

FAMILY COURT OF NOVA SCOTIA

Citation:

Nova Scotia (Community Services) v. S.G.R., 2010 NSFC 24

Date: 2010-11-01

Docket: FANCFSA-063264

Registry: Kentville, N.S.

Between:

M.C.S.

Applicant

v.

S.G.R.

Respondent

Editorial Notice:

Edited by Judge for grammar, punctuation & readability

Judge: The Honourable Judge Marci Lin Melvin

Heard July 20th, September 8th & 29th, October 4th, 2010

Decision: November 1, 2010

Counsel: D.B. MacMillan, for the Applicant
Peter vanFeggelen, for the Respondent

By the Court:

[1] This is a review of a disposition order.

[2] At the disposition stage the parties consented to an order for temporary care of the child, and the Court set the matter for review.

[3] It was the decision of the Court at that time that the child, S.W.R., would remain in the temporary care of the Applicant.

[4] The Disposition review was set to commence October 4th, 2010.

[5] The Respondent was not present and her counsel advised his client would be there at 1 p.m.

[6] Counsel for the Applicant Minister advised:

(a) The Agency worker had gone to a pre-designed place that morning to meet with the Respondent, to bring her to Court but the Respondent was not there;

(b) The worker subsequently went to the Respondent's residence, but the Respondent was not dressed and when asked if she was coming to Court,

she advised she did not need the Agency workers to drive her to Court as she was not sure if she would be attending Court;

(c) Subsequently, on the same morning, the Agency workers approved a travel voucher for the Respondent pursuant to a request made by the Respondent after she had spoken with the Agency workers, so the Respondent could arrange transportation to get to Court.

[7] To give the Respondent the benefit of the doubt the matter was set over until 1 p.m. on October 4th, 2010.

[8] When Court resumed at 1:09 p.m., the Respondent was still not present. Her counsel advised that he had instructions from her but he wanted her to be there before he put them on record. Despite the travel voucher, his client still had not attended.

[9] Court was recessed until 1:45 p.m. to see if the Respondent would appear.

[10] At 1:46 p.m. when Court resumed, the Respondent was still not present and her counsel asked to withdraw as solicitor of record. There was no objection by counsel for the Minister and counsel for the Respondent's motion was granted by the Court.

[11] Counsel for the Applicant Minister advised that the Respondent has failed to show up over twenty consecutive times for her access to the child, and that the last time she had access was July 19, 2010. He argued that he had established well beyond the balance of probabilities that the child was in need of protective services and move for the disposition of permanent care and custody.

[12] An Affidavit filed by Karen Belliveau, a former contract access supervisor to S.G.R., of the Department of Community Services, notes that her access to her children since July 21st, 2010 has been as follows:

“July 21st, 2010 at 7:10 a.m. [S.G.R.] called my cell phone to inform me that she had to cancel access that morning due to feeling ill...

July 26th, 2010 at 8 a.m. I left a message on [S.G.R.’s] cell phone indicating I would pick her up at approximately 8:15 to transport her to access...when I arrived at [S.G.R.’s] home I found a letter on her door indicating she could not attend access that day and that she would see me for the next scheduled access...

July 28th, 2010 called and left a message for [S.G.R.] regarding an access visit...the next day...at 11 a.m. I attended [S.G.R.’s] home to follow up with access for the next day...[S.G.R.] indicated she would try to arrange to be available for access the next day and agreed to call me back asap...access did not take place on July 29th...

On August 10th, 2010 I called and left a message on the Respondent’s cell phone stating I would be picking her up at 7 a.m. the next day for access with [the child] and indicated that if I had not heard from her by 4:30 p.m. I would assume access was cancelled...I did not receive any call from[S.G.R.] by 4:30 p.m., and accordingly access for the next day was cancelled...The Respondent’s access was cancelled for August 18th because, again, she failed to contact me to confirm her intention to attend. August 24th, 2010, again access was cancelled...”

[13] There were no Affidavits filed on behalf of the Respondent refuting the evidence.

[14] It is abundantly clear to the Court that for whatever reason the Respondent, S.G.R., has simply lost interest in these proceedings. The Court has had no evidence to conclude otherwise. The Court granted the Applicant Minister's application for permanent care and custody of the child [S.W.R.] on October 4th, 2010, with written reasons to follow. The written reasons are as stated and the Court confirms the Order for permanent care and custody of the child S.W.R.

Marci Lin Melvin, J.F.C.