection – long term protection order – domestic violence - intra family violence – intensive family preservation services - most appropriate and least intrusive order

Care and Protection of Children Act 2007 ss10, 10A, 129, 130

BJW v EWC & Ors [2018] NTSC 47, considered

REPRESENTATION:

Counsel:

Applicant: A Kudra

Mother: M Strong

Father: Self

Child: M Romeo

Solicitors:

Applicant: Solicitor for the Northern Territory

Mother: North Australian Aboriginal Justice Agency

Father: N/A

Child: M Romeo

Judgment category classification: C
Judgment ID number: NTLC016
Number of paragraphs: 41

IN THE LOCAL COURT
FAMILY MATTERS JURISDICTION
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. 2020-02818-LC

BETWEEN:

Chief Executive Officer of the Department of
Territory Families

Applicant

v

VSS Mother

RJO Father

VO Child

REASONS FOR JUDGMENT

(Delivered 8th July 2021)

JUDGE ARMITAGE

1. On 12 August 2020 the CEO of Territory Families applied for long term protection orders for three (of eight) siblings. With the consent of the parents and in accordance with the wishes of the 15-year-old sister (the twin sister), a long term protection order was made for her until she reached 18 years of age. A 15-year-old brother (the twin brother) was self-placing with the parents and wished to return to their care. The application for a protection order in respect of the twin brother was withdrawn.
2. These proceedings concern the youngest of the eight siblings (the child) who was nine years old at the time of the application and is now 10 years old. The parents do not dispute that the child is a child presently in need of protection but they oppose a long term protection order. Instead they propose a two year order during which time reunification of the child with the parents is to be progressed. The parents submit that such an order is the most appropriate and least intrusive order to be made by the court.

3. Protection concerns involving the family were first reported to child protection services in 2003 and have continued since that time. Over the years the main protection concerns have been family violence, parental alcohol and drug use, and neglect. Since 2017 Territory Families have received 39 child protection reports concerning this family. During earlier periods of concern and again in 2017 the parents were referred to intensive family preservation services (IFPS) and have been subject to supervision directions. Territory Families submit that there has not been sufficient or sustained change in the parents' behaviour since 2017. Accordingly, in the May 2019 the CEO applied for a short term protection order for the child and she was placed with her 26-year-old sister as her kinship carer (the kinship carer). On 15 August 2019 a 12 month protection order was made in respect of the child and she continued to live with her kinship carer. As it is not disputed by the parents that the child presently remains in need of protection, and the child has not been reunified with the parents, Territory Families now considers that a long term protection order until the child is 18 is the most appropriate and least intrusive order.

The wishes of the child

4. On 2 July 2020 Ms J. Anderson, a Senior Case Worker with Territory Families, prepared a Care Plan with the child. The Care Plan records that the long term protection order was discussed and the child wanted to stay living with her older sister, the kinship carer.
5. The child was separately legally represented and on 9 October 2020 she told her legal representative, Ms Romeo, that she understood the role of her lawyer. The child's views at that time were expressed by Ms Romeo as follows:

"It is a difficult decision for the child because she would really like to see more of her parents, particularly her mother. However, she is happy with her older sister and is very settled with the current arrangements. For the child, the preference is a two-year order rather than an order until she is 18 but in saying that she also confirmed that since 2019 she has not seen any changes in the way her parents live or conduct themselves. It was hard for the child to conceptualise an order for eight years. The child therefore was not sure whether to agree to a two year or an 8 year order."

6. In an addendum affidavit dated 9 February 2021 Ms J. Anderson reported that the child was aware that her parents drank. The child told Ms Anderson that her mother was drunk on Christmas Day 2020 and she wanted to leave the parents' home. The child also knew that her parents and brothers smoked "cones" out of a "bong" and said she had been present when her parents purchased cannabis. The child reported that she had seen her father yelling, getting angry and fighting. The child said her bedroom door was broken from the fighting and she was frightened when friends of her brothers came over because she could not lock her bedroom door. Although the child wanted her parents to watch her play football and wanted to see them she did not want to live with them. The child said that "her parents still drink and smoke and have done for so long, they won't change".

7. On 22 February 2021 the child spoke to Ms Romeo and her views were expressed as follows:

“...she agrees with a long term order until she is 18. She has a view that when she is 15 she might like to go home providing her parents can protect her. The child does not seem to think her parents have made any positive changes since she was taken into care in May 2019. She indicated she feels safe living with her sister, the kinship carer.

The child is very well aware of what is happening in the parents’ household and understands that while her parents cannot control her brothers, continue smoking cannabis or drinking, it is unlikely she would be safe at home. What she does want however is more access with her parents. She loves them and misses them.”

8. Ms Romeo supports a long term protection order.
9. I consider that the child has some insight as to the harm that she has been exposed to and her parents’ inability to protect her from that harm. In an ideal world the child would like to live with her parents in a safe and nurturing environment. However, the child does not really believe that her parents can provide that type of environment.

The wishes of the kinship carer (an older sister who has a direct and significant interest in the child) as reported to the CEO

10. Catholic Care IFPS worked with the family from about December 2017 through to March 2019. In their case closure summary, the Catholic Care workers noted that the older sister (kinship carer) was assisting the mother in raising the younger children, was a strong maternal figure in the family, and her relationship with the child was protective. The twin sister requested and was placed with the kinship carer under a long term protection order until she reaches 18 years of age. The child has been living with her kinship carer since May 2019 and it is proposed that this placement will continue unless and until she is reunified with the parents. The kinship carer has stated that she is committed to providing long term care to the child, with Territory Families support.

The wishes of the parents

11. The father has attended the proceedings but has not been legally represented. He has not filed a response or affidavit and did not give or call any evidence. I understand that he largely supports the mother’s position, namely that he wishes to work towards reunification with the child and supports a two year order only.
12. The mother was represented and filed a response and detailed affidavits.

13. In her affidavit dated 19 February 2021 the mother acknowledged that she had problems with drinking alcohol, using cannabis and verbal arguments with the father in 2016 and 2017. The mother discovered she had breast cancer in late 2019, suffered a drug and alcohol relapse, and admitted to again drinking, smoking too much cannabis, and arguing with the father. However, the mother said she attended counselling with Amity, reduced her drinking and is now only an occasional social drinker. She said that she had also reduced her consumption of cannabis but still smokes once or twice a week “away from the boys” (namely, the twin brother and Junior, a younger male sibling aged 13 years at the time of the application). She said she is working gradually towards ceasing using cannabis. The mother said that she does not allow the boys to use cannabis at home. She said she has told the boys that it is not acceptable inside or outside the home. The mother said, “I know that what I did in the past was wrong. I know that my alcohol and drug use blurred my boys’ ideas of what is acceptable behaviour for parents and children. I know that my family is scarred from what I did, but I want to be better. That is why I’m going to counselling. I want things to get better”.
14. A letter from Amity counselling service dated 10 February 2021, confirms that the mother attended two appointments in November 2019, three appointments in December 2019, two appointments in January 2020, two appointments in February 2020, two appointments in June 2020, two appointments in August 2021, one appointment in January 2021, and one of appointment in February 2021 (with a second scheduled).
15. During the previous 12 month protection order, the mother recalled that a reunification plan was drafted but claimed that the reunification “never happened the way it was supposed to”. The mother felt that Territory Families did not support her to reunify with the child.
16. The mother acknowledges that the family had to move from their four bedroom house because it was damaged, “smashed up”, by the boys. The family presently reside in a three bedroom house which “is not big enough to care for the child right now”. The parents have applied for a larger house from Territory Housing.
17. The mother is of mixed Aboriginal and Greek heritage and in her affidavit of 19 February 2021 she expressed her desire to ensure the child hears stories about her heritage and family history and gets to know and connects with her extended Aboriginal family. Although the mother visited Alice Springs as a child, she no longer returns to Alice Springs as her own mother is deceased and her family have moved away. The mother did not address her Aboriginality or connections with culture in her affidavit dated 22 November 2018. In her affidavit dated 21 February 2018 the mother expressed concern when Territory Families organised for the twin brother to attend Mt Theo to connect with Aboriginal family and culture. The mother was worried because the twin brother had “never lived culturally”. The mother did not speak favourably of this experience.
18. The mother seeks reunification with her child and therefore supports only a short term order of two years.

Steps taken to address the risks of harm

19. On 15 August 2017 the parents were referred to Save the Children Intensive Family Preservation Services (IFPS). In a letter dated 8 November 2017 Save the Children reported to Territory Families that they had worked intensively with the parents at least three times a week. Save the Children reported observing serious behavioural escalations by the boys, including witnessing the twin brother smash a glass table with a rock when he was not given a can of coke, resulting in the parents calling the police. The report included the following observations and opinions:

"The police were frequently called to the home by the neighbour or by the mother due to the boys' behaviour. The parents often stipulated they had had enough of their behaviour and wanted them to go into departmental care. It was my assessment that the parents took little responsibility for searching for the boys when they went missing and often relied on the services of the police, Territory Families or extended family to search for them.

The twin brother often spoke to me about his parents' alcohol and cannabis use and said he confronted his parents over this because they were not able to provide him with new clothing and shoes, but that they could always attend to their own needs. The twin brother and Junior were both resentful of this and disclosed that the mother and the father would often promise to purchase them things and not follow through with it.

*There were also ongoing allegations of physical and verbal abuse by the father towards an older brother, the twin brother and Junior. ... Despite attempts to work with the mother and the father and build the relationship with the children it **continues to be highly volatile and unsafe for all concerned including the twin sister and the child who are exposed to this.***

*In summary I will continue to work with this family to address the child protection concerns. However, **I feel that the current situation at home is unsafe** and that the mother and father are more willing to relinquish the care of the boys than address the AOD and parenting issues."*

20. When the relationship with Save the Children broke down, on 13 December 2017 the parents were referred to a second service provider, Catholic Care. Catholic Care provided a closure summary report dated 14 March 2019. In that report Catholic Care noted that the father had limited engagement with their service and at the end of the support period had not been observed to change how he responded to the boys or managed their behaviours. Catholic Care observed some positive changes in the mother's parenting. It was noted that during the support period the child had sporadic school attendance. It was also observed that the kinship carer assisted the mother in raising the younger siblings and was considered to be a strong maternal figure in the family. In spite of some progress by the mother Catholic Care reported:

"The mother will often state that there are challenges within her home due to a lack of assistance from external agencies but has been unclear as to what

may be helpful. There have been safety plans put in place and talked through at length and agreed upon. However, the mother struggles to implement these.

...

The mother has been observed to depend on her older daughter (the kinship carer) for support around her daughters and sons at times. In the worker's observation, even though the (kinship carer) has two children of her own, she assists the mother to raise her siblings and is another strong maternal figure in this family.

...

Throughout the IFPS support period...there have been ongoing escalated incidents and verbal and physical altercations...(The twin sister and child are not verbally abusive) but rather exposed to ongoing violence.

...

At point of IFPS case closure the mother and father still do not fully grasp the impact that the ongoing level of conflict in the home is having on the children. The mother in particular has made some shifts that have slightly increased the level of safety for the girls which were IFPS's initial focus as per referral... The twin sister, is able to manage her own safety by removing herself to her sister's (kinship carer's) house. The child also has a relationship with her older sister (kinship carer) which is a protective factor.

IFPS has been open for 15 months and is an intensive service. While IFPS would assess that things are not at optimal level for the children, the safety risk has decreased and some changes have been made. The mother loves her children dearly and is committed to them. We do not identify IFPS staying open any longer would add any value."

21. On 27 August 2019 the family were referred to a third IFPS provider, Anglicare, and that service also updated the CEO of Territory Families.
 - a. On 5 June 2020 Anglicare reported that both parents were attending counselling but were still unable to place boundaries or consequences on their boys and needed assistance to gain the skills and tools to develop effective disciplinary strategies.
 - b. On 25 September 2020 Anglicare reported that the frequency of home visits were limited as the parents would not allow the family support workers to enter the home because **the home was a mess from broken doors and windows**. The parents continued to find it difficult to place boundaries on the children. Family support workers could not do any practical work with the parents in the home and could only engage theoretically with the mother. The father remained disengaged save for more recently seeking assistance to be linked in with counselling services.

22. In the mother's affidavit dated 19 February 2021, the mother noted the referrals to Save the Children, Catholic Care and Anglicare but went on to say: *"Territory Families told us they could not allow the child to come back to our care while escalations were happening at our home. They did not do anything to help us with the boys. Territory Families said it was up to us and our parenting even though we explained the boys' conditions to them and said we did not know how to deal with this, which is why we asked for their help in 2017 in the first place"*.
23. From August 2017 – February 2021 the family was referred to and engaged with intensive support services. Accordingly, I do not accept the mother's evidence that Territory Families failed to provide the parents with appropriate assistance. While it is accepted that there was some progress by the mother towards better managing the boys' behaviours, and reducing her alcohol and cannabis consumption, as noted elsewhere in this decision: the instances of family violence (in particular those instigated by the boys' behaviours) have persisted; the child continues to express concern about her mother's alcohol use; and the mother admits continued weekly consumption of cannabis even though she acknowledges the problem this creates in respect of appropriate boundaries for her children. That these issues continue, in spite of several years of intensive family support, is evidence of the parents' inability to implement changes to keep the child safe.

Risk of harm arising from domestic and other violence since 2017 in the family home

24. Concerning family and other violence, reports to Territory Families over the last four years include the following:
 - a. On 11 August 2017 it was reported to Territory Families that a younger male sibling (Junior) and the twin brother were fighting other children in a local park.
 - b. On 11 August 2017 it was reported that the twin brother was hit by his parents on the back and buttocks with a belt.
 - c. On 14 September 2017 it was reported that the parents were drinking, the twin brother became angry, and the mother called the police.
 - d. On 25 October 2017 it was reported that the father had punched the twin brother in the head and was yelling at the twin brother and Junior. The reporter said the father was calling the boys "useless" and said "get out of this house, it's my fucking house, fuck off you little cunt".
 - e. On 7 December 2017 Junior told a Territory Families worker that he had been hit on the face by his father and the worker observed a red mark on his face.
 - f. Police received reports of family violence on 16 July (the twin brother was aggressive and threatening to break household items), 25 July (the twin brother was aggressive and damaging property) and 30 July 2018 (the twin brother and Junior were physically fighting each other and an older brother was arrested for assaulting the father with a knife).

- g. On 18 August 2018 police reported that the twin brother had punched the father and had run away with a small axe. The father was reported to be intoxicated.
- h. On 19 August 2018 the parents called police to the home because Junior and the twin brother were fighting and the parents wanted the twin brother removed.
- i. On 23 August 2018 the parents called police to remove the twin brother from the home as he was coming down from cannabis and smashing windows at the home. It was alleged that the father had hit the twin brother.
- j. On 12 September 2018 it was reported to Territory Families that the twin brother was locked outside and smashing windows to gain entry into the family home.
- k. On 19 September 2018 the twin brother was arrested after allegedly assaulting Junior and threatening the twin sister and the father. An ambulance was called for Junior.
- l. On 18 February 2019 it was reported that the twin brother and Junior were involved in starting a fire at a school.
- m. On 11 March 2019 it was reported that the twin brother and Junior were part of a large group of children fighting at a local primary school.
- n. On 27 March 2019 police reported a physical altercation between the twin brother and the father. The twin brother had threatened to smash the father's car and the father restrained him on the grass but he ran away when police arrived.
- o. On 31 May 2019 it was reported that the twin brother was throwing rocks at the house.
- p. On 27 June 2019 police attended the family home and saw Junior threatening the father with a metal window frame.
- q. On 3 August 2019 the father called police to remove the twin brother from the home after an argument. It was alleged that the father had tried to choke the twin brother.
- r. On 20 August 2019 police were called to the family home because the twin brother was swearing and spitting at the father.
- s. On 2 September 2019 it was reported to Territory Families that the parents were drinking and arguing and there was no food in the home.
- t. On 28 September 2019 police reported a family violence incident between Junior and the twin brother, with the mother and an older brother involved.
- u. On 30 September 2019 police reported an older brother had lifted Junior off the ground by the throat.
- v. **On 11 November 2019 Territory Families received a report the parents were drinking and that the father had struck Junior on the back. This incident was evidenced by a photograph clearly showing a significant handprint bruise on Junior's back. There are**

other bruises and grazes visible in the photograph. In her affidavits the mother does not address this incident and in oral evidence she was unable to explain the injury.

- w. On 23 December 2019 police reported that the twin brother and an older brother had a physical altercation at the home. The twin brother smashed windows and was taken to the Kinship carer's home.
- x. On 30 March 2020 and 5 April 2020 police reported family violence incidents.
- y. **On 28 April 2020 the father called police because the twin brother and Junior were throwing rocks at him. It was alleged that the father had punched Junior in the face and hit him with a metal stick. Junior's injuries were photographed. The photos show significant and extensive bruising and abrasions to Junior's face, chest and neck. The kinship carer reported to police that the father had a history of violence towards the children. In her affidavit dated 19 February 2021 the mother claimed not to have seen how Junior was injured but speculated it may have been when the father was restraining him.**
- z. On 13 May 2020 police attended the family home and on 18 May 2020 police attended the kinship carer's home due to violence between the brothers.
- aa. On 10 June 2020 the father called police to remove the twin brother from the home as the parents could not manage his behaviour.
- bb. On 21 August 2020 police reported a physical fight between the twin brother and Junior at the parents' home and observed scratching and bruising on the boys.
- cc. On 18 October 2020, during an access visit by the child to the parents' home, the kinship carer reported that the parents were in a "full blown argument". It is reported that the child cried and complained, "why can't they just stop arguing, I miss them so much".
- dd. **On 4 December 2020 police reported they had attended the family home because Junior was yelling and swearing at the mother and attempting to assault her. Police had to physically restrain Junior. Junior punched the family car. The ambulance was called for a mental health assessment of Junior. The twin brother then became agitated, kicked out at police and lashed out at family and was also restrained and handcuffed. Junior was taken to the emergency department and was chemically sedated. He was observed to have injuries that appeared to be inflicted to his face, arm and shoulder. The injuries looked like looked like they had been caused by a rope or cord strike. In her affidavit the mother speculated that Junior might have been injured due to rough handling by the police and asserted "he did not get those injuries at our hands". However, I do not accept that the injuries as described occurred during police interventions.**
- ee. On 11 January 2021 police reported attending the parents' home because Junior was attempting to assault family members.

- ff. On 6 February 2021 police reported attending the family home twice due to the twin brother threatening the mother and conflict between the parents.
- gg. On 17 February 2021 the father called the police to the family home because three brothers were fighting with each other. The twin brother, who was particularly aggressive towards the parents, was arrested and placed on a police domestic violence order (PDVO). In the attending police officer's statement she said:

"Both parents appeared incapable of diffusing the situation and when I informed them of my action and asked if they were supportive of applying for the order (PDVO) they both agreed making comment that they didn't know what else to do..."

My review of the recent police involvements with the twin brother showed that he has an extensive recorded history of domestic violence incidents where he is a participant usually involving fighting with his younger brother. It appears similar to today, the younger brother being aggressive towards his mother, the twin brother intervening, the situation becoming uncontrollable and police required to attend.

My observations are that this household is not a healthy situation for any of the children and without further intervention the aggression and violence will continue."

Concerning this incident, in her affidavit dated 19 February 2021 the mother said that she tried to de-escalate the boys. The police took out the domestic violence order but the mother asked them to drop the application because she did not think it would help resolve the situation.

25. In response to the history of intra family violence, in her affidavit dated 19 February 2021 the mother pointed to the following protective measures for the child:

"During any arguments or escalations by the boys at home, the father or I would take the child out of the room or get one of the kids to. We were always conscious of the child and that she might get hurt. It was hard to keep the child away from the escalations all of the time. Even if she was in her room she could still hear escalations happening outside.

...

We have been using strategies to limit violence by and between the boys. We have set rules about no violence and no verbal abuse. We have created timeout space. If one of the boys is escalating, we encourage them to go to the timeout space and we remove them from being around the other boys. We try to resolve the escalating-child's worries by finding out what is wrong and seeing if we can fix it. We have family meetings with the boys, especially after an escalation and once everyone has calmed down, to talk about what

happened so that we are all on the same page and can try to prevent it from happening again.

When Junior escalates, we try to remove the older brothers and ourselves from the house to give Junior time to de-escalate...

When Junior punches into the father, the father leaves the premises.

When we can't de-escalate Junior and things are really bad, we sometimes have to call the police... We only called the police in extreme situations out of care for Junior. The alternative is to let him escalate further, which is not safe for him or for the older brothers and ourselves.

*We want to work towards a place where Junior and the twin brother are getting the right treatment and support for their conditions. **We know this is going to be a long term process ...***

With the right help and support, we want to be in a place in the next two years where our boys are healthy and safe and there are no escalations at home that we can't manage."

26. I consider that neither parent has provided an adequate or convincing explanation for the injuries to Junior sustained in the family home on 11 November 2019, 28 April 2020 and 4 December 2020. I consider their failure to adequately explain these incidents to be deeply troubling. It leaves me with significant doubt as to their ability to protect the child from harm were she to return to the family home.
27. While the mother has attempted to put in place some protective measures for the child in order to reduce her exposure to the household violence, I consider that the measures have been largely ineffective. In addition, when the police took protective steps and sought a police domestic violence order against the twin brother, the mother did not support this safety measure. The mother concedes that further change is still a "long term process". Given the history of intensive supports, and the severity of the incidents that are still occurring in 2020-2021, I consider it improbable that the parents will make sufficient changes in the next two years for a safe reunification with the child.

Contact between the parents and the child

28. From late 2019 – April 2020 contact visits were initially supervised and then progressed to unsupervised. The visits were reported to be healthy and positive.
29. The contact ceased on 28 April 2020 following the serious domestic violence incident that resulted in injuries to Junior. Seemingly lacking insight as to why such an incident might raise concerns about access, in her affidavit the mother said "*Territory Families stopped our access with the child. They did not communicate with us about this...We were abruptly told that we could not get access approved*". In oral evidence Ms J. Anderson said that the child did not want to

continue with access at that time because she had seen Junior's bruises. However, later that year the child wanted her parents to watch her play soccer, but the parents did not attend any of her games.

30. When access resumed in October 2020 planned weekly contact between the parents and the child was supervised at a public library. Some visits were cancelled by the parents and some by the child. Visits that occurred were largely reported to be positive. The father participated less regularly than the mother. From January 2021 access visits were at the paternal grandparents' home, initially supervised and then unsupervised. The kinship carer transported the child for visits with the parents even though the relationship between the kinship carer and the parents had broken down. The child was reluctant to continue with these access arrangements as she was not comfortable with the visits being supervised by the grandparents and did not like answering their questions.
31. According to the most recent care plan dated 11 October 2020, access with parents, siblings and extended family is to occur when the child wants to see them. I note that on 22 February 2021 the child clearly stated to Ms Romeo that she wanted to see more of her parents which should be facilitated in accordance with the care plan.

The most appropriate and least intrusive order

32. Any intervention must be the least intrusive intervention that is consistent with the best interests of the child: ss10A and 129(b)(ii) *Care and Protection of Children Act 2007 (the Act)*. When a child has been removed the court must consider "all possibilities of reunifying the child with the child's parents": s10(2)(cb) of the Act. In addition the court must not make a long term order giving parental responsibility to the CEO unless that is the best means of safeguarding the child and there is no one else better suited to be given that responsibility: s130(2) of the Act.
33. As discussed by Hiley J in *BJW v EWC & Ors* [2018] NTSC 47, these provisions require the court to make a predictive assessment as to whether the parents might become better suited to resume appropriate parental responsibility in the future and adjust the length of order accordingly.
34. The mother submits that the CEO did not properly progress reunification with the child during the child's 12 month order. In particular, the mother submits that the CEO did not consult with her in respect of the child's care planning, and the CEO did not refer the family to family counselling which may have assisted in improving relationships. Although the mother did not achieve reunification during the 12 month order she made some positive progress with the IFPS providers. The mother submits that with additional support there remains a real possibility that reunification could be achieved within the next two years. Accordingly, she submits that if reunification remains possible then a long term order is not the most appropriate and least intrusive order.
35. There appears to have been a breakdown in communications between Territory Families workers and the parents, but this has occurred after several years of intensive work with the family. While the mother has made some progress on some of the protection issues, the

mother admits that she requires further assistance and support to address the intra family violence and her continued weekly cannabis consumption. There has been very limited engagement by the father with the family support services and he has not placed anything before the court attesting to any changes he has made with respect to his parenting or addressing how he proposes to protect the child from harm. The father is reported as a participant in the intra family violence and has not provided a response to those reports.

36. While the mother points to a lack of support and inadequate assistance from Territory Families as reasons for reunification not progressing, I consider that the most significant factor preventing reunification between the parents and the child is the persistent and serious intra family violence. Since August 2019 (the start of the 12 month order) there have been 19 instances of family violence reported to Territory Families, with the mother indicating that only the most serious incidents are reported to the police. This violence does not appear to be abating and I consider there is a real risk it may escalate as the boys grow older. The parents have not demonstrated a capacity to prevent the violence, nor have they identified or implemented measures that might adequately protect the child from exposure to the violence.

Conclusions

37. The child is currently placed with the kinship carer, her older sister. This has been a consistent placement since the child came into care and the kinship carer is committed to providing care to the child until she turns 18. The twin sister and the children of the kinship carer also live with the child. As early as 2017 service providers noted the role the kinship carer played in raising her siblings and described her as a strong maternal influence. I consider the child's current placement with a close family member is stable, secure, and nurturing.
38. The child has experienced and witnessed her siblings moving between living with the parents and living with the kinship carer. Even though she is only 10 years of age she appears to have a reasonably mature understanding of her family situation. She knows that the boys have chosen to live with her parents and the twin sister has chosen to live with the kinship carer. The child continues to want to see her parents. The kinship carer has assisted with access, as have the paternal grandparents. As she grows older the child will no doubt have more independence to initiate her own access with her parents. Given that access with the parents is to be facilitated according to the wishes of the child, the child will have an opportunity to maintain a parental bond with her parents and to learn about her culture and heritage from them, even if she is under a long term order. While the child is not willing to dismiss the possibility of reunification with her parents, she has also expressed the view that they are unlikely to change, and in those more realistic circumstances, she has expressed a desire to remain living with her older sister, where she feels safe and cared for.
39. Intensive family supports have been provided to the family since 2017. Accepting that the mother has made some progress, even so in my assessment an objectively dangerous level of intra familial violence persists. Given the frequency and extent of the violence that occurs in the family home, I consider the parental home is not a safe environment for the child and there are no measures that could adequately protect the child were she to return to the family home. While the mother hopes that "further support" might mitigate the risks, I am

concerned that as the boys grow older the parents will have even less ability to manage their behaviours. Given the father's lack of engagement with services, his apparent involvement in family violence, and the mother's slow progress, I do not consider that further support over another two years would result in a change in the family's circumstances such that reunification with the child could safely occur.

40. Having considered all the material, I am satisfied that the child would be in need of protection but for the fact that she is currently in the CEO's care. I am satisfied that a long term protection order is appropriate, the least intrusive and the best means to safeguard the wellbeing of the child. I am satisfied that there is no one better suited to be given long term parental responsibility than the CEO.

Order

41. I make a long term parental responsibility direction giving parental responsibility for the child to the CEO until she reaches 18 years of age.

Dated this 8th day of July 2021

ELISABETH ARMITAGE
LOCAL COURT JUDGE