IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)
Citation: Nova Scotia (Community Services) v. T.S., 2006 NSSC 74

Date: 20060307
Docket: SFHCFSA-037206
Registry: Halifax

Between:

Minister of Community Services

Applicant

v.

T. S., S. (AKA S.) W. (AKA B.)
R. M., and A. M.

Respondents

Restriction on publication: Publishers of this case please take note that s. 94(1) of the ***Children and Family Services Act*** applies and may require editing of this judgment or its heading before publication. Section 94(1) provides:

> "No person shall publish or make public information that has the effect of identifying a child who is a witness at or a participant in a hearing or the subject of a proceeding pursuant to this Act, or a parent or guardian, a foster parent or relative of the child."

Revised Decision: The text of the original decision has been corrected according to the erratum dated September 20, 2011. The text of the erratum is appended to this decision.

Judge:	The Honourable Justice R. James Williams
Heard:	October 31, November 1, 2, 3, 7 and 22, 2005 in Halifax, Nova Scotia
Oral Decision:	February 6, 2006
Transcribed and Edited:	March 7, 2006
Counsel:	Aleta Cromwell, for the applicant D. Brian Newton, for the respondents, T. S. and S. W. Linda Tippett-Leary, for the respondents, R. M. and A. M.

By the Court:

[1] I had reserved at the conclusion of the trial and received briefs from counsel, the last brief being received in late December. I had adjourned to today's date to provide an oral decision. I am prepared to deliver that decision today.

[2] This is a proceeding under the *Children and Family Services Act* concerning J. C. M., born November *, 1999. J. is six years old; her parents are T. S. and R. M.. The protection application that is before the court was commenced by the Minister of Community Services, who I will refer to as "the agency".

[3] T. S. and R. M. lived in a common-law relationship from approximately December, 1997 through June of 2001. From the time of their separation until January of 2005 J. was, for the bulk of the time, in the primary care of her mother.

[4] In early January of 2005 J. tested positive for Chlamydia, a sexually-transmitted disease; so did her mother, T. S.. On January 21, 2005, at the behest of the agency, T. S. placed J. in the care of R. M.. J. has been in R. M.'s primary care since that date; T. S. has had supervised access.

[5] The agency commenced this proceeding on February 9, 2005; the first appearance was on February 14, 2005. A contested interim hearing was held on March 2, 2005; witnesses included Detective/Constable Pat Jodrie, Heather Smallwood, T. S., S. W., who is T.'s partner, R. M., Darlene Whitman, a psychologist who had done a custody/access assessment dated June 29, 2004, Dr. Kevin Forward and Dr. Amy Ornstein.

[6] I gave an oral decision on March 8, 2005. I concluded at that time in that March 8, 2005 decision, and I quote from that decision at page 268 of the transcript:

> J.'s parents have had a conflictual relationship that has put J. at risk for some time. Darlene Whitman's Custody and Access Report of June 29th, 2004, provides her view of this background as of that date.

[7] At page 269:

> Much has occurred since that date, including the Consent Order that arose from the fall of 2004 and these recent events.

[8] I was there referring to a settlement conference and consent order that followed that settlement conference and the events concerning the Chlamydia.

[9] At page 274:

> I conclude that J.'s infection is, as Dr. Ornstein describes, in an internal, intimate place, and that this also is inconsistent with some sort of accidental transmission of the bacteria. I conclude that Ms. S. has had the same infection, and that I have no explanation as to how or when or where she or, for that matter J. at this point, became infected.

[10] At page 275:

> The test here is on the balance of probabilities. Any time a young child is infected with a sexually-transmitted disease, it is a serious matter. The overwhelming evidence here is that infections of this nature occur through sexual contact.
>
> Essentially, on the evidence I have, I have been asked to simply look by this to effectively conclude that there have been two infections that have occurred, Ms. S. and J., that have occurred somehow against all the probabilities presented by both doctors.

[11] Later on that page:

> I am concluding that the balance of probabilities are more than satisfied here with respect to the agency having proved that J. suffers from or has suffered from a sexually-transmitted disease, that the highest of probabilities are that her infection occurred through a sexual touching, and that the only person in her constellation of family or contacts with the same disease is her mother.
>
> While concluding that the burden on the agency is satisfied in demonstrating that J. has been infected through a sexual touching, I want to be clear in noting that, by using the words "sexual touching," I mean that J. was touched in her genital area. I do not and I am not in a position to make any conclusions about the purpose behind such touching.

[12] On page 276:

> J., a five-year-old child, five years and some four months approximately, has been infected with a sexually-transmitted disease. One of these parents has the sexually-transmitted disease. There is no explanation for this at this point.

[13] And at page 277:

> In all of these circumstances, I conclude that it is in this child's best interests at this time to maintain the current placement, to place her pursuant to s.39(4) in the temporary custody of her father, R. M., subject to the supervision of the Agency.

[14] Since the interim order in March of 2005, J. was found in need of protective services pursuant to s.22(2)(g) of the *Children and Family Services Act*. Section 22(2)(g) provides:

> **22(2)** A child is in need of protective services where
>
> ...
>
> (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.

[15] Section 22(2)(f) reads:

> (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.

[16] Disposition orders were made by this court on June 27, 2005 and September 13, 2005. These orders effectively maintained J. in her father's care under the supervision of the agency and provided that T. S. have supervised access. A variety of services were put in place, including a parenting capacity assessment and counselling services both for T. S. and J.. As well, eventually mediation services were put in place.

[17] The agency filed an agency plan with respect to the disposition review that took place in this matter. The agency plan was dated August 22, 2005. The plan states with respect to the disposition sought by the agency (at paragraph 1 of Exhibit 18):

> The Applicant, the Minister of Community Services is seeking an order that the child, J. M. born November *, 1999 shall remain in the care and custody of the Respondents R. M. and A. M. subject to the supervision of the Minister of Community Services pursuant to sect. 42(1)(b) of the *Children and Family Services Act*.

[18] Mr. M. supported the agency plan; Ms. S. opposed it, seeking J.'s return to her care. Trial dates were set. A disposition review hearing was held and evidence called October 31, November 1, 2, 3 and 7. The evidence before the court included evidence from Suzanne Eakin, a psychologist who completed a detailed assessment dated July 27, 2005, Dianne Wheeler, a social worker and counsellor who has seen J., Marilyn Presley, the agency social worker, T. S., J.'s mother, L. S., J.'s maternal grandmother, S.S., J.'s maternal uncle, and his partner, S.R.. Evidence was heard from R. M. and A. M., his wife. Numerous reports and affidavits were before the court, including the June 29, 2004 assessment of Darlene Whitman. I reserved my decision; submissions were made, as I indicated, final submissions were received in late December, 2005.

[19] Following the completion of the evidence at this hearing a stay was entered pursuant to s.21 of the *Children and Family Services Act*. The stay was granted on November 22, 2005; it states that it will be in effect for 76 days, until February 6, 2005, Monday next.

[20] This decision is effective the day the stay expires. Once the stay expires the court has jurisdiction until September 11, 2006. The September 11 date is obtained as follows: the first disposition order in this proceeding was June 27, 2005; the court has jurisdiction for one year from that point; the stay of 76 days effectively extends the time frame of the court's jurisdiction for 76 days; going 76 days from June 27, 2006 takes us to September 11.

[21] The position of the parties on the disposition review, as I've indicated, was as follows: the agency and Mr. M. seek a continuation of the existing order placing J. in the care and custody of her father with supervised access by T. S.;

Ms. S. seeks J.'s return to her care. Part of the submission seeks a termination of this proceeding and an order under the *Maintenance and Custody Act*, I have interpreted her position as essentially being that she would seek a return of J. either with a dismissal of this proceeding or under a supervision order.

[22] I have reviewed the evidence of the hearings. The *Children and Family Services Act* directs that I consider the burden of proof in proceedings such as this to be on the agency. It is a heightened burden of proof where the agency seeks or maintains that a child is in need of protective services. I have considered the preamble of the *Children and Family Services Act.* I have considered it generally and I have considered in particular the phrases in the preamble which read as follows:

> AND WHEREAS children are entitled to protection from abuse and neglect;
> ...
> AND WHEREAS parents or guardians have responsibility for the care and supervision of their children and children should only be removed from that supervision, either partly or entirely, when all other measures are inappropriate.

[23] I have considered also s.2(1) of the Act, which states the purpose of the Act:

> **2(1)** The purpose of this Act is to protect children from harm, promote the integrity of the family and assure the best interests of children.

[24] Section 2(2) of the *Children and Family Services Act* provides that:

> **2(2)** In all proceedings and matters pursuant to this Act, the paramount consideration is the best interests of the child.

[25] Section 3(2) defines bests interests and outlines a number of circumstances or considerations that the court should have in considering best interests. Those that are particularly relevant to this proceeding include subsections 3(2) (a), (b), (c), (d), (e), (f), (i), (j), (k), (l) and (m). I have attempted to consider each of these factors in reviewing the matter that is before the court.

[26] Section 41(2) of the *Children and Family Services Act* provides that:

> **41(2)** The evidence taken on the protection hearing shall be considered by the court in making a disposition order.

[27] Counsel have agreed and acknowledged that in the course of this part of the proceeding I should have regard to the evidence that was called in this court in March of 2005.

[28] Section 41(3) of the legislation directs that the court shall consider the plan for a child's care prepared by the agency. I have considered that plan and referred to it and considered the factors outlined in section 41(3).

[29] Section 41(5) provides that:

> **41(5)** Where the court makes a disposition order, the court shall give
> (a) a statement of the plan for the child's care that the court is applying in its decision; and
> (b) the reasons for its decision ...

[30] I am providing those reasons.

[31] Section 42(2) provides the options or variety of orders the court may make on a disposition order and section 42(4) outlines matters to be considered in undertaking a disposition review. Those factors include whether circumstances have changed since the previous disposition order, the plans and alternatives that are before the court. Section 42(5), finally, indicates what the options for the court are on a disposition review in terms of jurisdiction. Those options include varying or terminating the disposition order.

[32] I have considered these provisions of the *Children and Family Services Act* and other provisions of the *Children and Family Services Act*. I conclude that J. remains a child in need of protective services pursuant to s.22(2)(g) of the *Children and Family Services Act*.

[33] Ms. Eakin stated at page 94 of her report:

> Until a significant reduction in the level of discord between the two sides of her family is achieved, this child will remain at risk of ongoing emotional harm ...

[34] Ms. Wheeler, in her report of June 17, 2005, stated at page 3:

> In summary, this five-year-old girl has been witness to a high degree of conflict between her parents in the past. Some of J.'s behaviors that indicate anxiety and trying hard to be perfect and please everyone may be evidence of her attempt to deal with some of this confusion and conflict that she has been subject to within her parent's relationship. J. remains at risk to be further negatively impacted by such conflict if it is to occur in her presence again.

[35] Both parents have repeatedly acknowledged that their conflictual relationship has placed J. at risk of emotional harm.

[36] There can be little doubt in my mind that J. remains in need of protective services pursuant to this section. This conflict remains an issue as of the date of the disposition review. The conflict has been complicated since early January, 2005 by the circumstances surrounding J.'s infection, her contracting a sexually-transmitted disease. Those circumstances include:

(a) The fact that J.'s primary parent, T. S., contracted the same sexually-transmitted disease.

(b) The fact that Ms. S. offers no explanation whatsoever for either her or J.'s having contracted the Chlamydia. Ms. S. is unable, apparently, to offer any explanation.

(c) Mr. M. believes J. was infected with a sexually-transmitted disease while in Ms. S.'s care. On the evidence before me, there is no other reasonable conclusion available.

(d) These circumstances result in J.'s care being transferred from Ms. S. to Mr. M. in January of 2005. As Ms. Eakin states in her report, at page 85, in referring to the circumstances I've just outlined:

> This circumstance only served to heightened the tensions at the adult level. Since one cannot discuss with a five year old the implications of chlamydia, it has not been possible to give the child a straight forward explanation for why she was suddenly transferred into the care of her

> dad and his family, and is now seeing her mother on a supervised access basis only.

[37] I want to be clear I'm concluding that the situation, the circumstances, the fact that both J. and her mother tested positive for Chlamydia folds in and complicates the conflict between these parents. It has resulted in the change in physical care of J. and, in my view, is an important factor in contextualizing the conflict between the parents.

[38] Were I to conclude that J. was not in need of protective services pursuant to s.22(2)(g), I would put the parties on notice that I was prepared to consider making a finding in need of protection pursuant to s.22(2)(a), which was not pleaded by the agency. Section 22(2)(a) provides that:

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

[39] I'm not making such a finding at this time, but, as I indicate, were I to conclude that J. was not in need of protective services pursuant to s.22(2)(g) I would put the parties on notice of the possibility of such a finding. I do so. J. had Chlamydia; T. S. also did; no one else in J.'s field of contacts has been identified as having the infection; J. was physically harmed by the infection; T. was her primary parent at the time.

[40] No evidence, save to effectively say T. S. is a good person and parent and always has been, has been offered to deal with the reality of these two infections. I cannot simply ignore them.

[41] I would also, if I had not made the finding under s.22(2)(g), consider making a finding under s.22(2)(c), which reads:

> **22(2)**(c) the child has been sexually abused by a parent or guardian of the child, or by another person where a parent or guardian of the child knows or should know of the possibility of sexual abuse and fails to protect the child;

[42] If this proceeding is contested at a future stage I put the parties on notice now that I will consider the applicability of these two subsections based on the

evidence that is before me. The notice I am giving to the parties now is simply put to give them an opportunity to call evidence and to know that those findings may or could be made at a future time.

[43] There is a well documented history of conflict between Mr. M. and Ms. S.. Two assessments are before the court; both address this conflict. Darlene Whitman's report of June 29, 2004 pre-dates this proceeding, pre-dates the events that occurred in January of 2005, including the discovery of the Chlamydia infections, pre-dates a consent arrangement that was made by the parties and pre-dates the settlement conference of October, 2004.

[44] I have reviewed her report. Its language appears extreme. Her process in terms of contacts with collaterals is less than even-handed. Ms. Whitman's report is of limited utility in this proceeding. I've pointed out that it pre-dates significant events that are now before the court. In my view, it over-reaches in its language, it appears to lack balance, the information and reliance on information referred to in the report from Myrna Ranger is of particular concern.

[45] Suzanne Eakin's report and assessment is, in relative terms, in my view, thorough and professional. Ms. Eakin's evidence acknowledges T. S.'s attachment to and caring for J.. It observes, however, that Ms. S. is, in many ways, emotionally dependent on J., has difficulty distinguishing her own needs from J.'s at times, has a feeling of entitlement with respect to J. and demonstrates at times a possessiveness and controlling behaviour that is not sensitive to J.'s needs. She indicates that Ms. S. at times has difficulty appreciating the impact her own actions and emotions have in J., the various transition periods illustrate this. Ms. Eakin notes that there have been recommendations for individual therapy for Ms. S. or by Ms. S.. These were taken up literally, or almost literally, at the time of the trial, Ms. S. entering a counselling process in October of 2005.

[46] Ms. Eakin also notes, and some of the evidence from Ms. S.'s family and support system acknowledges this, that Ms. S. has difficulties dealing with J. and J.'s discipline. Some of this appears rooted in a desire to please J. or to not risk disfavour from J..

[47] Ms. Eakin concludes that both Ms. S. and Mr. M. have contributed to the conflict between them. A. M. has similarly contributed to this conflict. I would

conclude that Ms. M.'s involvement in communication between Mr. M. and Ms. S. should be limited. In my view, Ms. M. should not be communicating about any decision making with Ms. S.. This should be Mr. M.'s responsibility.

[48] Ms. Eakin notes that Mr. W. has been very supportive of Ms. S.. He is less connected to J. than Ms. S., Mr. M. or A. M.. I would conclude that Mr. W.'s evidence was, in large part, given in a forthright manner. He is one of the collaterals who acknowledge that Ms. S. has difficulty disciplining J. and at times was overly emotional.

[49] J. is caught between her parents, caught between the homes. Ms. S. has, and some of her supports have, the impression from distress at times of transition that J. was not happy with her father. I have had the opportunity of considering the evidence not only of Ms. Eakin but the other evidence, including that of Ms. Wheeler and the parties. I would conclude that much of the distress on transitions arises or has arisen from Ms. S.'s inability to separate from J. in a fashion that allows J. to demonstrate that she cares for both homes in the presence of her mother.

[50] Ms. Eakin notes at page 86 of her report:

> .. if J. had her wish, she would like to be with everyone, all the time, as she is not only loves them all but is so invested in keeping everyone happy. There are clearly benefits to be derived from her relationships with both sides of the family, and what this child most needs is ample opportunity to relate to all parties, and be given the psychological "permission" of all family members to just relax and be herself.

[51] Ms. Eakin goes on:

> The reality that needs to be accepted is that J. is happy in her mother's home, but is also happy with her Dad, A., and J., and needs to be allowed to enjoy the 'best of both worlds'.
>
> J. is very aware that her parents have frequent disagreements, that invariably centre around herself. She finds this disturbing, and tries her best to please all parties, so as not to incur the displeasure of anyone or to further 'rock the boat'.

[52] At page 87, Ms. Eakin indicates:

> In my clinical judgment, it is a very sad situation when a child feels she has to be "politically correct" and worries about making a 'slip' in front of her own mother. There is a strong need for T. to separate out her own feelings and issues from the needs of her child and accept the fact that J. should be at liberty to call the people in her life whatever name she chooses, without fear of repercussions.

[53] Later on page 87:

> In fact, her relationship with her mother will likely be enhanced if T. is able to recognize that the separation issues are primarily her own, and a child with separated parents needs to be given sufficient "space" to fully enjoy the company of whichever parent she is with at the time, without undue intrusions (including excessive phone calls) from the other parent.

[54] The psychological testing done by Ms. Eakin in her assessment when seeing J. led her to conclude that the child has important emotional attachments with her mother, but also with her father, step-mother Ms. M., and little brother J,. She feels love by all her family and extended family on both sides and reciprocates their affection. She clearly wishes she could spend as much time as possible with them all. Ms. Eakin states, at page 94:

> J. generally presents as outgoing and cheerful in demeanour but she is also confused and harmed by her exposure and sensitive attunement to adult discord and antipathy, which creates an unwarranted emotional burden for her. She is very explicit in stating that she wants the fighting between her parents to stop, as it makes her sad and uncomfortable. She has also indicated, both in the present assessment, and to her play therapist Dianne Wheeler, that she wants to be free to have a positive relationship with her father and his family members without feeling guilty or constrained.

[55] Ms. Eakin concludes, at page 95:

> At this point, it seems to be primarily T.'s extreme possessiveness, her need to be omnipresent in her daughter's life, her continuing antipathy to A., and her sense of entitlement to a priority right in

> determining all aspects of her daughter's life, that are creating impediments to progress.

[56] Ms. Eakin concludes at page 96:

> ... the interactions of both R. and A. with J. were consistently appropriate and their discussion of issues impacting on the child were notably child-centred ...

[57] Ms. Eakin concludes that J. would be happy in either household, makes it clear that the Chlamydia is a concern, is an issue, and notes that J. is attached to her brother, J..

[58] I have had an opportunity to see the parties and consider their testimony. I have reviewed their testimony. I have reviewed the affidavit material. I have been cautious not to over-rely on Ms. Eakin's report or views, but in the end find them largely consistent with the conclusions I make independently from the evidence before me.

[59] The evidence of the parties, their relatives and their partners is consistent in some regards. All agree they have, at times, contributed inappropriately to the conflict between adults, all agree to continue to seek and use services offered by the agency. The M.'s point to J.'s doing well in their home and having a positive relationship with her brother, J.. Mr. M. has been diagnosed with MS. It does not at this point physically affect his work or his ability to care for J. and is not a factor in the decision I am making. Mr. M.'s work hours are 7:00 to 3:15; Ms. M. is at home with J.; J. is in school and attending school from their home.

[60] L. S., S. S. and S. R. all support J.'s return to T., as does S. W.. They acknowledge that they have no explanation for the Chlamydia infection and acknowledge that were the circumstances reversed their concerns might well be different.

[61] T. S. maintains she has no knowledge as to how she got Chlamydia, no knowledge as to how J. got Chlamydia. Ms. S. began a personal counselling program in early October, 2005. The report of Ms. Eakin and the evidence as a whole suggests that this is a very positive step. Both of these parents have, at times, made decisions that feed or have fed into the conflict between them. A. M.

has also done this. The evidence satisfies me, however, that even apart from the Chlamydia issue, if somehow the Chlamydia issue disappeared, a plan more consistent with J.'s best interests at this time, in my view based on the evidence, is for her to continue in her father's care and to continuing the existing disposition order.

[62] I conclude that T. S. has a number of personal issues that impact on her relationship with her daughter, J., and Mr. M.. Ms. S. is dependent on others. Her relationship with her daughter is close and caring, yet not comfortable enough that she can appropriately discipline her, not independent enough to separate her, Ms. S.'s, needs from those of J., not balanced enough to accept that J. is content and functioning well in the M. household, not self-aware enough to see the full impact of her actions on J., even in retrospect.

[63] I do not conclude that Ms. S. fails in each of these ways all of the time, but there are issues, recurring issues, in each of these areas. Ms. S. has undertaken counselling that will undoubtedly begin to address some of these issues. Mr. M. is far from perfect. He is, in relative terms, however, more aware, more willing to self-examine and is in a more stable living situation.

[64] I do conclude that A. M., whether purposely or not, has contributed to the conflict between the parties. Her role in terms of communication with Ms. S. should be restricted.

[65] I conclude that J. too often remains caught in the middle of her parents. It would be helpful, in my view, that there be some stability in her life, some expectation by everybody that her placement not be up in the air.

[66] I do conclude that Mr. M. is the parent better able to make decisions for J. and that J.'s best interests in the foreseeable future lie with her being in his primary care. I do so considering the statutory factors outlined earlier, and in particular the factors outlined in s.3(2), the best interests considerations in this legislation. I do so considering the Chlamydia infections and the lack of explanation for them as factors placing J. at risk emotionally. I do so concluding that Ms. S.'s position with respect to the Chlamydia is that she simply does not know.

[67] In some ways, perhaps in many ways, little has changed since the first disposition order was made in this proceeding in June of last year. The parents' conflict continues to put J. at risk, the Chlamydia and sexually-transmitted disease contracted by J. and T. S. remains unexplained. The agency plan, the continuation of the existing order, manages a complex situation in a fashion that is appropriate. It is the plan that is most consistent with J.'s best interests now. I adopt the agency plan to continue J.'s placement in the care and custody of Mr. M. and A. M. and to provide the supervised access to Ms. S..

[68] The existing order provides for supervised access. I share Mr. Newton's concern for the appropriateness of such an order on an indefinite or ongoing basis. Mr. Newton, in his brief, refers to Justice Green in *C.C. v. L.B.* [1995] N.J. 386 (Nfld.S.C.-U.F.C.), who states:

> 151 As a general proposition, I believe supervised access creates an artificial set of circumstances which will generally work against the development of a good post-separation relationship with the access parent. There ought to be good and sufficient reasons present before a court would order such an artificial relationship. The custodial parent requesting the imposition of such conditions bears the onus of establishing that supervised access is in the best interests of the child.

[69] I am concluding that the rationale for supervised access has been there, it continues to be there. I cannot control what applications are brought before me in the future. It is not for me to limit what evidence parties bring to me, but I can provide some guidance. I would request, and I make clear that I am not directing this, but I would request that there be some focus or some examination of the supervised access arrangement by the parties. J. was five in January of 2005, she'll be six and a half, for all intents, by the time we get to the next review date. She has been in counselling with Ms. Wheeler. I do not have information on what has occurred in that regard since November. Ms. Wheeler's September 9 report indicates that an education process had begun with J. that would, I conclude from the report, address good touches and bad touches.

[70] It is appropriate, I believe, that there be some inquiry to Ms. Wheeler and perhaps Ms. Eakin as to J.'s ability to independently identify and report what is sometimes in the context of proceedings such as this referred to as "bad touches". I believe that this court and the parties has to confront the question raised by Mr.

Newton as to whether or not supervised access on an ongoing, indefinite basis would have more negative impact on J. than the risk of unsupervised contact. There also needs to be some examination as to what the parties' positions will be in terms of, or upon the, termination of this proceeding. This court has jurisdiction until September, 2006. We will soon need to set dates to deal with the question of the termination of this proceeding and the possibility of an order being made under the *Maintenance and Custody Act*. It would seem obvious to me that the parties' respective positions with respect to J.'s care, as we move toward and beyond the fall of this year, may well influence their positions with respect to access.

[71] The matter returns to court on Monday. I believe I have been clear in indicating I am adopting the plan put forward by the agency and supported by Mr. M.. I know that the parties have been involved in a mediation process. I do not have information from the parties concerning that. It may well be that I will get no information; it may be that I will get information that frames or changes some of the issues that I perceive at this point.

[72] I am suggesting that the parties appear on Monday, or at least that counsel do, and that counsel at that point have discussed when the next review date might be and to at least begin to have discussed what issues would be dealt with at that time, what issues would be pleaded or put forward by each of the parties in the future. I will be directing that the agency file an amended agency plan prior to the next review date. I believe I am signalling clearly that the issue of supervised access needs to be dealt with in the future. I am cognizant of the fact that J. is attached to all of the adults who are present here today, that she is positively attached and enjoys spending time with each of them. In my view, the object of this process at this point is straight forward: it is to ensure that J. has a positive, meaningful relationship with both her parents and extended families, it is to attempt to ensure that that is healthy and it is to attempt to, if not eliminate, to minimize and manage some of the conflict that has been in place to this point in time. Finally, it must deal with the reality of the sexually-transmitted disease that J. contracted and the fact that Ms. S. contracted or had the same disease.

J. S. C. (F. D.)

Halifax, NS

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Revised Decision: The text of the decision has been corrected according to the appended Erratum released September 20, 2011.

Judge: The Honourable Justice R. James Williams

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Counsel: Aleta Cromwell, for the Applicant
D. Brian Newton, for the Respondents, T. S. and S. W.
Linda Tippett-Leary, for the Respondents, R. M. and A. M.

Erratum:

On the cover page, where it says "Heard: October 31, November 1, 2, 3, 7 and 22, 2006 in Halifax, Nova Scotia", it should say "Heard: October 31, November 1, 2, 3, 7 and 22, **2005** in Halifax, Nova Scotia".

Paragraph 4, second line, where it reads "On June 21, 2005, at the behest of the agency", it should read "On **January** 21, 2005, at the behest of the agency"

J. S. C. (F. D .)

Halifax, NS
September 20, 2011