

FAMILY COURT OF NOVA SCOTIA

Citation: *Nova Scotia (Community Services) v. C.P.*, 2018 NSFC 22

Date: 2018-12-03

Docket: FKCFSA-105023 & 111186

Registry: Kentville, N.S.

Between:

MINISTER OF COMMUNITY SERVICES

Applicant

v.

C.P. and B.H.

Respondents

Restriction on Publication:

Publishers of this case please take note that s. 94(1) of the *Children and Family Services Act* applies and may require editing of this judgment or its heading before publication.

Section 94(1) provides:

No person shall publish or make public information that has the effect of identifying a child who is a witness at or a participant in a hearing or the subject of a proceeding pursuant to this Act, or a parent or guardian, a foster parent or relative of the child.

Judge: The Honourable Judge Jean Dewolfe

Heard: November 13, 14, 15, 19, 20, 2018, in Kentville, Nova Scotia

Oral Decision: December 3, 2018

Counsel: Amanda Dillman, for the Minister of Community Services
C. P., unrepresented
Marc Charrier, for B.H.

By the Court:

[1] There are two applications before me today by the Minister of Community Services and I am going to deal first with the application regarding the older three children. The two proceedings before the Court have not been formally joined but were heard simultaneously on the basis of the same evidence. I am going to address the matter involving the three older children first and then I will address the matter involving the youngest child, N.

[2] The Minister of Community Services seeks to place K.P., K.H. and T. in the permanent care and custody of the Minister. That is the application I am going to deal with first.

[3] These children are eight, approximately two and a half and one and a half years of age respectively. C.P. is their mother and B.H. is the father of the two younger children. He has also acted as a father to K.P. whose biological father has had virtually no involvement in her life and has not been named. This proceeding began in April of 2017. The children have been in the temporary care and custody of the Minister since August of 2017 when family placements broke down. They are currently placed in the same foster home, along with their baby sister.

[4] C.P. seeks to have the three children returned to her care with supervised access for B.H. B.H. supports the Minister's application for permanent care and custody.

[5] I am delivering this decision orally in order to provide timely certainty for the parties and to facilitate the delivery of this decision to C.P. who is not represented. I reserve the right to provide a written decision at a later date. I will not be providing a detailed summary of the law or the history of the proceedings today. They are essentially as are set out in the Brief filed by counsel for the Minister. Also, while I have reviewed and considered all the evidence which has been placed before me in the form of affidavits, reports and in-person evidence, I only intend to summarize for the most part the evidence upon which I have based my decision.

[6] I recognize that C.P. encountered significant challenges in representing herself in this matter. Shortly before this hearing was about to begin, C.P. agreed with her previous counsel that their relationship had broken down. She was initially given an adjournment to explore the option of engaging other counsel but this was not possible. She then elected to represent herself with assistance from a lawyer who cross-examined B.H. on her behalf and provided assistance in the preparation of her submissions. Nevertheless, I have been impressed by C.P.'s

ability to articulate her position and interact appropriately in the Courtroom. While legal representation would no doubt have eased the process for her and made cross-examinations more fluid, C.P. was able to adequately impart her perspective and arguments to the Court without a lawyer.

[7] This application is made pursuant to the *Children and Family Services Act*. The **Act** sets out timelines for decisions to be made, thereby attempting to balance a child's need for certainty against the potential benefits of allowing parents time to alleviate protection concerns. The **Act** recognizes the importance of children being raised by family provided that their needs can be met without exposure to a substantial risk of various harms.

[8] In this case, the statutory time lines expired in September 2018. Therefore, this Court has only two options with respect to K.P., K.H. and T. – either place them in permanent care or return them to C.P.'s care.

[9] The Minister must prove that it is more likely than not that the children remain in need of protection and that there continues to be a real chance of harm as defined by the **Act**. The Court must also consider the overriding principle of the best interest of the children as set out in the **Act**.

[10] Much of the evidence before the Court involves C.P.'s troubled relationship with B.H. The Respondents met approximately three and a half years ago and married shortly thereafter. C.P. was already a single parent to K.P. who was almost five when B.H. entered her Mom's life. K.H. and T. were born very soon thereafter.

[11] C.P. is a young woman who suffered early traumatic experiences. She was removed from her biological parents' care and was adopted at the age of three. She experienced conflict in her adoptive family and was in the care of the Minister during her teenage years. She has experienced significant mental health challenges for most of her life.

[12] C.P. described her relationship with B.H. as physically and emotionally abusive and toxic. I accept her evidence in this regard. The children were exposed to a great deal of conflict, chaos and instability when they resided with B.H. and C.P.

[13] C.P. identified numerous barriers to leaving B.H. prior to May 2018 and I understand what she is saying in that regard. She testified that prior to her relationship with B.H., she had good coping skills which allowed her to parent adequately despite her mental illness. This parenting of course only related to K.P.

at the time. Her ability to cope was confirmed by her long time friend, M.D. M.D. also confirmed C.P.'s version of events in regards to her relationship with B.H. and how abusive that was, and I accept that evidence.

[14] C.P. testified that she has been separated from B.H. since June of 2018 despite evidence of ongoing communications after that time. The parties had separated and reunited frequently during the Agency's involvement. I accept, however, that she has terminated her relationship with B.H. at this time and that this has been positive for her. The evidence of M.D., Jane Donovan, Valerie Hewitt, Kira Kelly and Kimberley MacLean support C.P.'s evidence in that regard.

[15] C.P.'s mental health has been relatively stable and she has engaged in services to improve her mental health and parenting since she moved to the HRM. I accept that she has made progress in terms of coping skills and in her appreciation of the effects that domestic violence has had on her and her children.

[16] The Court's key concern remains C.P.'s significant long-standing mental health challenges. C.P. suffers from post traumatic stress disorder, major depressive disorder and social anxiety disorder. In a recent affidavit, C.P. frankly described the day-to-day impact of these conditions on her life. She stated that her anxiety will not allow her mind to stop at times and that her low mood causes her

to want to stay in bed. She also struggles continually with suicidal thoughts. She goes from extreme sadness to extreme anger, from being overly passive to overly assertive. She stated that despite these thoughts and challenges, she refuses to allow her diagnoses to limit her decisions with respect to doing what she believes is best for her children. She stated that she is working on better managing and treating her disorders.

[17] This is confirmed by Dr. Tulipan and Ms. MacLean of the IWK Reproductive Mental Health Clinic. They describe C.P. as engaged. Dr. Tulipan's notes also indicate that C.P. has been prescribed a psychiatric medication which it appears she has been taking regularly.

[18] Ms. MacLean's evidence is that C.P.'s treatment has been unable to progress beyond stabilization due to the fact that her resilience has been overtaxed by the many stressors that she has faced: a move to the city, separation from B.H., the birth of N. and her engagement in the Court process and services with the focus of having her children returned to her care.

[19] C.P. has only been able to meaningfully engage in services and treatment in the past six months since she separated from B.H. During this time, she has had no children in her care and has been provided with safe, stable housing through Alice

House. Her support network, aside from M.D., appears to revolve around Alice House and the IWK Reproductive Mental Health team.

[20] K.P. and K.H., and T. to a lesser extent, experienced significant trauma in C.P.'s care. This is clearly described in the affidavits of the Minister's social workers – repeated, continual exposure to domestic violence, conflict, instability, distracted and inadequate parenting, unfit living conditions, all took a toll on these children.

[21] All three children have high needs. They require structure, stability, patience, good parental judgement and the ability to organize and manage numerous professional services. K.P.'s behavioural issues flare when she experiences change and inconsistency. She has peer difficulties and may have an attachment disorder. She has been seeing a counsellor and may need to continue to do so. K.H. is developmentally delayed and is being assessed for autism. He requires intensive early intervention and speech therapy. T. is also experiencing developmental delays and requires early intervention, particularly in terms of speech.

[22] Although C.P. has explored various potential services which would be available for the children in HRM, I am concerned that she does not appear to have

a well thought out transition plan for the children, both now and when she leaves Alice House housing. C.P.'s lease with Alice House expires in June 2019 and there is no evidence that it can be extended beyond that date. C.P. spoke of the possibility of moving outside of HRM. Given C.P.'s history of insecure housing and instability, and given the extensive service needs of the children, and C.P. herself, I am not convinced that C.P. could manage a move without significant disruption to the children.

[23] C.P.'s PTSD, social anxiety and serious depression continue to pose significant risk to the children's well being and care. C.P. expends considerable energy, it seems, fighting her racing thoughts, depressed mood and PTSD triggers. This will challenge and impair her parenting. Overly passive or overly aggressive behaviour will not provide the children with stability.

[24] In the face of the intense demands inherent in caring for these three high needs children as a single parent, this Court is concerned that C.P.'s resilience will continue to be overtaxed and that she will be unable to maintain her current level of stability and will not be able to progress in her treatment.

[25] C.P. argues that the Minister's concerns resulted from her relationship with B.H. and notes that she was not involved with child protection prior to entering

into that relationship. However, her relationship with B.H. and their domestic violence was not the only basis for the referrals to the Minister. Inadequate parenting, suicidal threats, and inadequate housing were also reported. While I recognize that B.H. played a significant role in these concerns, it appears that C.P.'s mental health was also a cause.

[26] C.P. appeared to experience relative stability after K.P.'s birth, prior to her relationship with B.H. However, it should be noted that C.P. only had one child in her care at that time and did not have an abusive ex-partner to deal with. Should the children be returned to C.P.'s care now, she would have the care of three children with high needs and would have the continued challenge of interacting with B.H. regarding access and parenting.

[27] I question her ability to parent effectively under stress as well if she becomes overwhelmed, as she did, for example, with her stepsons on the Easter weekend earlier this year. I am also concerned that C.P.'s traumatic life experiences and her mental health challenges will impair her judgement in making decisions with respect to the children. C.P. is used to acting based on her own opinions and from a distrustful lens. I note her reaction to the proposed Vitamin K shot after N.'s birth and her views on vaccination and psychiatric medications in the past.

[28] In addition, her PTSD triggers can impede her communication and functioning with others, especially when she feels threatened or challenged. This was evident in her recent interactions with the foster parent. I am concerned that C.P. will not follow through on professional advice unless forced to do so and may respond in a narrow, defensive way to those who seek to provide assistance to her and her children.

[29] Given her mental health challenges and her level of progress, I find that C.P.'s Plan of Care for the children is not realistic or reasonable. While she has made progress with services since June 2018 and has done all that she could reasonably be expected to do in the circumstances, it is sadly too little too late. I find that I cannot return these three children to her care. To do so would set C.P. up for failure and place K.P., K.H. and T. at substantial risk of neglect and serious emotional abuse, as defined by s. 22 (2) (g) and (k) of the **Act**.

[30] The Minister has proven on a balance of probability that these children remain in need of protection. They will be placed in the permanent care and custody of the Minister.

[31] The Respondents are Protestant Christians in faith and pursuant to s. 47(5) of the **Act**, that should be noted.

[32] This is also the initial disposition application with respect to N. The Minister seeks continuation of the temporary care and custody order with respect to that child. C.P. seeks the return of N. to her care. However, she has conceded that should her other children be placed in permanent care, she would not immediately be capable of caring for N. due to her emotional state. This is completely understandable.

[33] N. will therefore remain in the temporary care and custody of the Minister at this time. No less intrusive alternatives can adequately protect her from substantial risk of emotional harm and serious neglect at this time. I am therefore satisfied that it is in N.'s best interest to remain in the temporary care and custody of the Minister with ongoing supervised access to her parents and services as agreed. I suggest a review on Monday, February 25, 2019 at 9:30 a.m., if that is acceptable.

[34] The finding will be pursuant to s. 22(2) (g) and (k).

[35] I will ask Ms. Dillman to draft both Orders.

Jean Dewolfe, JFC