SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Nova Scotia (Community Services) v. C. N., 2012 NSSC 246

Date: 20120411
Docket # SFSNCFSA 078693
Registry: Sydney

Between:

Minister of Community Services

Petitioner

v.

C. N. and R. P.

Respondent

Editorial Notice

Identifying information has been removed from this electronic version of the judgment.

Judge: Justice M. Clare MacLellan
Justice of the Supreme Court of Nova Scotia
(Family Division)

Heard: March 6, 2012, March 16, 2012, March 26, 2012
at Sydney, Nova Scotia

Oral Decision: April 11, 2012

Counsel: Tara MacSween,
Counsel for the Applicant

Rejean Aucoin,
Counsel for the Respondent,
C. N.

R. P., on his own behalf

By the Court:

[1] The matter before the Court is the application of the Minister of Commuity Services seeking a protection finding that S. P., born May *, 2007, is a child in need of protective services pursuant to s. 22(2)(b) and 22(2)(g). The Applicant maintains the risk is substantial and precludes return of the child to her parents, C. N. and R. P. under terms of a Supervision Order.

[2] The Court history is chronicled in the decision of Justice Wilson. Justice Wilson had carriage of this file until January, 2009 and at that time he wrote:

> This is a proceeding pursuant to the **Children and Family Services Act** and it concerns the child, S. P. who was born May 24, 2007. The respondents are her mother C. N. and her father R. P.. The Children's Aid Society is seeking an order for permanent care and custody with no provision for access. Ms. N. seeks the child be returned to her care and if that's not agreed to by the court, a return of the child to the care of paternal grandparents, Mr. And Mrs. B.. Mr. R. P. who is incarcerated at the present time supports the plan of C. N. to have the child returned to her care and if that is not accepted then have the child returned to the care of his parents.
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> This proceeding began in July of 2007 when the child was taken into care. A protection finding was made by consent on October 22, 2007 pursuant to s. 22(2)(b). The parents agreed that because of their lifestyle and addictions they were unable to care for the child and the child needed protective services. The child remained in Agency care from the time of her apprehension in July 2007 until the first disposition hearing on January 14, 2008 when the child was returned to the care of both

parents under a supervision order. The child remained in the parent's care until the end of May, 2007. Both parents were living together and caring for the child when Mr. P. tested positive for use of illegal drugs, the child was once again taken into care. A plan of safety was developed between the Agency and the mother which allowed the child to be returned to her care under a supervision order on the condition that she not reside with Mr. P.. On September 15th, as a result of information received, the Agency believed the parties were not complying with the terms of the court order by having contact or Mr. P. attending the residence where the child was residing. The child was again taken into Agency's care and she remained in care until the date of this hearing.

The agency filed a plan in November, 2008 seeking a permanent care and custody order.

I reviewed the evidence presented on behalf of the parties. The Agency's evidence included the addiction records of mother and father, testimony from Alana Brown, an addiction counsellor for Ms. N., Constable Somerton regarding the criminal lifestyle of both respondents, including past and pending charges, protection workers Wendy Campbell and Ainslie Kehoe.

Mr. P. testified on his own behalf and Mr. P.'s parents, and Ms. N. testified on her behalf.

The main protection concerns at the time of the original apprehension were drug addiction and use by the respondents and their criminal lifestyles. There were some minor concerns such as the untidiness of the home.

I am required to consider the preamble to the **Childrens and Family Services Act.** Section 2 of the legislation states:

> The purpose of this Act is to protect children from harm, promote the integrity of the family and assure the best interests of children.
>
> In all proceedings and matters pursuant to this Act, the paramount consideration is the best interests of the child.

Section 3(2) lists a number of factors for the court to consider in determining what order is in the best interest of a child. Section 3(2)o(a) requires the court to consider the importance for a child's development of a positive relationship with a parent and a secure place as a member of the family - that is the bonding that exists between the child and parents. Although the child is very young and has been in foster care for half of her life I am satisfied the child has bonded with both parents. She has resided with her mother and father and foster care during her brief life. When the child was in the care of the Agency, the mother consistently attended access visits and I am satisfied that there is a positive relationship between the child and mother.

Section 3(2) refers to the child's physical mental and emotional needs and the appropriate care and treatment to meet those needs. There was some discussion of the child's health issues. I am satisfied that is not a major concern and the child's health concerns are being addressed and the mother is able to provide appropriate care to meet the child's health needs. The primary and physical need for the child at this time is one of safety. The child would be at risk of physical harm if she was in the care of parents who were participating in criminal activities or using drugs. The mother has successfully participated in the methadone maintenance program to treat her drug addiction. She has been able to abstain from the use of illegal drugs for a considerable period of time. She has not been in any criminal activity since shortly after these proceedings were initiated.

I have considered the Agency's proposal of permanent care with no provision for access which means adoption as well as the parent's plan to return the child to the mother's care or failing that the grandparents' care.

We are now at the end of the time limits mandated by the Act and the court is required, because of the child's young age, either to dismiss the proceedings and return the child to the care of a parent or place the child in permanent care and custody of the Agency.

Another factor the court must consider in determining the child's best interest is the risk the child might suffer harm by being removed or kept away from, or returned to or remaining in the care of the parents. The risk that must be assessed is the risk involved in returning the child to the mother's care balanced against the risk in terminating the child's relationship with her mother. I also have to look at the degree of risk and whether there is a continuing need for protective services.

The respondent father R. P. is in custody awaiting trial on a number of charges which arose during these protection proceedings. He is not seeking bail. He has several outstanding matters for trial.

The mother has pleaded guilty to a number of criminal offences that occurred earlier on in these protection proceedings. She is being sentenced in February of 2009 on these charges and has indicated the prosecution is seeking a probation order. Charges include possession of stolen goods, theft and breaches or orders by failing to comply with conditions. She has a previous criminal record for similar offences and was sentenced to probation for a year on those offences. If the child is returned to her care she plans to relocate to * where she will reside with her grandparents. She believes that her probation order would be transferred to that jurisdiction and she would not be prevented from relocating with the chid.

The mother indicates that she no longer is in a romantic relationship with Mr. P. and that there is no plan on her part to parent her child with him in the future. She does maintain close contacts with his parents because of the support they provide her. She has not committed to a permanent relationship with him. She has control of her drug addictions and use at the present time. This child is healthy and she has the ability to care for the child and insure the child's safety. Although she attends appointments with her addiction counsellor sporadically, she will attend counselling if she feels she needs it.

> The onus is on the Agency to establish ono a balance of probabilities that it would be in the child's best interests to grant a permanent Carre and custody order. I am satisfied that it is in the child's best interest that she be returned to the care of her mother rather than be placed in a permanent care and custody of the Agency. The mother has been dealing with her addition issues and has taken responsibility for her criminal activities and is separating herself from Mr. P. who continues to be involved in criminal activities. I am not satisfied that the mother was breaching the court order when the Agency took the child into care in September. While Mr. P. may have been around the home, I am not satisfied that the mother acquiesced in allowing Mr. P. to be hear the home. The mother has a plan for the future care of the child which include the support of family in *, she has a bond with the child and she has dealt with the protection risk of her criminal lifestyle and addictions and is in the position now to care for the child. Mr. P. has indicated that he does not intend to be a parent to the child in the future and this would also reduce the risk of the child being exposed to criminal activity.
>
> The mother may need continuing help with some issues such as addictions but I am satisfied that she has in place services that will help her and she is prepared to access these services if there is a need for them in the future.

[3] This decision was rendered in January, 2009. Since that time, the parties were separated for an undisclosed time period. They reconciled some time in October, 2009. The evidence was unclear as to how long Ms. N. and S. lived in *. Ms. N. could not advise the Court how long she was in * or whether she had, in fact, made a permanent move to *. Ms. N. indicated she left her belongings in Cape Breton when she moved with S. to *. She had intended to move her belongings at a later date but given that there were two house fires at her home; she had to return to the Cape Breton

area in 2009 where she reconciled with Mr. P.. Together they built a new home where they have cohabited with S. until the child was apprehended on December 14, 2011.

[4] The case is at the protection stage, pursuant to s. 40 of the **Children and Family Services Act**. At the onset of this case the parties did not have legal counsel. I advised them that it was essential for them to have counsel as they were in a position where their past parenting practise would be an issue. This has been the practice in protection cases and in custody cases. It is clearly set out in the **Minister of Community Services v. G.R and L.C.**, 2011 NSSC, p. 88 by Justice Forgeron, where she reviews the case law and in particular a finding of Justice Chipman of the Court of Appeal. Justice Forgeron writes at paragraph 22:

> Past parenting history is also relevant. Past parenting history may be used in assessing present circumstances. An examination of past circumstances helps the court determine the probability of the event reoccurring. The Court is concerned with the probabilities not possibilities. Therefore where past history aids in the determination of future probabilities, it is admissible, germane and relevant. In **Nova Scotia (Minister of Community Service) v. Z.(S.)** 1999) 181 N.S.R.,(2d) (C.A.) Chipman, J.A. confirmed the relevance of past history at para. 13 wherein he states as follows:
>
> > [13] I am unable to conclude that the trial judge placed undue emphasis on the appellant's past parenting. It was, of course, the primary evidence on which he would be

> entitled to rely in judging the appellant's ability to parent B.Z. in Children's Aid Society of Winnipeg (City) v. F . (1978) I.R.F.L. (2d) 46 (Man. Prov. Ct.) At p. 51, Carr, Prov. J. (as he then was), said at p. 51:
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> > ...In deciding whether a child's environment is injurious to himself, whether the parents are competent, whether a child's physical or mental health is endangered, surely evidence of past experience is invaluable to the court in assessing the present situation. But for the admissibility of this type of evidence children still in the custody of chronic child abusers may be beyond the protection of the court.

[5] This is one of a number of cases in which the Court of Appeal supports the trial justice's reliance on past parenting practices. It can be an important feature to be examined in determining future parenting. Evidence was heard on March 6, 2012, March 26, 2012 and March 27, 2012. The Minister seeks a finding pursuant to s. 22(2)(b) and 22(2)(g). It became clear at hearing that the Minister was no longer seeking a finding under 22(2)(d).

[6] The manner in which evidence must be examined is set out in s. 22(1). 22(1) indicates that substantial risk as used throughout the legislation means "a real chance of danger that is apparent on the evidence". The relevant sections involved provide::

> (b) there is a substantial risk the child will suffer physical harm inflicted or caused as described in (a).

(a) the child has suffered physical harm inflicted by the parent or guardian of the child or caused by the failure of the parent or guardian to supervise and protect the child adequately.

S. 22(2)(g) provides:

(g) there is a substantial risk that the child will suffer emotional harm of the kind described in clause (f) and the parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.

The (f) referred to states:

(f) the child has suffered emotional harm, demonstrated by severe anxiety, depression, withdrawal, or self-destructive or aggressive behaviour and the child's parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.

[7] At the protection stage, the relevant section is s. 40(1) and states:

40(1) Where an application is made to the court to determine whether a child is in need of protective services, the court shall, not later than ninety days after the date of the application, hold a protection hearing and determine whether the child is in need of protective services. (emphasis added)

[8] This date has been extended by the consent of the parties. There was agreement the extension past the 90 day time period was in S.'s best interests.

Section 40(4) provides:

40(4) The court shall determine whether the child is in need of protective services as of the date of the protection hearing and shall, at the conclusion of the protection hearing, state, either in writing or orally on

> the record, the court's findings of fact and the evidence upon which those findings are based.

[9] The Minister maintains that there is a risk to S. and that the risk remains current and substantial, based on the ongoing drug, criminal activity and allegations of violence in S.'s home. The Minister has based its position, in part, on the past history of the Respondents. That history has been chronicled up to January, 2009 by Justice Wilson's decision.

[10] On the first day of this protection hearing, six police officers from the Cape Breton Regional Municipality and the Halifax Regional Police were called to give evidence in relation to the Respondents criminal records and in relation to current criminal charges. Police witnesses gave evidence as to recent alleged assaults that occurred over a four (4) month period, centering around three (3) alleged victims in two different cities. The activities in Cape Breton allegedly occurred in the home of the Respondents and the third incident allegedly occurred in a hotel in Halifax. The Halifax hotel was the chosen location for the Respondents to exercise their access with S.. S. was placed in the care of Mr. P.'s uncle, Mr. M., who lives in Halifax.

[11] The police officers provided a summary of Mr. P.'s previous convictions, as well as the status of the matters under current investigation. It is understood that of the alleged victims, one recanted and that two (2) others are not anxious to proceed with charges against Mr. P.. The police, because of their domestic policy, are obligated to proceed to hearing. Criminal matters are pending.

[12] The protection worker, Ms. Bates-MacDonald, presented to this Court, the alleged parenting deficits from the commencement of the Minister's involvement up to the date of hearing. When S., who will be five (5) years next month, was apprehended in 2011, this was her fourth apprehension. The concerns raised by the Minister are that her parents continue to engage in a lifestyle that was riddled with domestic violence, criminal activity, drug abuse and the parental neglect that flows from criminal activity and drug abuse. Essentially, the Minister's personnel believe the same concerns existing in 2008 and 2009 still exist.

[13] During the course of the evidence, Patricia Bates-MacDonald, Protection Worker, outlined the parenting history of the Respondents and the present concerns. As well, two voir dires were held to examining the admissibility of out of Court statements made by S. to Ms. Bates-MacDonald. The voir dires were held pursuant

to the principled approach to examine if the requirements of necessity and reliability were met, such that would allow Ms. Bates-MacDonald to tell the Court what the child said to her. During the course of the second voir dire, it became apparent that there was actually a DVD prepared which had not been disclosed to the Respondents as required. The DVD contained the second interview of Patricia Bates-MacDonald had with S..

[14] Section 38 of the Act reads:

> (1) Subject to any claims of privilege, an agency shall make full, adequate and timely disclosure, to a parent or guardian and to any other party, of the allegations, intended evidence and orders sought in a proceeding.
>
> (2) Upon the application by a party, the court may order disclosure or discovery by any other party in accordance with the Family court Rules and the Civil Procedure Rules.

[15] Once it became apparent that a DVD existed that had not been released, the Court adjourned and lost a court day of hearing. The Court reconvened ten (10) days later. I am satisfied through the adjournment and disclosure directions given by the Court to the Minister's counsel that the delay in completing the matter from March 6, 2012 to March 26, 2012, did not prejudice the Respondents in any way.

[16] It is important for the Minister and the Minister's personnel learn and remember that s. 38 is to be strictly followed. When I queried why this DVD was not provided, the Minister's counsel advised that it was not the practice to disclose taped interviews. It was made clear by the Court that this was not an acceptable procedure because it is tantamount to failure to disclose. Also, on a practical basis, a voir dire is to determine whether or not a child's out of Court statements are reliable, such evidence is clearer and better presented through a videoed account than orally through the protection worker.

[17] The matter reconvened and the Court viewed the DVD and heard from Patricia Bates-MacDonald as to what S. said in relation to having other people living in her home, specifically a person referred to as K. H.. This statement was ruled as admissible. Other comments made by S. were irrelevant or ambiguous and so were either not admitted or not assigned any evidentiary value.

[18] From the evidence of Patricia Bates-MacDonald and the police officers, I conclude that since the last apprehension, when S. was involved in the permanent care proceeding of January, 2009, the Respondents have associated with persons who claim that Mr. P. and Ms. N. assaulted them. These persons were viewed by the

Agency and the Respondents as having addiction problems. Mr. P. believes that there was nothing inappropriate in being associated with these persons. He viewed himself as opening his home to two (2) women who had come upon hard times. Mr. P. and Ms. N. acknowledge that both of them have, and continue to have addiction problems. Both Respondents attend the methadone clinic and both of them have had slips since December 4, 2011, the last time S. was apprehended.

[19] While both parties deny the current criminal charges arising from the October, November, December, 2011 and January, 2012 occurrences, Mr. P. did provide the Court with a copy of his history of convictions which is sixteen (16) pages (Exhibit #5). Eleven (11) pages of these convictions took place after the permanent care hearing held in January 2009. These convictions continued for Mr. P. from January, 2009 onward up to June, 2011. One (1) of these convictions resulted from activity in April, 2010 when S. was present. A review of Mr. P.'s convictions include possession of weapons, possession of drugs, trafficking in a controlled substance, obstructing peace officers and uttering death threats.

[20] During his testimony, Mr. P. gives various reasons for his extensive criminal record. Mr. P.'s reasoning to this Court is almost as concerning as the criminal

record. For example, when charged with possession of an illegal substance, he stated the police found the drugs under his back. He was lying on the floor. It was a small package of drugs. The package was placed under him, not on him; but he pleaded guilty to that charge. In another instance, he advised the correctional guard misunderstood his comment, which resulted in a death threat charge involving a protection worker. At that time, Mr. P. blamed the correctional guard. Again Mr. P. pleaded guilty. Mr. P. has pleaded to a wide variety of charges, including theft, illegal drugs and weapons charges over a ten (10) year period. Mr. P. is currently on house arrest as a result of recent convictions. It was clear, and I find, that he has demonstrated no acknowledgment that he has actually committed the offenses. His conduct poses a danger to the safety of his household. Mr. P. fails to appreciate that his current lifestyle poses a real danger to S..

[21] Ms. N. also has a criminal record (Exhibit #22), which while not as extensive as Mr. P.'s contains similar offences involving theft and illegal drugs. Once again, her reaction to her criminal past causes concern. She spent one (1) month in jail in September, 2011 for a number of offences. She advised she was able to plea bargain for a number of offenses, but not really able to advise what these offences actually were. One of the offences, she believes, was driving under the influence of drugs or

alcohol. Ms. N. does not have a valid driver's license. Ms. N. left S. in the sole care of Mr. P. while she was incarcerated. During this same period, Mr. P. offered shelter to a woman who also has serious addiction problems.

[22] In relation to Ms. N., on one occasion she pleaded guilty to simple possession of cocaine, but she indicated that she was not really in possession of the drug. A bag of drugs happened to be in the police interview room when she was interviewed . Yet she pleaded guilty to the charge. On another occasion, she advised she was able to combine seven (7) charges and plea bargain seven (7) charges into three (3) charges to which she pleaded guilty. In relation to her plea bargain in April, 2010, she advised that it was her friend who had actual possession of illegal drugs but as the event occurred in her car, she felt that she had to plead guilty although she accepts no blame. When questioned about the fact that S. was in the vehicle when the criminal activity occurred; Ms. N. advised that she called a family member to come and take S. so the child was not present for any lengthy period while the vehicle was stopped by police. Ms. N. advised she pleaded guilty to the careless use of a loaded firearm, but was unable to indicate why she had such a weapon in her home.

[23] Ms. N. is currently on an Undertaking issued December 16, 2011 (Exhibit #3) to refrain from alcohol. However, she advised she did consume alcohol since she signing this Undertaking. The charges referenced in the a current Undertaking are still outstanding according to the police witnesses. The current charges involve threat and assault allegations.

[24] Both Mr. P. and Ms. N. admit to using cocaine in March, 2011. Both saw an addiction counsellor on one occasion. Both failed to follow up with the addictions counsellor and both minimize their failure to commit to addictions services. In relation to the use of cocaine in March, 2011, both Respondents believe these were a "slip" and because S. was with her grandparents at the time this slip took place, there is no reason for concern.

[25] Also Ms. N. advised that she has self medicated with a prescriptive drug that she received from a friend. She took this drug on December 14, 2011, the day that S. was apprehended. Also, despite the fact that Ms. Nichol signed an Undertaking not to consume alcohol, she advised since signing that Undertaking, she has consumed alcohol.

[26] Through the fall in 2011 and onward, the Respondents, by their own account, opened their house to two (2) women who were dealing with addiction issues while both Respondents were attending the methadone clinic and struggling with their own addictions. Poor selection in house guests resulted in current outstanding criminal charges.

[27] From October, 2011 to January, 2012, the Respondents have been investigated for inappropriate conduct on three (3) separate occasions with three (3) different women in two (2) different cities over a four (4) month period. Mr. P. relied on the fact that no charges were laid for two (2) of the alleged assaults. He believes there would not be as the complainants had recanted. Neither Respondent acknowledge that these complaints were possibly an example of their poor decision making. That is, while the Respondents struggle with addictions and have lost care of their child to addictions yet they permit their house to be used, at least, as a haven to two (2) people with ongoing serious drug addictions. The third complaint took place in Halifax on the eve of an their access visits in a hotel where their accommodations were provided so they could have access to S.. The Halifax police advised they saw both Respondents the next day in a well known drug area of Halifax. I find this last

observation by the Halifax Regional police is capable of a number of interpretations and I therefore have not factored that evidence in my risk assessment.

[28] None of the three (3) women who were allegedly assaulted by Mr. P. and/or Ms. N. gave evidence at this hearing.

[29] I find, and it is not disputed , that 4 year old child, who both her parents advise me, is a very smart little girl, that this 4 year old S. saw her mother and father sleeping with another women in their bed in the fall of 2011. Neither Respondent took any exception with this fact, which I find to be unacceptable if they are attempting to teach S. proper skills in setting personal boundaries.

[30] Ms. N. spent most of the month of October, 2011 away from her child, as she was in custody for a number of vehicle related offences. When she was questioned, why she did not simply pay the accumulated fines in sum of $10,000.00, she did not believe that was possible. Neither party commented on how her absence would be explained to S.. Neither parent found it off-putting for S. to have her mother in jail and another women living in her home at the same time. While S.'s paternal

grandparents cared for her during a large portion of the month Ms. N. was in jail, this is the example of the poor role model these parents have provided.

[31] The Respondents fail to recognize the seriousness of their criminal record and their current criminal allegations They minimize the effect of their cocaine slips in March, 2011, and Ms. N.'s slip in December, 2011 when she took medication not prescribed for her on the evening that S. was apprehended. They did not seek intervention although Mr. P. did see his counsellor, Ms. Brown, once, he did not follow up. Neither of the Respondents continued in therapy. Both believe that the police involvement over the four month period, as already referenced, was caused by others misusing their kindness. Neither Respondent is in any way affected by S. seeing them in bed, in a private bedroom with a third person.

[32] Both Respondents have minimized their criminal record and how dangerous this criminal environment can be when raising a child. A current lifestyle involving guns, illegal drugs and police is not a safe environment for a child. Mr. P. and Ms. N.'s attitude to their criminal and drug difficulties, is basically that these problems are in the past. Both Respondents believe they are doing well in their new businesses and

that their problems with authorities arose because others are jealous of their success.

[33] Of lesser concern, but I did note, was when the Court finally saw the DVD of S. in the second interview, Ms. N. slept soundly for approximately thirty (30) minutes and had to be awakened by the Sheriff at the lunch break. I was subsequently advised that she was ill or up late the night before. However, I could not imagine a more upsetting view than your 4 year old giving evidence as to what is going on her parents' house I was concerned, as well, that Mr. P. early in the proceeding turned and saw Ms. N. asleep and did nothing to rouse her. However, I do accept the evidence of Mr. Aucoin that she was feeling unwell and needed to be closer to the screen.

[34] Both Respondents are unwilling or unable to grasp what acceptable parenting is for S. and that it is their role to keep her safe. This was a concern of the Childrens Aid Society when they planned permanent care for S. in the fall of 2008. The Applicant accepted Ms. N.'s proposal in January, 2009 to end her relationship with Mr. P. and relocate to *. There she was to continue with addiction services with family support. This Plan was accepted as one that would maintain the bond between mother

and daughter. Ms. N. did not follow through with the plan. After some months, she reunited with Mr. P. and the dangerous lifestyle continued. Both of the Respondents minimize what Justice Wilson said to them in the January, 2009 decision. Mr. P. blatantly indicated that he did not believe that his separation from Ms. N. was a fundamental part of Justice Wilson's decision in deciding to allow S. to remain with her mother. The January, 2009 decision should have been a large warning to the parents that their past and the Applicants obligation to be preventative, required them to be especially attentive to their conduct. I find the clear warnings given in 2009 were ignored by both Respondents.

[35] Mr. P. and Ms. N. have family support in Mr. M. and Mrs. B., yet these witnesses, Mr. M. and Mrs. B. know very little about the Respondents' personal lives, except Mr. P. did tell his mother that he and C. N. were in a relationship with a third person. Neither of their resource people know of the recent criminal charges or drug use by the parents.

[36] Mrs. B. advised she would be concerned if Mr. P., her son, was using drugs. Mrs. B. advised when C. N. was stopped for possession that S. was in the car and that Mrs. B. was concerned and spoke to the Respondents. Mrs. B. believes that today

both the Respondents have stayed away from drugs and that they are busy with their businesses involving a fishing boat and a dog grooming business. Mrs. B. never knew that the Respondents were separated in 2009. She believes that C. N. and S. simply went to * at that time for a visit. She believes that she will know only what her son wants her to know about his personal life. She was never advised that her grand-daughter was to relocate permanently to *. Mrs. B. advised that if either Respondent were in trouble with the law, they may not tell her. Mrs. B. has cared for S. for long periods of time and on most weekends in her home.

[37] Mr. M. is also supportive; however knows little of the Respondents' criminal past and drug use. S. is currently in Mr. M.'s care in Halifax.

[38] E. M. gave evidence about her friendship with the Respondents. She's never heard of their drug use or criminal past. She believes that people attending the methadone clinic have an association with drug use but she feels it is very important for people to put their past problems behind them as she was able to do. I did not find her to be a support person, given her inability to recognize risk as well as the fact that she did not know the critical events in the Respondents lives.

[39] C. N. said she has taken all courses required by the Minister. She advised she was unable to relocate to * because there was a fire at her home and therefore she had to return home to deal with the damage. Besides confirming two occasions where she recently used illegal medication, she cannot respond to other positive results in her drug screening or for her failure to show up for the testing on certain occasions (Exhibit #4). Ms. N. admits that she did not take relapse counselling after the one session she had with Ms. Brown, which could have been in March or May, 2011. Ms. N. advised that she continues to drive a motor vehicle without a license.

[40] Similarly Mr. P. accepts no accountability for S. being in care. He believes that he was being charitable when he took two women into his home when he knew that they had addiction problems as did he and his partner. Mr. P. believes he has the desire and the ability to help others.

[41] Mr. P. wants the Court to place emphasis on the reduction in his criminal activity and the fact that he has never been violent with C. N. and that he has recently started two businesses. Mr. P. advised that he obtained start-up funding to buy a [...] business and [,,,] business from his mother. He believes the businesses are doing well. Ms. N., who works in the [...] business, advised that while they have a large client list, she

cannot accept a salary from the business as there is insufficient revenue. The Respondents advised that they have been able to build a new home, but they were not asked nor did they outline how this was possible as neither of the businesses are flourishing.

[42] In reviewing his criminal past (Exhibit #5) , Mr. P. is casual and sketchy in his recall of the fourteen (14) pages of convictions. He referenced in his evidence that there were more charges but he was able to reduce them by plea bargaining. Mr. P. denies that he has been violent with any of the women who have been investigated in relation to alleged assaults in the fall of 2011 and early 2012 in Halifax. At the time that Mr. P. presented his own case and gave evidence, he was on house arrest.

[43] Mr. P., indicated that he has been taking methadone at the methadone clinic to help him deal with his addiction but he now believes that he uses the methadone to deal with physical pain. He advised that he has not completed this regime of treatment because of some major confusion with Shoppers Drug Mart or the methadone clinic nurse who believe that he may have two active prescriptions from two different doctors. Mr. P. was, at the time of giving evidence, attempting to straighten out this confusion.

[44] Mr. P. expressed his concern to the Court when Ms. Brown, his addiction counsellor, was called to give rebuttal evidence. Hr advised the Court he believed whatever information he shared with his addiction counsellor was personal. However, he agreed he did tell Ms. Brown in March, 2011 that his partner wanted to do cocaine and this was causing stress in their relationship. Mr. P. does believe that counselling is not helpful to him except it allows him to vent. Mr. P. believes that he can talk about anything with his counsellor, but that everything he tells the counsellor does not have to be true.

[45] The Court heard from Ms. Brown from Addiction Services on rebuttal and she advised that Mr. P.'s last appointment was March 31, 2011, the month of his relapse. He scheduled another appointment but did not show. Ms. Brown advised Mr. P. had originally been a self referral in 2009. She believed that he wanted to avoid a relapse in drugs. Ms. Brown believes that Mr. P. needs ongoing addiction counselling. While Ms. Brown met only on one occasion with C. N., it was as a referral from the methadone clinic in April, 2011, made to help Ms. N. deal with her drug cravings. Both Ms. Brown and the outreach worker tried to set up therapy for Ms. N. without success.

[46] Mr. P. and Ms. N. do not see the risks inherent in their lifestyle. They do have a good support system from Mrs. B. and Ms. M.. However, these people who wish to help them are clearly not informed of how the Respondents live their lives. Ms. M. is not a support person given her failure to recognize risks inherent in drug use and crime.

[47] The Respondents ask the Court to consider how far they have progressed; that they have used drugs less frequently and they have been in trouble with the law less often. However, they fail to see that their past parenting is of grave concern to the Court. They both still attend the methadone clinic and need that support. Both of them require therapy. They continue to gravitate towards people who are not conducive to maintaining a safe and sober lifestyle. S. has been present in situations where the risk could have resulted in harm to her. She is currently at risk of a real danger, which is apparent on the evidence. Unless and until S.'s parents can examine their lives and really try to improve, S. will continue to be at risk as I find her to be today. Less intrusive services cannot provide for her return under a Supervision Order. This step can only occur once her parents commit to a lifestyle without drugs, criminal activity, violence or the risk of violence.

[48] I find, on clear and cogent evidence and on a balance of probabilities, that S. is, at the current time, a child who remains in need of protective services. There is substantial evidence that is apparent on the face. This risk is grave and it is current. It is based on the criminal activity, criminal propensity, addiction problems, parenting deficits and the continued practices of both parties of having persons in their home that are not appropriate to help them deal with their addictions. The parents have failed to provide S. with a secure home environment. They appear unwilling or unable to examine how dangerous their conduct can be to themselves and their child.

[49] I find that the Minister has proven the protection concerns on a balance of probabilities. It is apparent that the parents have no real understanding of where they were in 2009 and an unrealistic view of where they are today as parents. I can put remedial measures in place. However, remedial measures will only be helpful if and when the Respondents see their current lifestyle is not safe for S..

[50] I suggest as one of the remedial measures before disposition that the parties commit to hair follicle testing. I do not see that counselling will be of benefit to them unless and until they genuinely engage in counselling for therapeutic purposes.

[51] I have also great concern that this is S.'s fourth time in the care of the Minister. If she is not manifesting negatively , there is a real likelihood she will in the future. I have a final concern due to the parties failure to tell the Court how they believe S. is feeling about her current situation. Progress may be possible for the Respondents but only if they decide to look at their past, their current problems and commit to therapy. Until these improvements are undertaken sincerely, S. cannot be returned to the Respondents' care.

M. Clare MacLellan
J.