

***M & M* [1998] FamCA 1742 (12 November 1998) – Family Court of Australia**

‘Children’ – ‘Contact’ – ‘Exposing children’ – ‘Family violence’ – ‘Impact of violence on children’ – ‘Inability to acknowledge inappropriateness of behaviour’ – ‘Relevance of family violence in cases concerning the welfare of children’ – ‘Supervised by court’

Proceedings: Contact orders.

Facts: The parents had two children together (B and E) and the mother had another son from a previous relationship (D). The children had witnessed violence by the father against their mother, siblings and extended family. The father had several convictions for assault against the mother and one against D, and had been subject to AVOs. After separation, B and E lived with the father, with interim orders made for the mother to have contact with the children. At trial, the parties agreed that B and E should live with the mother but a number of issues were left to be determined. At hearing, a counsellor gave evidence that both children displayed concerning behaviours consistent with early onset and repetitive physical violence.

Issue/s: One of the issues was what contact should the children have with the father?

Reasoning/Decision: On the evidence, the Court held that it was in the children’s best interest that all but in the very short term they should have no contact with the father. Orders were made to reduce contact over the space of 12 months to minimise the distress that could be caused to the children by immediate complete separation (see [96]-[100]). The Court held that the father’s abusive behaviour presented a ‘multi-faceted danger for the children’ including danger of injury as well as “fear, insecurity & vigilance”. It was held there was a risk of the children learning behaviour from the father which would affect their future interactions e.g. the daughter accepting abuse as part of life and the son believing violence is acceptable. See [94]-[95].