

**FAMILY COURT OF NOVA SCOTIA**

**Citation:** *Nova Scotia (Community Services) v. A.R.*, 2018 NSFC 12

**Date:** 2018-05-14

**Docket:** SFHCFSA-102262

**Registry:** Kentville, N.S.

**Between:**

MINISTER OF COMMUNITY SERVICES

Applicant

v.

A.R., I.C. and T.S.

Respondents

<p><b>Restriction on Publication: 94 (1) of the <i>Children and Family Services Act</i>, S.M.S. 1990, c.5</b></p>
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Judge: The Honourable Judge Jean Dewolfe

Heard February 21, April 18 and April 19, 2018 in Kentville, Nova Scotia

Decision: May 14, 2018

Counsel: Ms. Sanaz Gerami, for the Applicant  
Mr. John MacMillan, for the Respondent, A.R.  
Ms. Katelyn Morton, for the Respondent, T.S.  
I.C., Respondent, not present nor represented by counsel

**By the Court:**

[1] This is an application by the Minister of Community Services (“the Minister”) to terminate child protection proceedings and place two children with the Respondent, T.S., with supervised access to the Respondent, A.R. T.S. is the father of the child, T., who is two years old. A.R. is the mother of T. and also the mother of B. who is 10 years old. I.C. is B.’s father. I.C. has not participated in the proceedings since 2016 and is not significantly involved in B.’s life.

**BACKGROUND**

[2] The Minister’s initial involvement with A.R. occurred shortly after B.’s birth in 2008, due to concerns as to A.R.’s mental health. She was reported to have attempted suicide. She engaged in counselling and was prescribed medication and stabilized within a few months.

[3] In 2012, a referral was made due to alleged domestic violence between A.R. and I.C.

[4] In 2015, shortly after T.’s birth, T.S. reported that A.R. was mentally unstable and unable to care for her children. At the time, A.R. was residing in

Dartmouth and T.S. was residing in Kings County. A.R. connected with services including the Reproduction Mental Health team at the IWK Hospital.

[5] In June 2016, T.S. made another referral regarding A.R. At that time he had T. in his care, but B. was in A.R.'s care. He reported that A.R. had overdosed on anti-depressant medication while the children were with her. Following this incident, T.S. took both children to live with him. The parties entered into a Memorandum of Understanding which provided that the children would live with T.S., and A.R. would have access supervised by T.S.

[6] In June 2016, an incident occurred in which A.R. was charged with assaulting T.S., in the presence of the children. Following that incident, A.R. complained to the Agency about T.S., alleging he had been verbally and physically abusive to her.

[7] After investigating, the Minister decided to seek a Supervision Order, placing the children in the care of T.S., with supervised access for A.R., and seeking to have A.R. participate in a psychiatric assessment and anger management counselling.

[8] On September 12, 2016, the Supreme Court Family Division made an Interim Order, pursuant to the *Children and Family Services Act* ("The Act")

placing the children in the care of T.S., subject to supervision, with supervised access for A.R. and I.C. (to B.). This Order was confirmed on October 4, 2016. A Protection Order was made on November 28, 2016 with the consent of the parties, on the basis of s. 22(2), (a), (b) and (k) of the **Act**.

[9] In the fall of 2016, A.R. moved to Kings County. Therefore, the Kentville Family Court has heard the proceedings since that time.

[10] In February 2017, A.R.'s visits transitioned to partially supervised.

[11] The Agency filed a Plan of Care dated February 23, 2017, proposing that T.S. and A.R. would both share care of the children.

[12] On March 3, 2017, this Court made a Disposition Order on the same terms as the Protection Order, with the additional requirement that A.R. participate in a psychiatric assessment.

[13] In March 2017, the Minister became aware that A.R. was struggling with B.'s behaviour during visits. A.R. reported that B. had hit her and thrown things at her. T.S. noted bruises on B. B. reported that A.R. had pulled him by the arm into his room during an altercation and yelled at him. After this incident, B. refused to participate in visits with his Mom.

[14] A.R. has maintained that T.S. is alienating the children and that this is the cause of B.'s behavioural issues with her and his refusal to attend access.

[15] Disposition has been reviewed and the Supervision Order renewed on six occasions on consent.

[16] On February 16, 2018, the Minister filed an Amended Plan of Care seeking termination of the proceeding upon an Order being granted pursuant to the *Parenting and Support Act* R.S.N.S., 1989, c. 160 as amended ("PSA") with T.S. having care of the children.

[17] On February 21, 2018, the final Disposition Hearing commenced. The hearing resumed on April 18 and 19, 2018.

[18] T.S. supports the Minister's position that he have care of the children and that A.R. have supervised access.

[19] A.R. disagrees with the children remaining in T.S.'s care and does not agree that her access needs to be supervised. She seeks to have both children returned to her care.

## **EVIDENCE**

### **Minister's Evidence:**

[20] **Dr. Risk Kronfli:** The Minister filed a psychiatric assessment of A.R. prepared by Dr. Risk Kronfli dated June 23, 2017. This report was admitted by consent.

[21] Dr. Kronfli reviewed A.R.'s trauma history which included being sexually abused between ages 3 to 9 by her father who later committed suicide, as well as child protection involvement in her family of origin.

[22] Dr. Kronfli's uncontradicted opinion was that A.R. continued to deny the effects of this trauma on her and that she remained "largely unable to manage her emotions" despite services and counselling (p. 20).

[23] He noted:

"This experience of childhood trauma caused significant victimization, which affected (A.R.'s) emotional development. However, she denies its effects, stating that she has completely forgiven her father. Nevertheless she clearly developed underlying anger issues that have not been resolved and continue to affect her daily functioning. Like others with a similar history, (A.R.) developed unhealthy communication skills that interfere with her interactions with others." (p. 20).

[24] Dr. Kronfli also found her to be an unreliable information provider who accepted limited responsibility for her unhealthy personal choices. He observed that she clouded her reality “by exaggerating and embellishing some information she reports, while minimizing the significance of other information that has previously been identified as a real concern with respect to her parenting and lifestyle choices” (p. 21).

[25] Dr. Kronfli noted interactional problems and impulsive behaviour. He diagnosed symptoms “suggestive of low mood and anxiety, but also many traits of Borderline Personality and impulsivity” (p. 21).

[26] In Dr. Kronfli’s opinion, A.R. required anti-depression medication such as Cipralex to assist with her mood and anxiety, so that with these symptoms under control, she could better apply what she learned from Cognitive Behavioural Therapy (CBT) in her daily interactions.

[27] The Minister also provided a response from Dr. Kronfli dated 28 September 2017 to a letter he received from A.R.’s family doctor, Dr. Patrick Seetharamadoo. Dr. Seetharamadoo had prescribed Lorazepam for A.R. instead of an anti-depressant. He advised Dr. Kronfli that A.R. had completed Cognitive Behaviour Therapy and appeared to have “integrated” this therapy (Exhibit 17). In his

response, Dr. Kronfli noted that A.R has “a tendency to present in different ways to different people especially if not challenged” (Exhibit 3, Tab 17, para 23). He went on to state:

There is no doubt . . . that regardless of “therapy” the outcome of those therapies is what we can measure. So if her behaviour and interactions are improving, if she demonstrates an ability to cope and accept facts (like the fact that her kid doesn’t want to have anything to do with her), then that’s great. This is one of those cases where becoming a reliable and safe care giver has to be shown by the person and (is) not necessarily related to medication”.

[28] **Andrea Munro**, a family therapist, provided therapy to B. from January to August 2017. She had been engaged to work with A.R. and B. together, but after one joint session, she asked to work with B. separately. She testified that she did so for two reasons.

[29] First, she felt that A.R. needed to work on her own issues before joint counselling would be effective. Ms. Munro noted A.R.’s focus to be on T.S. and his shortcomings and alleged wrongdoing, and she did not take responsibility for the events which had caused B.’s trauma. She also testified that she found it impossible to have an interchange with A.R. Instead, the meeting consisted of information being provided by A.R. to Ms. Munro.



[30] Secondly, access between A.R. and B. was suspended in March 2017 after the altercation between them, and B. did not want contact with his Mom.

[31] In Ms. Munro's first report, dated July 5, 2017, she noted that B. had requested an apology from his Mom. She described her goal in B.'s therapy at that time as follows: (Exhibit 2, Tab B.1)

“My goal is to continue to work with (B.) to help him understand how mental illness and/or personality disorders can affect people and to help him recognize what this may mean with regards to his Mom in the broader perspective.”

[32] In her March 8, 2018 report, Ms. Munro reported that she had facilitated a meeting between B. and A.R. on August 12, 2017. She notes that A.R. attempted to validate B.'s feelings, and acknowledged parenting mistakes without actually admitting having caused physical harm to B. in the March 2017 incident. B. accepted this as a “good apology” and the visit went well. However, B. refused to recommence access despite the apology. Ms. Munro attributed this to:

“ . . . years of inconsistent, unpredictable parenting resulting from (A.R.'s) maladaptive patterns of behaviour”.  
(p.2.)

[33] She noted that B. felt his Mom's behaviours would continue even though she had made the effort to "make good" with him. Ms. Munro felt that A.R. needed to present consistently over a period of time before B. felt comfortable with restarting access.

[34] Ms. Munro suggested that future visits between B. and A.R. take place with a Youth Worker who could supervise and facilitate visits in a less formal, activity based setting.

[35] **Kirsty Sedden**, the initial social worker from the Dartmouth office of the Minister, provided an affidavit which was entered by consent.

[36] Ms. Sedden became involved with A.R., T.S. and the children in June 2016.

[37] Ms. Sedden's involvement commenced with a referral from T.S. on June 1, 2016 due to his concern as to A.R.'s ability to care for the children given her emotional volatility. This was followed on June 15, 2016 by a report of A.R. overdosing on anti-depressant medication, and then a second overdose shortly thereafter. On June 22, 2016, A.R.'s doctor, Dr. Judy MacNeil, informed Ms. Sedden that A.R. had been diagnosed with Bipolar Disorder, Adjustment Disorder and Borderline personality traits, and that she had been prescribed Citalopram which she had not been taking for some time.

[38] Ms. Sedden also reported that a co-worker spoke with Allison Wood of Reproductive Mental Health at the IWK Hospital, who had treated A.R. Ms. Wood related information provided by A.R., *i.e.*, that T.S. was manipulative and violent.

[39] Ms. Sedden's co-worker, Ms. MacNutt, met with T.S. who responded to A.R.'s allegations of alcohol abuse and violence. He indicated that as a volunteer fire fighter and shift worker at Michelin he could not drink much of the time, and that he did not drink while in a child caring role.

[40] T.S. also told Ms. MacNutt that A.R. had been violent with him and that he had had to restrain her on occasion, but otherwise he had not been violent towards her.

[41] Ms. MacNutt spoke with B. who reported liking the time he spent with T.S., and reported that his mother swore, yelled, cried and that she "always gets upset and angry at me". (Exhibit 3, Tab 1, para 28).

[42] On July 11, 2016, Ms. Sedden was informed by Halifax Regional Police and A.R. about an incident between A.R. and T.S. A.R. was alleged to have repeatedly hit T.S. with her hand and a telephone, in front of B., while T.S. was holding T.

She had been charged with assault and a no contact order had been put in place.

A.R. admitted that she had “lost it” and slapped T.S. in the midst of an argument.

[43] Following this event, A.R. indicated she no longer agreed to the children living with T.S. and instead proposed placement with her aunt, N.H.-S. T.S. did not agree to the children being placed with N.H.-S.

[44] Ms. Sedden contacted service providers who had been involved with A.R. Counsellors from Self Help Connection and Alcove Recovery spoke highly of A.R., and noted that she had reported that she had implemented new skills she had learned. However, on August 30, 2016, A.R. revoked her consent to allow the Minister to speak with her service providers.

[45] A.R. and N.H.-S. alleged T.S. had been rough with B. A.R. called T.S. a “rapist” who drank 8-12 beer a day. A.R. denied she had attempted suicide in 2008.

[46] In August, 2016, Ms. Sedden visited T.S.’s home and spoke with T.S. and B. with respect to the allegations of A.R. and N.H.-S. T.S. denied the allegations. Ms. Sedden observed B. and T. to be happy and well cared for by T.S.

[47] In October 2016, A.R. alleged that T.S. had brought alcohol to her access visits he had supervised in May/June 2016. She alleged that he has been

“discharged” from the fire department. She also alleged that T.S. “brainwashed” B. and used “techniques of abuse that you can Google”. She called him a “terrorist” and blamed him for B. not wanting to visit. She also alleged that he had been violent with two ex-partners.

[48] Ms. Sedden followed up on these allegations. She found that T.S. had actually not been discharged from the fire department but had taken a 12-month paternity leave. Also, his ex-partners did not confirm A.R.’s concerns regarding T.S.’s violence and alcohol use.

[49] In late November 2016, A.R. reported that T.S. had a loaded shotgun behind his dresser. R.CM.P. investigated and found that T.S.’s shotgun was properly secured and stored.

[50] **Lael Aucoin** became the parties’ social worker in December 2016 following A.R.’s relocation to Kings County.

[51] Ms. Aucoin noted that A.R. initially agreed to Ms. Munro providing counselling for B, but later revoked her agreement. A.R. suggested another counsellor of her choosing, and made an appointment for B. with that counsellor, despite the fact that the Minister and T.S. had not consented to this change. A.R.

also arranged an appointment for B. at the IWK regarding his Tourette's Syndrome, but advised she did not want T.S. to talk to the doctor on the phone.

[52] In February and March 2017, Ms. Aucoin noted a deterioration in A.R.'s mental health and functioning.

[53] In February 2017, A.R. reported that T. had thrown up vomit that "looked like worms". T.S. advised that T. had eaten some crushed up noodles. A.R. continued to question whether T. had worms.

[54] A.R. also reported that B.'s hands were frostbitten. She took B. to the E.R. where the Doctor's notes indicate a diagnosis of eczema (Exhibit 19). A.R. continued to insist that B.'s hands had been frostbitten, and emailed and called B.'s school. Ms. Aucoin spoke to T.S. who indicated that B. had had eczema for years. B. also reported to Ms. Aucoin that he has eczema and used cream.

[55] In February 2017, B. told Ms. Aucoin that his Mom had grabbed him by the arms and dragged him to his room.

[56] On March 14, 2017, A.R. had sent Ms. Aucoin an email alleging that B. was experiencing behavioral problems in school.

[57] On March 14, 2017, N.H.-S. called Ms. Aucoin and left voice mails of a taped call with A.R., in which it appeared she was struggling with B.'s behaviours. Similar voice messages were left for Ms. Aucoin on March 17, 2017 in which N.H.-S. stated that A.R. was having difficulty controlling B. The next day, A.R. sent Ms. Aucoin an email in which she alleged that B. had slapped, kicked and punched her and threw potatoes at her.

[58] Ms. Aucoin spoke with T.S. and B. about these complaints on March 21, 2017. B. reported that A.R. had pushed him on March 17, 2017. On March 22, 2017, T.S. noted bruising on B. and reported this to Ms. Aucoin. B. attributed one bruise to his Mom pulling him by the arm over the arm of the couch and downstairs to his room.

[59] Following this disclosure, A.R.'s visits with the children were suspended.

[60] Ms. Aucoin testified that she found it "very challenging" to work with A.R. She noted the continual allegations and misrepresentations made by A.R., and the fact that A.R. bombarded her with emails, often after hours, and then complained when she did not respond after hours.

[61] **Ashley Colville**, social worker, assumed carriage of the parties' file in the spring of 2017.

[62] She filed four Affidavits and identified the Agency's Amended Plan of Care. She too recounted difficulties in communicating with A.R. similar to those experienced by Ms. Aucoin.

[63] In May 2017, A.R. expressed to Ms. Colville that she did not believe that she would benefit from additional counselling, and that B. would not benefit from counselling while he was in T.S.'s care.

[64] In June 2017, A.R. alleged that J. was dirty and "covered" in flea bites, yet when Ms. Colville observed T. a few days later, she did not observe any bites, and found no concerns as to T.'s cleanliness.

[65] Ms. Colville testified that A.R. refused a Youth Support worker for B., even though Ms. Munro had recommended this to facilitate her access with B. Ms. Colville also indicated that A.R. was offered the assistance of a family support worker to help her appropriately manage B.'s behaviour, but she refused this service because she reported that she did not need help with parenting.

[66] Ms. Colville was asked on cross-examination about the Minister's efforts to investigate A.R.'s allegations of parental alienation on the part of T.S. with respect to B. She indicated that a *guardian ad litem* was proposed for B. but that A.R.



would not agree. They also provided counselling for B., including two joint visits with his Mom to address B.'s refusal to visit A.R.

[67] Ms. Colville testified that they found B.'s version of the March 17, 2017 incident to be substantiated. She confirmed that B. had expressed fear of A.R., and continues to refuse to attend access. She also indicated that the Minister continues to provide partially supervised access for T. and have not moved to unsupervised access because they have continued concerns for T.'s physical and emotional safety when cared for by A.R.

[68] Ms. Colville testified that the Minister's access to information from A.R.'s chosen service providers was minimal, in particular, from counsellor, Ms. Jennifer Moore. A.R. had advised Ms. Colville in December 2017 that she felt three appointments with Ms. Moore was enough. She also refused to have Ms. Colville sit in on a counselling session with Ms. Moore.

[69] Ms. Colville advised that she had recently received a referral from T.S. indicating that T. had said that A.R. had "hit" and "hurt" him during access. A.R. denied the allegation, and the Minister determined the referral to be "inconclusive".

[70] A.R. confirmed to Ms. Colville that she is pregnant and expects to give birth in May 2018, but she has refused to name the father or discuss planning for the child's care.

[71] Ms. Colville also advised that A.R. had been sentenced to a conditional discharge with probation for her assault on T.S., and she currently cannot communicate with T.S. She reported that A.R. had refused co-parenting counselling.

[72] Ms. Colville testified that A.R. had told her recently that she was "baffled" by the Minister's concerns. A.R. recorded all conversations with the Minister's employees and she continues to allege that the Minister "lies or omits" information.

[73] Ms. Colville reported that B. is doing well in school and currently exhibits no signs of Tourette's in school. B. was upset that A.R. allowed him to see his Christmas gifts but refused to give them to him because he would not stay for his planned Christmas visit. She testified that B. has never told her that he is scared of T.S., as alleged by A.R.

## **Respondents' Evidence**

### **A.R.**

[74] **Jennifer Moore** is an emotional wellness counsellor with Nova Scotia Health in Windsor, Nova Scotia. She has worked with A.R. since September 2016, in both group and individual settings. She reported that A.R. has completed nine group programs including topics such as stress, assertiveness, personal strength, healthy relationships and “My Child is Anxious”. She also recalled meeting with A.R. either in person or on the phone for approximately 8 sessions. A.R. had taken a 3-4 month “break” in 2017 which A.R. attributed to transportation difficulties.

[75] Ms. Moore described her service as helping participants to increase coping skills. Her service is meant for people who are functioning from a mental health perspective. She stated clearly that she did not see her role as including an information exchange with the Minister. Ms. Moore also was clear that she had never seen A.R. with her children and could not venture an opinion on her parenting ability.

[76] Ms. Moore found A.R. to be compassionate and thoughtful. She participated fully and reported that she practised the skills taught. These skills included mindfulness and a Cognitive Behaviour Therapy (C.B.T.) approach to emotional

regulation. Skills taught including calming, relaxation, communication, parenting and increasing emotional resilience. Ms. Moore experienced no difficulties communicating with A.R.

[77] Ms. Moore described A.R. as making a lot of progress pre-March 2017. A.R. had shared her problems with managing B.'s behaviour, but Ms. Moore's understanding was that A.R. had reached out to the Agency for assistance.

[78] Ms. Moore stated her service is not able to do the "deeper dig", *i.e.*, treat mental health disorders, and confirmed that she did not offer DBT (dialectic behaviour therapy).

[79] **J.C.** has been friend of A.R.'s since December 2016. He provided an affidavit and was cross-examined. He has been a paramedic for approximately 20 years. He took T. and B. to the doctor with A.R. to investigate the redness on B.'s hands and in response to T. allegedly vomiting what appeared to A.R. to be worms.

[80] J.C. testified that his recollection is that the Doctor said that T. could possibly have worms and did not specify what was wrong with B.'s hands.

[81] **M.W.**, A.R.'s friend and neighbour, provided an affidavit and was cross-examined. She testified that A.R. told her B. would not visit because she took his Xbox away. M.W. has allowed A.R. to babysit her grandchildren.

[82] **N.H.-S.** is A.R.'s aunt. She provided an affidavit and was cross-examined. She testified that she does not believe A.R.'s overdoses were suicide attempts. She has seen A.R. when she is under extreme stress especially after the birth of her children. She described A.R. as having made "poor partner choices" but that she had learned and was doing much better. She is not a doctor but she disagreed with Dr. Kronfli's report.

[83] She described T.S. and I.C. as "abusive" but had not personally witnessed any physical abuse by T.S. and I.C. towards A.R. She based her opinion that T.S. is a risk to B. and T. on things A.R. told her, the fact that he refused to allow N.H.-S. access, and observations of B. in T.S.'s presence.

[84] She said A.R. rarely takes Lorazepam, and she does not know who is the father of the child A.R. is carrying.

[85] **C.R.**, A.R.'s brother, provided an affidavit and was cross-examined. He was combative and evasive in his answers. He described T.S. as a heavy beer drinker, who "never leaves one in the fridge". He felt it was a good parenting decision on

A.R.'s part not to allow B. to take his Christmas gifts with him. He testified that he is willing to supervise visits between A.R. and T. and B.

[86] **Dr. Patrick Seetharamadoo** has been A.R.'s family doctor since 2015. He was qualified by consent to give opinion evidence in the area of general medicine. He testified that A.R. was on an antidepressant (SSRI) until she became pregnant in 2014. He saw A.R. in January 2017 and August 2017 and he said she seemed "well", judging by her mood during their brief visits. She advised him she had completed one year of CBT. In August 2017, he prescribed Lorazepam for A.R. which she is to take as needed for anxiety and low mood. He has not seen her since that time.

[87] **D.R.**, A.R.'s mother, provided an affidavit and was cross-examined. D.R. confirmed that her daughter, A.R., had been sexually abused by her father from ages 3 to 9, who had committed suicide, and that D.R. and her children had been involved with child protection. She believed A.R. had no mental health issues before becoming involved with T.S. and was a "great Mom". She expressed contempt for opinions of the Minister's "so called experts".

[88] She felt that A.R. had had a lot of stress in her life but did not feel that this had effected her ability to care for her children. She stated that she had been

willing to act as a placement for T. and B. but was unclear as to when or to whom she had communicated this. She, like C.R., was combative in her testimony. She testified she did not know the identify of the father of A.R.'s unborn child.

[89] A.R. filed two affidavits, testified and was cross-examined.

[90] She testified that she had never attempted suicide, but that she had overdosed on medication twice in attempting to alleviate her anxiety. She also testified that on both occasions the children were in T.S.'s care.

[91] A.R. denied that she had hit or hurt T. recently during access.

[92] When asked about her comments about T.S. being a "killer", she indicated that this arose from her conversations with Victim Services in 2016 in which they allegedly had categorized him as having a "high risk" of lethality, based on information she had given to them.

[93] She testified that engaging in C.B.T. and taking Lorazepam occasionally helped her maintain her mental health stability. She currently is using an online service provider whom she found through Facebook to provide C.B.T. She described his credentials as "outstanding".

[94] A.R.'s plan is for the children to reside with her. She testified that B. could see T.S. if B. wanted. She expressed confidence in her ability to parent three children after the birth of her baby. She initially refused to identify the father of the baby, then gave his first name and claimed she did not know his last name. She testified that he would not be helping her raise the child. She is currently on maternity leave from her part-time employment.

[95] A.R. stated that she cannot believe B. is afraid of her, but she did accept that he is "uncomfortable" in her presence and that their relationship is "broken".

[96] She admitted to "firmly guiding" B. to his room in the March 2017 incident, and characterized B.'s visits with her that month as "intense". She described B. as violent and out of control after she took away his X-box privileges. She also admitted that the instability of living with her, and the conflict he had witnessed between her and T.S. "probably" contributed to B.'s apprehension in coming for access. However, she maintained that T.S. was actively discouraging access and alienating B. as well.

[97] A.R. testified that at the time of her overdoses in 2016 she was not speaking with her family but that she has now strengthened those relationships.



[98] She testified that T.S. “beat” her badly on two instances in his home in January 2014 and May 2016. On the first occasion, she said that T.S. had “head butted” her. She said she did not tell police because she feared Agency involvement, but she did tell her doctors. She also indicated that T.S. isolated her from her family during their relationship.

[99] A.R. denied that B. had a history of eczema. She testified that the doctor she took B. to see did not say he had “frostbite” but she understood this this was a possible diagnosis.

[100] In her affidavit, A.R. alleged that the Agency has not responded to her concerns, lied in their case notes, and discouraged access. She indicated that she has learned CBT techniques and was applying them in her daily life. She questioned the qualifications of the service providers suggested by the Agency, and expressed confusion as to what the Agency expected of her. She testified that she is mentally stable and that she had been able to grow in “assertiveness, stabilize (her) mental health, and learn techniques for managing anxiety and for parenting” since 2016.

**T.S.**

[101] **T.S.** provided two affidavits, testified and was cross-examined. Much of his affidavit evidence is in response to A.R.'s affidavit. He denied abusing A.R. He testified that on the occasions A.R. alleges he "beat" her badly, he had had to restrain her when she had assaulted him. He provided a medical report, confirming that B.'s alleged "frostbite" was eczema.

[102] T.S. works full time shift work. His mother lives nearby and the children are close to her. He has arranged daycare for T. and evening child care for when he is working. He has two older children who live nearby, whom he sees regularly and they have a good relationship with T. and B. He testified that he would support B. having a relationship with a "stable" mother figure.

[103] He testified that B. was upset when A.R. would not allow him to open or take home his Christmas gifts when he refused to stay at her home for a Christmas visit.

[104] T.S. denied discouraging B. from seeing his mother, and denied talking to B. about court. He said B. is doing well, has no Tourette's symptoms and that B. trusts him.

[105] When asked how he got along with A.R.'s family, T.S. indicated that he had had no issues in the past with D.R. and C.R., but had had conflict N.H.-S.

[106] T.S. testified that prior to A.R. being prohibited from contacting him, she would call repeatedly, and would often blow up on the phone when speaking with him or B. He expressed that he and A.R. could not communicate. He was unsure how he would arrange visits, but acknowledged that he would need help.

## **LAW**

[107] The law in this matter is pursuant to the **Act** prior to its recent amendments.

The Court is required to make a disposition that is in the child's "best interest": s.42(1). The factors which the Court must address in reaching this determination are set out in s. 3(2):

**Where a person is directed pursuant to this Act except in respect of a proposed adoption, to make an order or determination in the best interests of a child, the person shall consider those of the following circumstances that are relevant:**

- (a) the importance for the child's development of a positive relationship with a parent or guardian and a secure place as a member of the family;**
- (b) the child's relationships with relatives;**
- (c) the importance of continuity in the child's care and the possible effect on the child of the disruption of that continuity;**
- (d) the bonding that exists between the child and the child's parent or guardian; the child's physical, mental and emotional needs, and the appropriate care or treatment to meet those needs;**
- (e) the child's physical, mental and emotional level of development;**
- (f) the child's cultural, racial and linguistic heritage;**
- (g) the religious faith, if any, in which the child is being raised;**

- (h) the merits of a plan for the child's care proposed by an agency, including proposal that the child be placed for adoption, compared with the merits of the child remaining with or returning to a parent or guardian;**
- (i) the child's views and wishes, if they can be reasonably ascertained;**
- (j) the effect on the child of delay in the disposition of the care;**
- (k) the risk that the child may suffer harm through being removed, kept away from, returned to or allowed to remain in the care of a parent or guardian;**
- (l) the degree of risk, if any, that justified the finding that the child is in need of protective services;**
- (m) the degree of risk, if any, that justified the finding that the child is in need of protective services;**
- (n) any other relevant circumstance.**

S. 42(2) provides:

**The court shall not make an order removing the child from the care of a parent or guardian unless the Court is satisfied that less intrusive alternatives, including services to promote the integrity of the family pursuant to Section 13,**

- (a) have been attempted and failed;**
- (b) have been refused by the parent or guardian; or**
- (c) would be inadequate to protect the child.**

S. 42(3) states that:

**Where the court determines that it is necessary to remove the child from the care of a parent or guardian, the court shall, before asking an order for temporary or permanent care and custody pursuant to clause (d), (e) or (f) of subsection (1), consider whether it is possible to place the child with a relative, neighbour or other member of the child's community or extended family pursuant to clause (c) of subsection (1), with the consent of the relative or other person.**

[108] Past parenting history is relevant to the present circumstances: *N.S. Minister of Community Services v. L. (S.E.)* (2002 NSCA 55).

## **ANALYSIS**

[109] This is a somewhat unusual case in that the Minister is seeking to return the children to a parent/step parent but that is being opposed by the other parent.

[110] The Minister's position is that the children will no longer be in need of protective services pursuant to the **Act** if they are placed in the care of T.S. The Minister continues to have significant concerns as to the children's emotional and physical safety if they are placed in A.R.'s care. In response to questioning from the Court, the Minister indicated that should this occur, they would monitor the situation closely and may need to become involved again.

[111] A.R. objects to the children's placement with T.S. She has made numerous allegations against him. A.R. has alleged that T.S. drinks too much. Her brother made the same accusation. T.S. denies this. He works full-time, and is an active member of a volunteer fire department. The Minister has supervised his parenting for almost two years and does not have concerns with respect to T.S.'s alcohol consumption.

[112] A.R. alleged that T.S. has been physically and emotionally abusive to her. However, T.S.'s evidence is that A.R. was the instigator in their physical altercations, and that he tried to restrain her.

[113] A.R. alleges that T.S. has been physically abusive with B. in the past and that B. is afraid of T.S. B. has not confirmed this, but has consistently maintained to the Minister, his counsellor and T.S. that he is afraid of A.R. in particular when she is not in a good mood.

[114] A.R. alleges that T.S. has neglected the children's care, *i.e.*, that B.'s hands were frostbitten and T. was flea bitten and dirty and had vomited worms. These allegations were not confirmed medically or by the Minister.

[115] A.R.'s primary concern is that she believes T.S. has "alienated" B. and will alienate T. from her. She has criticized the Minister for failing to provide a parental alienation assessment. The Minister offered B. a *guardian ad litem*. A.R. and T.S. refused this service. The Minister provided counselling to B. primarily to address his issues with his mother, despite A.R.'s initial rejection of the choice of counsellor. While Ms. Munro testified that she is not experienced in assessing parental alienation, there was no suggestion in her evidence that T.S. was interfering in B.'s therapy, or was influencing B. against his mother.

[116] A.R. has repeatedly exaggerated her concerns, and has failed to divulge information that is not favourable to her. As a result, where there is a conflict

between A.R.'s evidence, and that of the Minister or T.S., I do not accept A.R.'s version.

[117] Furthermore, given A.R.'s chaotic lifestyle and Dr. Kronfli's mental health diagnosis, B.'s refusal to see his Mom is understandable and reasonable. A.R.'s mood has been known to fluctuate significantly while the children were in her care. B. has witnessed and experienced this. I accept T.S.'s evidence as to A.R.'s prior telephone contact while B. has been in his care. A.R.'s behaviour towards the Minister, with Ms. Munro and in this Court proceeding is consistent with the fixated behaviour described by T.S. – multiple emails, angry interchanges and a lack of insight into the effects of her behaviour. B. himself has told Agency employees and Ms. Munro that his Mom's behaviour and mood can be erratic and upsetting.

[118] I do not accept A.R.'s testimony that her mental health is under control. Dr. Kronfli's diagnosis is undisputed. He made specific treatment recommendations. They have not been followed. A.R. can present well when not challenged and she obviously did so when she saw Dr. Seetharamadoo in August 2017. However, his testimony reflects a snapshot in time.

[119] As Dr. Kronfli noted, the “proof” as to A.R.’s mental health stability will be seen in her behaviour. The Court finds that her behaviour has not changed significantly.

[120] This Court has no evidence that A.R. is making better life choices. She is currently pregnant and planning to be a sole parent to a third child. She has a history of *post partum* depression but does not seem concerned about the possibility of a reoccurrence after this baby’s birth, or its effects on T. and B., should they be in her care.

[121] A.R. has telephone counselling of a supportive nature available to her. Her doctor is in Sackville, Nova Scotia. She has no car or transportation. Her relationship with her family is better than it once was but I am not convinced that this will necessarily translate into useful emotional and practical support. D.R. and C.R. clearly have no insight into A.R.’s mental health and personality issues. They blame T.S. for virtually everything, and share and/or perpetuate her distrust of the Agency and anyone who challenges their views.

[122] A.R. is more “stable” since 2016 in that she has not overdosed on antidepressants since then, but she still has received virtually no treatment for her deep seated low mood, anger and victimization issues and personality disorder



traits. A.R. has continued to insist on choosing her own service providers. There is no evidence that these providers are providing the kind of therapy she needs.

[123] It is clear from A.R.'s testimony that she continues to believe her "stress", (anxiety), is caused by external factors, *i.e.*, the Agency and T.S. She clearly has little insight into her mental health needs.

[124] This Court noted many positive comments about A.R. from service providers who have worked with A.R. However, these services did not prevent the incident with B. in 2017 or A.R.'s poor choices in terms of service attendance and focus since that time.

[125] I find that all reasonable services have been offered to the parties, and in particular, A.R. It is unfortunate that A.R. refused counselling to address her trauma, depression and anxiety, family support work, a youth support worker and *guardian ad litem* for B., and co-parenting counselling. These services could have made a significant difference in her ability to safely and effectively parent her children.

[126] By placing the children with T.S., the Minister has met its obligation to act in the least intrusive way. T. is with a parent, B. with the only father figure he has

ever known in any meaningful way. T.S., as a step father, is akin to “extended family” as noted in s. 42(3) of the **Act**.

[127] This Court accepts the Minister’s Plan of Care and finds that the children, B. and T., are no longer in need of protective services in the care of T.S.

[128] The children appear to be doing well in T.S.’s care. Their needs have been met consistently by T.S., his living situation is stable and predictable, and he has cooperated fully with the Minister. I was impressed by his frank testimony and measured response to the inflammatory evidence of A.R. and her family. I find that T.S. has the ability to provide B. and T. adequate care. T.S. shall therefore have primary care of the children.

[129] Even if I was to accept A.R.’s view that B.’s behaviour and refusal to see her is T.S.’s fault (which I do not), I still would not place the children with her. A.R. needs to address her own issues before she can adequately and reliably care for T. and B.

[130] These parties have no ability to communicate, and A.R.’s personality is such that she is suspicious to the point of paranoia of anything that is proposed to her. Her first response in dealing with the Agency was to refuse anything that was not her own idea. I expect that would be her reaction to anything T.S. proposed. In

addition, her lack of perspective and insight leads her to fixate on issues, and bombard those involved with communications and complaints. This would not be in the children's best interests as T.S. attempts to make medical, counselling, educational and extra-curricular decisions for the children. Therefore, T.S. shall have sole custody of T. and B.

[131] T.S. will provide A.R. with copies of B.'s report cards and copies of any medical or counselling reports he receives for B. or T. He will also advise A.R., in writing, via D.R. or C.R. of any significant health or education issues or decisions which he makes.

[132] The **PSA** provides that in assessing parenting time, the best interests of a child shall be the paramount consideration. While it is important in most situations to promote contact between parents and children, occasions exist, as in this instant case, where the risk of conflict with an unstable parent can outweigh the potential benefits. By placing conditions on access, such as supervision, Courts attempt to reduce those risks.

[133] A.R. will initially have supervised access through the Supervised Access and Exchange (SAE) Program. This will ensure that the children are protected from any instability experienced by A.R. *post partum*. This will also eliminate the need

for communication between the parties during this time. A.R. may have the matter come back before the Court for review when the SAE Program hours are completed. At that time, the Court would be looking for evidence that A.R. has self-referred to mental health services, and if so, that a copy of Dr. Kronfli's report has been provided to her counsellor.

[134] B. will not be forced to attend access, but will attend as recommended by his counsellor, who can arrange other access between B. and A.R. with T.S.'s consent if she feels that this is in his best interests.

[135] A.R. may send cards, gifts and photos to B. and T., which T.S. will approve prior to delivering them to the children. I would ask the Minister's counsel to draft the termination order under the **Act**, and A.R.'s counsel shall draft the **PSA** order.

[136] I would ask the Minister's counsel to draft the termination order under the **Act**, and A.R.'s counsel shall draft the **PSA** order.

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Jean Dewolfe, JFC