SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION
Citation: *Norve v. Norve,* 2016 NSSC 243

Date: 2016-09-16
Docket: 1201-069130
Registry: Halifax

Between:

Harald Rasmus Norve

Applicant

v.

Helen Anne Norve

Respondent

Judge:	The Honourable Justice R. Lester Jesudason
Heard:	August 17, 2016 in Halifax, Nova Scotia
Oral Decision:	August 30, 2016
Written Decision:	September 16, 2016
Counsel:	Amber Penney for Harald Rasmus Norve Helen Anne Norve, self-represented

By the Court:

Introduction

[1] Parents who have joint custody of a child should engage in meaningful discussions on major decisions involving their child's education. Simply put, neither parent should make unilateral decisions. Where a child attends primary is likely one of the first major decisions parents have to make when it comes to their child's education. Fortunately, most parents with joint custody are able to agree on this. Surprisingly, however, a number of parents are unable or simply unwilling to do this and come to court asking a judge to determine that issue for them. Such is the situation before me which was brought before me very late in the summer and therefore had to be accommodated on an emergency basis.

[2] The parents in this matter are Harald Rasmus Norve and Helen Anne Norve. They recently divorced and entered into a Consent Corollary Relief Order ("Order") which was issued on March 18, 2016. Pursuant to that Order they agreed to a shared parenting arrangement under which their five year old daughter, Siri, is in Ms. Norve's care from Sunday at 2:30 p.m. until Thursday at 1:00 p.m. and then in Mr. Norve's care for the remainder of the week. The Order also provided that the parties agreed to review the parenting arrangement before Siri entered school in September 2016.

[3] On July 21, 2016, Mr. Norve filed a variation application pursuant to s. 17 of the *Divorce Act, RSC 1985, c 3*, seeking a determination of where Siri would attend school in September 2016. At the outset of the hearing, both parties confirmed they were not seeking to vary the existing parenting arrangement irrespective of where I decided Siri should go to school.

[4] In order to accommodate the time-constraints caused by the variation application only being filed on July 21st, the matter was scheduled on an emergency basis before me on August 17, 2016. Both parties then filed supplementary materials responding to issues which were raised at the hearing which included providing me with written confirmation as to whether or not Siri could, at this late juncture, be enrolled in their proposed schools. I then brought the parties back during the lunch hour on August 30th to give an oral decision so that the parties, and most importantly, Siri, can know where she is going to attend primary in time for the beginning of the school year this September. I advised the

parties that I would possibly release a written decision as well. I have since sent them a copy of this written decision prior to its general release.

Issue:

[5] The issue before me is where should Siri attend school in September 2016?

[6] As a preliminary point, both parties have treated the determination of that issue as requiring a variation application to the March 2016 Order. Section 17 of the *Divorce Act* allows me to vary an Order where I am satisfied there has been a change in a child's condition, means, needs or circumstances. Both parties agree that the necessary threshold for a variation application has been met such that I can go on to decide where Siri should go to school.

[7] Despite that agreement, I am not convinced it was necessary for this matter to proceed as a variation application. The March Order provides that the parties have joint custody of Siri and both parties have confirmed neither wishes to change the existing parenting arrangement. Thus, in my view, to the extent the parties cannot agree where Siri attends primary, they should have the ability to have that issue determined by a court under the existing Order without having to meet the necessary threshold hurdle for a variation of same. Indeed, I see the present dispute as being more of an implementation issue of the existing Order as opposed to requiring a formal variation application.

[8] However, in the event I am wrong about this, I agree with the parties that the necessary threshold requirement for a variation of the March 2016 Order has been met. Specifically, I find that Siri entering primary in September 2016, does constitute a material change to her condition, means or other circumstances such that I am entitled to determine where she should go to school in September.

Positions of the Parties:

[9] Mr. Norve's preferred position on schooling is that Siri should go to Springvale Elementary School located in Central Halifax. This school is outside the current catchment area of either party as Ms. Norve moved to Bedford in April 2016 and Mr. Norve lives in the north end of Halifax. Siri was enrolled in

Springvale Elementary in February 2016 prior to Ms. Norve's move when she was living in that catchment area.

[10] Mr. Norve's alternative position is that Siri should go to St. Stephen's Elementary School which is located in his catchment area. Should Siri be unable to enrolled in either of those schools, Mr. Norve also suggested at the hearing that he would support Siri being enrolled in the Sacred Heart School. He indicated that if Siri was enrolled there, he would pay for all the costs associated with same.

[11] Ms. Norve's preferred position is Siri be enrolled in the Bedford South Elementary School. In the event Siri is unable to be registered at Bedford South, her alternative position is that Siri be enrolled in the next closest primary school to where she lives in Bedford. Of the three school placement options presented by Mr. Norve, she prefers Springvale Elementary. She claims the suggestion Siri be enrolled at the Sacred Heart School was raised for the first time by Mr. Norve during the hearing.

[12] Both parties advanced a number of points in support of their respective positions. Mr. Norve's main arguments are summarized as follows:

- Despite the parties agreeing to a Consent Corollary Relief Order in March 2016 under which they agreed to have joint custody of Siri, Ms. Norve has demonstrated a pattern of unilateral decision-making particularly on the issue of schooling placement. For example, he points out that Ms. Norve first enrolled Siri in Springvale Elementary back in February 2016, without obtaining his consent to do so. He eventually accepted that decision because it was a convenient commute for him, he thought it was a good school and he knew one of the teachers there. However, when Ms. Norve indicated she had enrolled Siri in Springvale, she also indicated that, should she decide to move to Bedford, she would be enrolling Siri at the Bedford South School. Mr. Norve indicated he opposed this. Nevertheless, after moving to Bedford in April 2016 to live with her current partner, Phil Harris, Ms. Norve proceeded to take steps to enrol Siri in Bedford South. Again, Mr. Norve voiced his objection to this but again, Ms. Norve proceeded to enroll Siri at Bedford South.

- Mr. Norve argues that this unilateral decision making by Ms. Norve on the schooling issue is becoming increasingly concerning to him given that the parties will have many big decisions to make together with respect to parenting Siri in the future. He claims to have discussed his concerns with Ms. Norve but says that she is unwilling to be cooperative.

- Mr. Norve also argues that Ms. Norve's preferred position on schools has little to do with the best interests of Siri but has more to do with what is most convenient for Ms. Norve. He submits that Ms. Norve has taken steps to enroll Siri in two different primary schools solely to suit Ms. Norve's living arrangements.

- Mr. Norve submits that he is a devoted dad who has been a consistent figure for Siri. He wants decisions to be made which impact positively for her and says that he will do anything for his daughter. He asserts that Siri has a routine with him and points out that his employment and place of residence have not changed since the time the parties separated in November 2012 when Siri was approximately 15 months old.

- On the other hand, Mr. Norve submits that, since the parties separated, Ms. Norve has shown a clear lack of stability both in terms of employment and living arrangements. He points out that after they separated, she initially moved to Bridgewater for a period of time, then relocated to Halifax in August of 2015, and then moved to Bedford in April 2016. During this period, she has held a number of different jobs, some of which she left on her own accord, and is now unemployed. While she is looking for work, Mr. Norve suspects that, depending on where she obtains same, Ms. Norve may seek to move yet again and he has concerns about what impact this would have in terms of consistency for Siri.

- Mr. Norve also questions the stability of Ms. Norve's relationship with Mr. Harris, which he describes as only being a few months old. He asks me to consider what would happen to Siri in terms of her school placement and living arrangements if this relationship ended. He therefore argues that Siri would have the best chance of

experiencing stability and consistency if she attended school as he has proposed because it would mean that she would be go to school in an area where she has spent most of her life (i.e. Halifax) in an area where she has a history of maintaining a residence with him.

- Mr. Norve also points out that he has a very flexible work schedule given that he works at home and is self-employed. He can largely set his own hours and, while he does have to travel once every three months or so, he can largely schedule this travel around his parenting time with Siri. He points out that his flexible work schedule would also allow him to pick up Siri during the day from school if required. Indeed, when Ms. Norve was living in Bridgewater, Mr. Norve's flexible work schedule allowed him to travel for the three-hour roundtrip commute it took to get Siri from Ms. Norve's residence and bring her back to Halifax.

- Mr. Norve also emphasizes that he comes from a big family who want to continue to be very involved in Siri's life. His retired parents and two sisters, both of whom are married with their own children, live in Central Halifax. He indicated that all of those family members can look after Siri after school if she attends a school in Halifax and that it is in Siri's best interests to spend as much time as possible with those immediate family members who all love her and have been part of her life since her birth.

- Finally, Mr. Norve asserts that Springvale Elementary is located roughly half-way between the parties' respective residences and would represent a compromise in terms of the commute which would, at the same time, ensure Siri has a consistent and stable routine.

[13] Ms. Norve, not surprisingly, has a very different view of what schooling placement is best for Siri. Her main arguments are summarized as follows:

- Given that the current parenting arrangement requires her to be responsible for 7 out of 10 pick ups and drop offs during the school week, it makes far more sense that the location of Siri's school be in close proximity to her home with Mr. Harris. She points out that Bedford South is only 1.7 km from their home which Mr. Harris has

owned for 10 years. She says that they have no plans to move from that home. She describes Bedford South as a "walking school" so the commute for Siri would only be a few minutes whether walking or driving.

- Ms. Norve also points out that Mr. Harris has a five-year-old son, "L", who will be entering Bedford South. Ms. Norve says Siri and L have a close relationship and are like siblings. Thus, she says having the opportunity to go to primary with L would be a great benefit to Siri.

- Mr. Harris works evenings such that, even if she becomes employed, he is available for before and after school care and could drop off and pick up both Siri and L. On the other hand, if she was working and Siri was enrolled in a Halifax school, it would likely mean that Mr. Harris would have to pick up L from Bedford South and Siri would have to wait until he was able to come all the way into Halifax to pick her up.

- Should Siri be ordered to attend school in Halifax, it would significantly disrupt her family routine whereby she, Mr. Harris, Siri, L, and Mr. Harris' three-year-old daughter, all have breakfast together each morning somewhere between 7:00 – 8:00 a.m. or so depending on when his two children are dropped off by Mr. Harris' ex-wife. The family then is ready to leave the house by approximately 8:00 a.m. to take the children to pre-school and to attend to daily activities/errands. While she acknowledges that the morning drop off would have to be somewhat earlier in any event once school started, she says that if Siri had to commute to Halifax for school, it would mean that Siri would miss out on those family breakfasts and may have to get up earlier than 6:00 a.m. Siri would also likely have to travel in high commute times and would spend an hour or more each day on the road.

- Ms. Norve says that Siri is already familiar with the Bedford South given that she, L, Ms. Norve, Mr. Harris and his ex-partner all attended the Primary Orientation Day in the spring to meet the teachers, fellow students, and to familiarize themselves with the school to make the transition into "big kid school" an easier one. Ms.

Norve pointed that she invited Mr. Norve to attend that Orientation in May but he declined the invitation.

- In response to some of the arguments raised by Mr. Norve, Ms. Norve readily acknowledges that she enrolled Siri in Bedford South over Mr. Norve's objection. However, she claims that past history led her to believe that Mr. Norve would be "immobile" on any decision regarding schooling. She suggested that he often responded to parenting issues with what she described as "diatribes" to absolutely no response at all. She also indicated that she was under the impression that, as Siri's mother, there was a policy in the Halifax School Board which provided that Siri would go to school in her school district unless otherwise approved.

- Ms. Norve also provided explanations for why she has changed jobs and residences multiple times. For example, she said her relocation from Bridgewater to Halifax was to make the transition for Siri into school easier as she felt that the 1.5 hour commute was too tiring for Siri. Since moving to Halifax, she indicates that she only moved and changed jobs once.

- She also disagrees with Mr. Norve that she has failed to consider Siri's needs for stability. For example, she points out that, despite moving to Bedford, she did not seek to change Siri's daycare in Halifax and did the necessary commute because she supported keeping Siri being in the same daycare until she entered primary. However, now that Siri is going to be entering primary, she does not believe it is in Siri's best interest to have a lengthy commute during the school week. Furthermore, enrolling her in Bedford South will give Siri more opportunity to sleep in during the mornings.

- She also points out that within her home with Mr. Harris, they have a set routine for dinner and bedtime for all three children which matches the routine Mr. Harris' ex-wife uses in her home. She is therefore concerned about disrupting that routine which she says would occur if Siri went to primary in Halifax.

- Ms. Norve also refuted Mr. Norve's concerns about the stability of her relationship with Mr. Harris. She points out that she met him years ago and reconnected with him in April 2015. She says that Mr. Harris is also raising a young family and they made the decision to blend their families together. She describes their new family as being a very good support system for Siri who treats Mr. Harris' children like her siblings.

- In the event her relationship with Mr. Harris ended, she indicated that it would be her intention to continue to live in the Bedford area because, by that time, Siri would have developed friends in the area and be situated in her school. She again emphasized that Siri has a close relationship with Mr. Harris and his children and that, in the event her relationship with Mr. Harris' ended, she would hope it would remain amicable not just for their sake, but more importantly for their children. In support of this, she pointed out that Mr. Harris' ex-wife has a very good relationship with him and works well with him on co-parenting their two children as evidenced by the fact that Mr. Harris' ex-wife attended the Primary Orientation Day with them.

[14] At the outset of the hearing, the parties confirmed a number of points which were agreed without requiring formal proof. They included, but are not limited to the following:

1. The parties agreed that, as academic institutions, Springvale Elementary, St. Stephen's Elementary and Bedford South are all appropriate primary schools for Siri such that no qualitative comparison of the programs and resources at each proposed school need be done by me.

2. To ensure that Siri can, at this late juncture, be enrolled in the schools proposed by the parties, it was agreed that each party would obtain a brief letter from a person in authority at their proposed schools confirming whether or not Siri would be enrolled there in September. Those letters would be admitted by agreement. I have since received letters from the parties addressing this.

3. The parties agreed on the approximate distance and/or commute between their homes and the proposed schools.

4. Both parties agreed that, in the event I order that Siri go to his or her preferred school, he or she will not seek to change Siri's school without the consent of the other parent or an order of the court and that any application to change the school will not be made on less than 60 days' written notice of the date for the proposed change in school.

Legislation and Law

[15] Like any proceeding under the *Divorce Act*, involving children, I am obliged to take into consideration the best interests of Siri as determined by her condition, means, needs and other circumstances (s. 16(8) of the *Divorce Act*).

[16] In the case of *C.J. v. G.K., 2015 NSSC 248*, I discussed the concept of "best interests" in paragraphs 7-8. I refer to some of my comments below which I adopt in the present case:

> [7] The concept of "best interests" has been the subject of much jurisprudence. In *Young v. Young*, [1993] 4 S.C.R. 3, McLachlin J., as she then was, stated the following in paragraphs 202 to 206:
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> > 202 First, the "best interests of the child" test is the only test. The express wording of s. 16(8) of the Divorce Act requires the court to look only at the best interests of the child in making orders of custody and access. This means that parental preferences and "rights" play no role.
> >
> > 203 Second, the test is broad. Parliament has recognized that the variety of circumstances which may arise in disputes over custody and access is so diverse that predetermined rules, designed to resolve certain types of disputes in advance, may not be useful. Rather, it has been left to the judge to decide what is in the "best interests of the child", by reference to the "condition, means, needs and other circumstances" of the child. Nevertheless, the judicial task is not one of pure discretion. By embodying the "best interests" test in legislation and by setting out general factors to be considered, Parliament has established a legal test, albeit a flexible one. Like all legal tests, it is to be applied according to the evidence in the case, viewed objectively. There is no room for the judge's personal predilections and prejudices. The judge's duty is to apply the law. He or she must not do what he or she wants to do but what he or she ought to do.

> [8] Guidance on applying the best interests concept has been provided in many cases from this province such as *Foley v. Foley*, [1993] N.S.J. No. 347 and *Burgoyne v. Kenny*, 2009 NSCA 34. In the latter, Bateman J.A., as she then was, stated:
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> > 25 …Each case must be decided on the evidence presented. Nor is determining a child's best interests simply a matter of scoring each parent on a generic list of factors. As Abella J.A., as she then was, astutely observed in *MacGyver v. Richards* (1995), 11 R.F.L. (4th) 432 (Ont. C.A.):
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> > 27 Clearly, there is an inherent indeterminacy and elasticity to the "best interests" tests which makes it more useful as legal aspiration than as legal analysis. It can be no more than an informed opinion made at a moment in the life of a child about what seems likely to prove to be in that child's best interests. Deciding what is in a child's best interests means deciding what, objectively, appears most likely in the circumstances to be conducive to the kind of environment in which a particular child has the best opportunity for receiving the needed care and attention…
> >
> > ...
> >
> > 29 Deciding what is best for a child is uniquely delicate. The judge in a custody case is called upon to prognosticate about a child's future, and to speculate about which parenting proposal will turn out to be best for a child. Judges are left to do their best with the evidence, on the understanding that deciding what is best for a child is a judgment the accuracy of which may be unknowable until later events prove -- or disprove -- its wisdom.

[17] As I also pointed out in *C.J. v. G.K.*, courts have often expressed reluctance in being asked to determine where children should go to school in situations involving joint custody. For example, in *Larter v. Guenther, 2013 SKQB 346*, Schwann J., stated, after reviewing a number of authorities:

> …
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> "In situations of joint custody the court is most reluctant to dictate where a child should go to school and the parents should be encouraged to resolve this matter amongst themselves. If they cannot agree the best interests of the child will govern."[para. 18].

[18] Thus, in the present case, I encouraged the parties at the outset of the hearing to take some time to try to resolve the schooling issue without requiring a decision

from me. Unfortunately, after having private discussions for several minutes, the parties advised me that no agreement could be reached.

[19] Needless to say, given that a dispute on school placement was raised in this case as early as February 2016, it is less than ideal or desirable that within a few months after entering into a Consent Corollary Relief Order in March which provided for joint custody and shared parenting, Siri's parents are in court fighting over where she should begin her academic career. It is also less than ideal or desirable to have a complete stranger to Siri's life as I am determine this issue for her when her parents are in a much better position to know her condition, means, needs and other circumstances. That being said, I recognize that we do not live in an ideal world and, to the extent I have been given the burden of making this determination within the time-constraints placed upon me by the parties, I will do so whether or not the benefit of hindsight in the future proves my decision to be a wise one.

Analysis:

[20] At the outset, I want to say I am convinced both parties care very much for Siri and that she is lucky to have both of them in her lives. She is described by both parents as being kind, thoughtful towards her peers, intelligent and quick to pick up new skills. Mr. Norve suggested that she adapts well to new situations and meeting new people. To the extent Siri is a kind, thoughtful and emotionally well-adjusted 5-year-old girl, in my view, this did not happen by accident. Rather, both Mr. and Ms. Norve deserve a lot of credit for what they have done in raising this little girl and, as the judge assigned to this file, I want to acknowledge their efforts. I hope that they continue with those same efforts irrespective of whether or not they agree with my decision on school placement.

[21] On the issue of where Siri attends primary, it is trite to say that this case must be decided on its unique facts and that no prior decision is identical to this one. Given that neither party referred to the *C.J. v. G.K.* decision in any of their materials filed in advance of the hearing, and I indicated that I may consider it in this case, I gave both parties the opportunity to comment on it and advise what applicability, if any, they thought it had to the present case. I do note that *C.J. v. G.K.* was an interim parenting decision while, in the present case, the parties are not seeking to change the existing parenting arrangement.

[22] In her written submission filed on August 19th, consisting of three paragraphs, Ms. Norve suggests that there are similarities and differences in the *C.J. v. G.K*, decision and goes on to briefly outline what they are.

[23] In her six page written submission filed on August 19th, Mr. Norve's counsel goes into somewhat more detail in pointing out what she says are a "number of parallels between the significant factors" in the *C.J. v. G.K.* case and the present case. For example, she points out that, just like in the *C.J. v. G.K.* decision, in the present case, the parties were, at one point, in agreement on the area where Siri would go to school (i.e. Halifax). She also correctly points out that one of the factors which led me to deny the father's request for his preferred school placement for the five-year-old girl in the *C.J. v. G.K.* case, was that I concluded that he had relocated on more than one occasion for what appeared to be solely professional and personal reasons, as opposed to reasons driven by his daughter's educational needs.

[24] However, there are other similarities and differences which Mr. Norve's counsel does not address. For example, just like in the *C.J. v. G.K.* case, in the present case there is a sibling (or step-sibling) who would be travelling together with Siri if she was enrolled at Bedford South. Indeed, in this case, the step-sibling would not be just travelling with Siri, but would be going to the same school and entering primary as well.

[25] Without going through each similarity and distinguishing factor, I conclude that there are both similarities and differences in the *C.J. v. G.K.* case to the present case. Again, this only emphasizes that no two cases are the same and that each case must be decided on its facts and what is in the best interests of the particular child in question.

[26] Thus, when I do that exercise and consider all the evidence, the law and the submissions of the parties, I conclude that it is in Siri's best interests that she be enrolled in the Bedford South School. I come to this conclusion primarily for the following reasons:

1. It is significant to me that, under the existing parenting arrangement, which neither party seeks to change, Ms. Norve will be responsible for arranging for 7 out of the 10 drop offs of Siri at school during the school week. Clearly, Siri spends the lion's share of the school week

during Ms. Norve's care. Thus, in my view, it makes far more sense, both in terms of commute and routine for Siri, for her school to be close to Ms. Norve.

2. I believe it will be a significant benefit for Siri to attend primary together with her step-brother, L. The uncontradicted evidence is that she has a very close relationship with L and, to the extent Siri is going to enter primary with him, she will not be doing so alone but with someone who, according to Ms. Norve, is like her sibling. Both children could therefore be there for each other as they enter this new stage in their lives and may potentially have common teachers, classes and/or homework not just in primary but as long as they go to that elementary school together. Thus, they may be able to help each other in school and be mutual supports to each other as they enter primary and progress in their academic careers. I believe this is a positive thing for Siri.

3. I also believe that travelling to Halifax in the morning potentially during rush hours and in Nova Scotia winters is less than ideal for Siri. Not only could that be tiring, but it appears that she certainly would have to get up earlier than she would if she was attending school in Bedford South and would miss out on family time with the other children who live with Ms. Norve and Mr. Harris and with whom she has a close relationship. I recognize, of course, that she would face this same thirty minute or so commute when she is with Mr. Norve. However, the impact it would have on her would be less given that he would only be responsible for picking her up on Thursday after school and doing the drop offs and pick ups on Fridays. To the extent she has a longer commute after school on Friday, she would have the weekend to recover should she need it. She also would not miss on family time in the mornings given that Mr. Norve would be with her during the entire time and that there was no evidence presented that he has other family living with him.

4. As Mr. Norve points out, he has a much more flexible work schedule which allows him to largely set his own hours. Indeed, at one point, he was travelling to Bridgewater to pick up Siri. Going to Bedford on Thursday and Friday mornings should therefore be less problematic

for him and may even be against morning traffic coming into Halifax. While best interests must be child-focussed, as opposed to focussing exclusively on the convenience for parents, I do believe having a schooling arrangement which minimizes inconveniences for both of her parents is in Siri's best interests because it reduces the chances that Siri may be delayed in pick-ups and drop-offs to school.

5. Unlike in the *C.J. v. G.K.* case, I do not conclude that Ms. Norve's moves were primarily driven by her individual professional and personal reasons as opposed to reasons driven by Siri's needs. For example, given the existing shared parenting arrangement between the parties, Ms. Norve's move back to Halifax from Bridgewater made a lot of sense not just for the parties, but for Siri. It avoided her having to be shuffled back and forth between her parents on multiple times during the week for a 1.5 hour commute. Indeed, it is highly questionable whether or not the existing parenting arrangement could work when Siri entered primary if one parent lived in Bridgewater and the other parent lived in Halifax.

   Similarly, I cannot conclude that Ms. Norve's move to Bedford was inconsistent with Siri's best interests. To the contrary, Siri now has the benefit of an extended family with whom she lives, and step-siblings, or at least children of similar age, with whom she has closely bonded.

6. While Mr. Norve has invited me to question the stability of Ms. Norve's relationship with Mr. Harris, despite me having a role where I must unfortunately deal with family relationships sadly coming to an end on a daily basis, I am not prepared to speculate that there is a likelihood that Ms. Norve's relationship with Mr. Harris is going to end, or that it is somewhat inherently unstable. To the contrary, the evidence is that the relationship has been ongoing for over a year and that Ms. Norve and Mr. Harris have decided to blend their families which I accept has potential benefits for Siri. I also accept Ms. Norve's evidence that should the relationship end, she will consider how to minimize any negative impact this may have on Siri.

7. I also am conscious of the fact that, unlike the situation in *C.J. v. G.K.* where the parties gave me very little information about the child at issue, I have been given more information about the type of child Siri is. Again, she is described as thoughtful and intelligent and acknowledged by Mr. Norve to be quite adaptable and able to meet new friends. Thus, ensuring Siri goes to primary in the same area where she went to pre-school is not as big of a factor in this case as it may be with another child who may be more timid when it comes to adapting to new experiences and people. Thus, while I appreciate that going to primary will be an adjustment for Siri, as it would be for any child her age, I believe that, given her personality, as described by both parents, she is well-equipped to make that adjustment without requiring the stability and consistency of going to a school in the same area of her pre-school.

8. I also note that Mr. Norve's preferred school placement option of Springvale Elementary is not in the school district of either parent at this time. On the other hand, Bedford South clearly is in Ms. Norve's school district area. Thus, in the long-term, I believe it is in Siri's best interests that she go to elementary school in an area where at least one of her parents lives which is part of her community and may give her the opportunity to spend time with children after school in that community.

9. Finally, while I acknowledge Mr. Norve's legitimate concerns about what would happen in the event Ms. Norve sought to relocate again, I believe the concerns are somewhat minimized by Ms. Norve's agreement that, in the event I ordered that Siri attend her preferred school, she would not seek to change Siri's school without the consent of Mr. Norve or an order of the court and that any application to change the school would not be made on less than 60 days' written notice of the date for the proposed change in school. I therefore include this condition as part of the order which flows from my decision.

[27] Notwithstanding that I have ruled it is in Siri's best interests that she be enrolled in the Bedford South School, I do want to make few comments about Ms. Norve's decision to take steps to enroll Siri in primary schools without first obtaining Mr. Norve's consent to doing so. Plainly, that was not an appropriate decision on her part. I can say that I am quite sympathetic to Mr. Norve's concerns

that such unilateral actions do not bode well for future decisions which the parties will be expected to make in Siri's best interests. That being said, this case should not turn primarily on punishing either of the parents for their actions, but rather, must be determined by what schooling arrangement is in Siri's best interests.

[28] However, my decision should not be interpreted as me condoning Ms. Norve's actions. To be blunt, I do not. At their worst, Ms. Norve's actions potentially show a disregard for meaningfully cooperating with Mr. Norve on parenting issues. At their best, her actions could be attributed to a misapprehension of school board policy that, as Siri's mother, Siri would go to her school district unless approved otherwise.

[29] Even if I give Ms. Norve the benefit of the doubt that she was operating under a legitimate misapprehension, it should now be abundantly clear to her that under a joint custody/shared parenting regime, she does not get to make unilateral decisions on parenting Siri over Mr. Norve's objections. In this regard, when parenting disputes arise, I would expect both she and Mr. Norve to engage in productive communication on those issues and try to work them out in a manner which meets Siri's means, needs and circumstances and is in her overall best interests. If either parent refuses to engage in meaningful and productive conversations on parenting issues, but instead, resorts to taking unilateral actions, then it may very well be open to either parent to seek a variation order of the existing order. In my view, that would be most unfortunate because it would place Siri in the middle of further litigation involving two parents who clearly love and care very much for her. Indeed, it will create the real possibility that the little girl who has been described as "kind, thoughtful and well-adjusted" will suffer the negative effects which often arise in almost every case where children end up being caught up in parental disputes. I sincerely hope that does not happen and that this young girl, who is doing excellent on so many fronts, continues to be nurtured by two parents whom I have already acknowledged deserve much praise for their joint efforts in parenting her.

Jesudason, J.