

**IN THE SUPREME COURT OF NOVA SCOTIA**  
**(FAMILY DIVISION)**

**Citation:** A.D.B. v. D. E. , 2007 NSSC 182

**Date:** 20070620

**Docket:** SFHF-004672, SFHMCA-31083

**Registry:** Halifax

**Between:**

B. ( A. D. )

Applicant

v.

E. ( D. )

Respondent

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Beryl MacDonald

**Heard:** April 10, 11 and 26, 2007 in Halifax, Nova Scotia

**Written Decision:** June 20, 2007

**Subject:** Family Law - Maintenance and Custody Act - Custody - Access

**Summary:** The Applicant sought to vary the provisions of a previous consent order placing her son, now 16 years old, and her daughter, now 8 years old, in the joint custody of she and the Respondent but in his primary care. The Applicant sought primary care of her children. At the time the children were placed in the primary care of the Respondent the Applicant was suffering from depression, required intervention to recover, was unemployed and had no suitable residence. On the date of the hearing the Applicant had substantially recovered from her depression although she continued active involvement with therapists, had completed one year of a two year Community College program toward her future employment and had re-established an independent life. A custody and access report

recommended the parties son remain in the primary care of the Respondent while their daughter be in the primary care of the Applicant. The Applicant alleged that the Respondent had significant parenting deficiencies relating to domestic violence and the growing and use of marijuana. The Respondent denied these allegations and argued that it was not in the best interest of his daughter to be in the Applicant's primary care.

**Issue:** Which parenting plan would best meet the interests of these children?

**Result:** There was no evidence that the Respondent was presently involved in any use or growth of marijuana and past involvement was not relevant to present circumstances. The relationship between the Respondent and the children was positive although his portrayal of the Applicant to the children was negative since the Applicant left the home. The son's relationship with the Applicant had deteriorated and he was not presently willing to visit with her. The Respondent's personality, and daughter's needs indicated a placement in the primary care of the Applicant.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
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