

SUPREME COURT OF NOVA SCOTIA

Citation: E.A.W. v. M.J.M., 2012 NSSC 216

Date: 20120608

Docket: Hfx No 393422

Registry: Halifax

Between:

E.A.W.

Applicant

v.

M.J.M.

Respondent

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Judge: The Honourable Associate Chief Justice Deborah K. Smith

Heard: June 5th, 2012, in Halifax, Nova Scotia

Oral Decision: June 8th, 2012

Written Decision: June 12th, 2012

Subject: Emergency Protection Order pursuant to the *Domestic Violence Intervention Act*.

Summary: On April 7th, 2012, there was a physical altercation between the Applicant and the Respondent. Both parties were charged with assault as a result of that incident. There was no evidence of any violence of any kind between the Applicant and the Respondent after that date.

On May 17th, 2012, the Applicant applied for an Emergency Protection Order. She was not seeking physical protection from the Respondent when she applied for the order. Rather, she was seeking contact with her infant son. Despite the fact that there

was no need to ensure the immediate protection of the Applicant or her son, an Emergency Protection Order was granted. This Order was reviewed by Justice Simon J. MacDonald on May 23rd, 2012. That same day an Order was issued pursuant to s. 11(3) of the *Domestic Violence Intervention Act* ordering a hearing of the matter in Supreme Court.

Issue: Should the Emergency Protection Order issued on May 17th, 2012, be confirmed, varied or terminated?

Result: The *Domestic Violence Intervention Act* is designed to protect against domestic violence. It is not intended nor is it designed to provide a solution to custody or access problems except to the extent that a temporary care and custody order may be necessary to ensure the immediate protection of a victim or child. The Order issued by the JP was terminated.

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