

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Aziz v. Dolomont, 2006 NSSC 194

Date: 2006-05-24

Docket: 27791

Registry: Sydney

Between:

MORRIS ABDIEL AZIZ

Applicant

v.

AMY DOLOMONT

Respondent

DECISION

Oral Decision: May 24, 2006

Written Decision: June 16, 2006

Judge: The Honourable Justice Theresa M. Forgeron

Heard: March 23, 2006 in Sydney, Nova Scotia

Counsel: Mr. Mark Wiseman/ Ms. Candee McCarthy, counsel for
the Applicant

Mr. Matthew Ryan, counsel for the Respondent

BY THE COURT:

I. Introduction

[1] The matter before me for determination concerns the question of access between the applicant, Mr. Morris Aziz and the child, Jonathan William James Dolomont born July 29, 2001. Jonathan is the biological child of Mr. Aziz and the respondent, Ms. Amy Dolomont. Mr. Aziz seeks access to Jonathan. Ms. Dolomont opposes any form of access.

II. Issue

[2] Should Mr. Aziz be granted or denied access?

III. Background Information

[3] Mr. Aziz was born in 1976 in Washington D.C. of Tanzanian parents. Mr. Aziz currently resides in Clearwater, Florida where he is a partner in a business venture. Mr. Aziz has never met Jonathan. He initiated a court application for access in September 2003.

[4] Ms. Amy Dolomont is the mother and defacto custodian of Jonathan. She is married to Michael Dolomont. The Dolomonts reside in the Cape Breton Regional Municipality. Ms. Dolomont opposes access as she is concerned that Jonathan will be negatively affected if Mr. Aziz is introduced into Jonathan's life.

[5] The trial was originally scheduled for hearing on September 10, 2004, but was adjourned at the request of Mr. Aziz so that he could attend to certain probate matters in Tanzania involving his father's estate. The trial was then rescheduled to March 23rd, 2006. On March 23, the court heard the evidence of the parties and Mr. Dolomont. Final submissions were delivered by counsel on April 15, 2006 and the oral decision was rendered on May 24, 2006.

IV. Evidence at Trial

(a) Evidence of Mr. Aziz

[6] Mr. Aziz testified first. He is 30 years old. Mr. Aziz is an American citizen

as he was born in Washington D.C. when his father was the assistant Tanzanian ambassador in the U.S.A. in 1976. Mr. Aziz has lived in various countries as a result of his father's employment.

[7] Mr. Aziz is well educated. He is employed in his own business and earns approximately \$70,000.00 US per annum. His family lives in various countries throughout the world and he has a close relationship to them.

[8] Mr. Aziz stated that he met the respondent while he was attending UCCB. The respondent was working at a convenience store in Sydney where Mr. Aziz would attend from time to time. In the fall of 2000, Mr. Aziz learned that the respondent was pregnant. He stated that the pregnancy was unexpected and unplanned.

[9] Mr. Aziz stated that the relationship between he and the respondent was casual. Mr. Aziz said that he was not ready for fatherhood. Mr. Aziz pressured Ms. Dolomont to have an abortion. Ms. Dolomont refused and told Mr. Aziz that she would do no harm to her baby.

[10] Mr. Aziz travelled to Brussels for Christmas of 2000 where he obtained advice from his family. Mr. Aziz indicated that when he returned to Cape Breton he contacted the respondent. Mr. Aziz stated that he told Ms. Dolomont and her mother that he would respect any decision that Ms. Dolomont made. Mr. Aziz apologized to Ms. Dolomont for his reaction and disrespectful comments in the fall.

[11] Mr. Aziz indicated that he had, and continues to have, a good relationship with Ms. Dolomont's mother and her younger sister. Mr. Aziz stated that he communicated with Ms. Dolomont's mother and sister during the pregnancy and also spoke with Ms. Dolomont from time to time.

[12] Upon graduating from UCCB prior to Jonathan's birth, Mr. Aziz spent one month in Toronto and then moved to Florida where he commenced a Masters degree. He indicated that he learned of Jonathan's birth through Ms. Dolomont's mother. Mr. Aziz continued to keep in contact after Jonathan's birth, primarily through Ms. Dolomont's mother. Ms. Dolomont's mother forwarded pictures of Jonathan to Mr. Aziz. Mr. Aziz stated that he also spoke directly to Ms. Dolomont who confirmed that access would take place when Jonathan was older.

[13] Mr. Aziz said that he provided clothing, gifts and money from time to time to Ms. Dolomont. Mr. Aziz thought that communication between he and Ms. Dolomont was relatively good and that he and Ms. Dolomont would be able to work out access details when Jonathan was older. Mr. Aziz stated that he learned otherwise when his friends, the Lansons, unsuccessfully attempted to visit Jonathan in Cape Breton.

[14] Mr. and Mrs. Lanson are close family friends of Mr. Aziz. Mr. Aziz understood from many conversations which he had with Ms. Dolomont's mother that a visit between the Lansons and Jonathan would occur when they travelled from Florida to Cape Breton for that purpose. When the Lansons arrived in Cape Breton, the visit was refused. The Lansons were not permitted to see Jonathan.

[15] Mr. Aziz therefore sought legal assistance and commenced the court application for access. Ms. Dolomont contested paternity. DNA testing was completed and paternity was proven.

[16] Mr. Aziz provided the court with details of his family background. He

indicated that his family assisted with Tanzania's peaceful transition to independence. Mr. Aziz wants Jonathan to know about his Tanzanian culture and heritage. He wants Jonathan to benefit from the love that his extended family will provide. Mr. Aziz indicated that he is seeking access in Jonathan's best interest. Mr. Aziz noted that he can expose Jonathan to a loving and close knit family with international roots.

[17] In addition, Mr. Aziz feels that he can provide Jonathan with educational opportunities that Jonathan may not otherwise have. Mr. Aziz stated that he and his family place great emphasis on education from an institutional perspective as well as by international travel.

[18] Finally, Mr. Aziz expressed concerns that Jonathan is being deprived of the truth of his parentage. Mr. Aziz opined that Jonathan would benefit from the truth.

[19] Mr. Aziz stated that he is not a criminal; he is not violent nor abusive; and that he has no addictive habits. Mr. Aziz advised that he created an investment fund for Jonathan's education which is valued at approximately \$30,000.00 to \$35,000.00 US.

[20] Mr. Aziz confirmed that he is not challenging Jonathan's custodial arrangements. He expressed appreciation to the Dolomonts for all that they have done on Jonathan's behalf.

(b) Evidence of Ms. Amy Dolomont

[21] Ms. Amy Dolomont testified that she met Mr. Aziz while she worked at a convenience store in Sydney. She indicated that they had one sexual encounter and she became pregnant. Ms. Dolomont stated that Mr. Aziz pressured her to have an abortion before and after Christmas of 2000, and that he had become loud and assertive on one occasion at her work place. Ms. Dolomont stated that Mr. Aziz refused to assume responsibility for Jonathan.

[22] Mr. and Ms. Dolomont married on May 4, 2002 after having lived together prior to Jonathan's birth. Ms. Dolomont stated that her husband is thus the only father that Jonathan has ever known and that he is an excellent father.

[23] Ms. Dolomont noted that it was Mr. Dolomont who consistently provided

support to Jonathan. Ms. Dolomont detailed the various sacrifices made by her husband for the benefit of Jonathan. She described the exceptional relationship which exists between Mr. Dolomont and Jonathan.

[24] Ms. Dolomont stated that both she and Mr. Dolomont work steadily. Although they are not wealthy, they provide Jonathan with all that he requires materially and more importantly, have provided him with unconditional love, emotional support, nurture, structure and stability.

[25] Ms. Dolomont described Jonathan as a happy, intelligent, and well adjusted child. She stated that Jonathan enjoys hunting, fishing, and sports. His educational, social and recreational needs have been met.

[26] Ms. Dolomont noted that Jonathan's life is complete and that he does not need a second father. Jonathan does not know that Mr. Dolomont is not his father. Ms. Dolomont is concerned about Jonathan's emotional well being. Ms. Dolomont states that she is the product of a divorced family and she does not want Jonathan to experience the trauma which she experienced growing up. She wants Jonathan to avoid the mistakes she made.

[27] Ms. Dolomont stated that she did not consent to a visit between the Lansons and Jonathan. Ms. Dolomont indicated that she learned of the proposed visit when the Lansons arrived in Cape Breton. Ms. Dolomont stated that her mother made the arrangements without her knowledge or consent. Ms. Dolomont was upset when she learned what her mother had done. Ms. Dolomont no longer has a relationship with her mother.

[28] Ms. Dolomont disagreed with Mr. Aziz's evidence as it related to contact between them concerning Jonathan. Ms. Dolomont stated that there was very little interest expressed by Mr. Aziz towards Jonathan and that no gifts or money were ever received from Mr. Aziz.

(c) Evidence of Mr. Michael Dolomont

[29] Mr. Dolomont testified that he happily assumed the role of father to Jonathan and husband to Ms. Dolomont. He attended all of Ms. Dolomont's medical appointments and was present for Jonathan's birth. Indeed Mr. Dolomont even stayed overnight at the hospital when Jonathan was born. Mr. Dolomont is proud of Jonathan and is actively involved in Jonathan's care.

[30] Mr. Dolomont stated that he and Ms. Dolomont have been able to meet all of Jonathan's material needs. The combined family income is approximately \$46,000.00. Mr. Dolomont confirmed that he and Ms. Dolomont provide a loving and nurturing home environment for Jonathan and Jonathan has thrived under their care.

[31] Mr. Dolomont also indicated that neither he nor Ms. Dolomont were aware of the planned Lanson visit until the day the Lansons arrived.

[32] Mr. Dolomont felt that access would be inappropriate at this stage as Jonathan was happy in his family structure. However Mr. Dolomont noted that he and Ms. Dolomont would abide by the court order and that they were acting out of love and in Jonathan's best interest.

V. Analysis

[33] Section 18(2) of the *Maintenance and Custody Act* provides this court with the jurisdiction to make an access order. This section states:

Powers of court

18 (2) The court may, on the application of a parent or guardian or other person with leave of the court, make an order

(a) that a child shall be in or under the care and custody of the parent or guardian or authorized person; or

(b) respecting access and visiting privileges of a parent or guardian or authorized person.

[34] Section 18(4) of the *Act* states that both parents are equally entitled to have the care and custody of a child unless otherwise provided or ordered. Section 18(4) states:

18 (4) Subject to this Act, the father and mother of a child are joint guardians and are equally entitled to the care and custody of the child unless otherwise.

(a) provided by the Guardianship Act; or

(b) ordered by a court of competent jurisdiction.

[35] Section 18(5) of the *Act* confirms that the court must apply the best interests of the child test in any decision which is rendered. Section 18(5) states:

18(5) In any proceeding under this Act concerning care and custody or access and visiting privileges in relation to a child, the court shall apply the principle that the welfare of the child is the paramount consideration. R.S., c. 160, s. 18; 1990, c. 5, s. 107.

[36] Our courts have consistently held that there is no absolute right to access, although the best interests of the child is generally promoted when a child has meaningful contact with both parents.

[37] In **Abdo v. Abdo** 1993 CarswellNS 52 (CA), the Nova Scotia Court of Appeal reviewed three legal points relevant to the determination which I must make:

- (i) The right of a child to know and to be exposed to the influences of each parent is subordinate in principle to the best interests of the child.
- (ii) The burden of proof lies with the parent who alleges that access should be denied, although proof of harm need not be shown in keeping with the decision of **Young v. Young** 1993 CarwellBC 264 (SCC).
- (iii) The court must be slow to extinguish access unless the evidence dictates that it is in the best interests of the child to do so.

[38] I am also aware of the applicability and importance of the cautionary comments of Daley J.F.C. in **Neill v. Best** 1995 CarswellNS 163 (Fam.Ct.) at paras 27 and 28 wherein access was denied to a father who had previously been convicted

of sexually assaulting the 5 year old child of a former girlfriend over a period of several years:

27 The welfare of the child rule is paramount. Access is not a reward for parenting or for not having custody. It is an active, productive, positive relationship that requires security, knowledgeable care, communication and understanding. It requires two adults and a child supporting each other with meaningful and healthy growth toward responsible adulthood. It requires the access parent having a clear understanding of what is involved. Access law should not encourage risk taking and experimentation with the emotional and physical growth of an infant child. It should look for benefits to the child, not neutral or potentially negative relationships.

28 With this in mind, the mother has proven on balance that the welfare of her child would be best served by granting her motion and denying the father access to the child at this time. The mother has proven that the uncertainty of potential risk to the child is such that the court is not prepared to experiment with the future of the child through access. And further, that there is no evidence that the court can accept that the relationship between the father and his son would be positively influenced by access or that there is a potential for positive influence so as to override the uncertainty and potential risk for the child.

[40] A number of cases in which access was terminated or refused were presented to the court in support of Ms. Dolomont's position. In each of these cases, access was refused or denied as the conduct of the non-custodial parent negatively, and in a marked way, interfered with the ability of the non-custodial parent to meet the needs and best interests of the child. The factual circumstances in the cases presented by counsel are discussed next.

[41] In **Abdo v. Abdo**, supra, the father was violent physically and emotionally to the children and the children's mother. The court found that the father was

domineering, selfish and cruel and that the mother's health was jeopardized because of her fear of the father and her concern for the children.

[42] In **Studley v. O'Laughlin** 2000 CarswellNS 190 (SC), the father had failed to establish a bond with the child and as a result there existed no parent/child relationship despite the regime of supervised access which had been designed for that purpose. The parental relationship "was accented by abuse, hot temper and cruelty" on the part of the father. The father suffered from significant anger management and control issues for which professional assistance was not sought.

[43] In **H.(S.M.) v. M.(J.)** 2000 CarswellNS 121 (SC), the father had a criminal past, including recent involvement in the criminal process. The father had no job and no prospect of employment. The father had no fixed address. The father admitted to lying under oath. A few days prior to testifying he had been charged with breaking into a residence. While impaired, the father also threatened to kidnap the child.

[44] In **Baker v. Zwicker** 2000 CarswellNS 376 (Fam.Ct.), the father had been incarcerated, had no access for a period of three years, and had made no effort to

change his violent behavior and abusive attitude. The father failed to recognize that his previous parenting was unhealthy and inappropriate.

[45] In **Newhook v. McEachern** 1997 CarswellNS 215 (Fam.Ct.), the father was a virtual stranger to the children and had failed to successfully complete the anger management course which had been ordered by the court as a condition to be met before access would be reviewed. The father had also failed to participate in extensive counseling to deal with past abuse; nor did he attend the appropriate parenting course as ordered.

[46] In **Saffarnia v. Moore** 1989 CarswellNs 362 (Fam.Ct.), the father's access was sporadic and unsatisfactory and a risk existed that the father would take the children permanently to Iran without the mother's consent.

[47] In **Kehoe v. Potter** 1984 CarswellNS 272 (Fam.Ct.), the father admitted to the continued misuse of alcohol and drugs and was not able to appreciate why such behavior was wrong. The court held that in the circumstances this misuse of alcohol and drugs adversely affected the child and the behavior of the father.

[48] In **R.(M.) v.S.(K)** 1998 CarswellNB 16 (QB), the father abused the mother physically, emotionally and sexually and such abuse was witnessed by the children.

The children were also physically abused by the father. Expert evidence was tendered to confirm that the children would be adversely affected by access in the circumstances.

[49] Counsel have also submitted case law on the issue of cultural and racial identification. In addition to these cases, I have also considered the case of **Van de Perre v. Edwards** 2001 CarswellBC 1999 (SCC). Race and culture are factors, but not the determining factor in any custody or access issue as stated by Bastarache J. in **Van de Perre v. Edwards** supra at paras 37 and 38:

37 The interveners, the African Canadian Legal Clinic, the Association of Black Social Workers and the Jamaican Canadian Association, submit that race is a critical factor in custody and access cases. In my view, the importance of this factor will depend greatly on many factual considerations. The interveners state that there are key tools a Canadian biracial child will need in order to foster racial identity and pride: the need to develop a means to deal with racism and the need to develop a positive racial identity. The corollary to these needs is the parental ability to meet them. The interveners do not state that the minority parent should necessarily be granted custody; rather, the question is which parent will best be able to contribute to a healthy racial socialization and overall healthy development of the child. This question is one of fact to be determined by the courts on a case-by-case basis and weighed by the trial judge with other relevant factors.³⁸ The interveners submit that, although some studies show that Black parents are more likely to be aware of the need to prepare their children to cope with racism, the main issue is which parent will facilitate contact and the

development of racial identity in a manner that avoids conflict, discord and disharmony. But again, this is only one factor to be considered by the trial judge. I would also add that evidence of race relations in the relevant communities may be important to define the context in which the child and his parents will function. It is not always possible to address these sensitive issues by judicial notice, even though some notice of racial facts can be taken; see *R. v. Williams* [1998] 1 S.C.R. 1128 (S.C.C.). The weight to be given to all relevant factors is a matter of discretion, but discretion must be exercised with regard to the evidence. In essence, the interveners argue that race is always a crucial factor and that it should never be ignored, even if not addressed by the parties. They favour forced judicial consideration of race because it is essential in deciding which parent is best able to cope with difficulties biracial children may face. This approach is based on the conclusions reached concerning the present state of race relations in Canada. As I have said, racial identity is but one factor that may be considered in determining personal identity; the relevancy of this factor depends on the context. Other factors are more directly related to primary needs and must be considered in priority (see R. G. McRoy and C. C. Iijima Hall, "Transracial Adoptions: In Whose Best Interest?" in Maria P. P. Root, ed., *The Multicultural Experience* (1996), at pp. 71-73). All factors must be considered pragmatically. Different situations and different philosophies require an individual analysis on the basis of reliable evidence.

...

[50] I have also reviewed the judgements submitted by counsel on behalf of the parties, namely: **Rushton v. Paris** (2002), 205 N.S.R. (2d) 242 (Fam.Ct.); **Ffrench v. Ffrench** (1994) 134 N.S.R. (2d) 241 (SC); **Ho v. Gallinger** 2002 CarswellOnt 5308 (Sup.Ct.Jus); **Singh v. Singh** 1981 CarswellAlta 209 (CA); and **Catholic Children's Aid Society v. W.(V.)** 2002 CarswellOnt. 1113 (CA).

[51] I have considered the legislation, case law and submissions of counsel in the context of the evidence which has been presented. I have also assessed the civil burden of proof which is upon Ms. Dolomont.

[52] In reaching my decision, I find that Mr. and Ms. Dolomont have met most of Jonathan's needs in an exemplary fashion. They have provided love, structure, stability and nurture. Jonathan is emotionally sound, happy and well adjusted as a result of the parenting which has been provided by Mr. and Ms. Dolomont. They are to be commended for these efforts which have been provided unselfishly and out of love and joy.

[53] Mr. Dolomont however, is not the biological father of Jonathan. Mr. Aziz is. Jonathan should be told the truth of his heritage in an age appropriate and sensitive fashion. Jonathan deserves to know the truth of his parentage.

[54] Jonathan's life cannot be based upon a lie. This approach is inherently wrong. The court cannot be a party to a lie. In addition, and from a practical perspective, Jonathan will inevitably discover the lie as he grows older. His skin tone is dark like that of Mr. Aziz. The Dolomonts are fair. As he ages, Johnathan

will realize that his parentage cannot be as stated by the Dolomonts. Further, others do know that Mr. Aziz is Jonathan's father. Ms. Dolomont's mother and sister know that Mr. Aziz is Jonathan's father. Mr. Dolomont and his parents know. Such secrets seldom can be kept confidential for long. From a practical point of view, Jonathan must be told who his biological father is or he will eventually discover the truth himself.

[55] Furthermore, I have determined that it is in the best interests of the child Jonathan to have access to Mr. Aziz. Mr. Aziz has much to offer Johnathan. Mr. Aziz can expose Johnathan to one of his two cultures. Jonathan must learn about his Tanzanian culture and heritage just as Johnathan is learning about his Cape Breton culture and heritage. Jonathan must be proud of his biracial heritage. Both must be fostered as both represent a part of who Jonathan is.

[56] Access to Mr. Aziz will also mean that Jonathan will have contact with his extended family. He will meet cousins, uncles and aunts and will gain from the love and guidance that these extended family members will provide.

[57] In addition, Mr. Aziz has much to offer Johnathan as a person. He has no criminal record. He is not abusive. He is not violent. He has no addictions. He is not coarse or vulgar. He is well educated. He is well traveled. Johnathan will learn valuable life lessons from Mr. Aziz.

[58] This is not to state that Mr. Aziz is without fault. To the contrary, the court was not impressed with the lack of responsibility assumed by Mr. Aziz prior to Jonathan's birth, nor immediately following Jonathan's birth. However, Mr. Aziz appears to have matured since then. I find that Mr. Aziz is interested in Jonathan. I expect that Mr. Aziz will be consistent with access and that he will teach responsibility, respect, and proper values to Jonathan.

[59] I recognize that Mr. Aziz does not have a relationship with Jonathan, however, this lack of relationship is not fatal to Mr. Aziz's application. The lack of relationship is due to the fact that Mr. and Ms. Dolomont determined that access was not in Jonathan's best interests. As a result no access occurred. Jonathan should not be penalized for this decision, nor the fact that the matter took so long to be heard. This is not a situation where Mr. Aziz does not have the emotional or

psychological ability to forge a healthy parent/child relationship. I find that Mr. Aziz does have the ability and simply requires the opportunity to meet Jonathan.

[60] I further find that as Jonathan is healthy, happy and well rounded that he will be able to accept Mr. Aziz into his life as an access parent.

[61] I recognize that this decision may be difficult for Mr. and Ms. Dolomont to accept. However, I am certain that each will do all that is possible to ensure that Jonathan's needs are met. In order to meet all of Jonathan's needs, Mr. and Ms. Dolomont must allow Jonathan to get to know and love Mr. Aziz. If they do not, Jonathan will suffer and he will likely experience emotional difficulties, especially as he enters the turbulent teen age years.

[62] The access order will provide the following:

- i) Ms. Dolomont, and Mr. Dolomont if he wishes, together with Mr. Aziz shall participate in counseling with a child psychologist to learn effective communication skills to assist with the access transition. The counseling shall be commenced forthwith and Mr. Aziz shall bear the costs.

- ii) Mr. Aziz shall have access to Jonathan, which will be in the company of a third party known to Jonathan until Jonathan feels comfortable being alone with Mr. Aziz. Access shall be for one hour commencing on May 25th at 6:00 p.m. to 7:00 p.m.. Access shall be for a two hour period on May 26th and continuing daily for a two hour period while Mr. Aziz remains in Cape Breton for the month of May 2006. The hours of access shall be from 3:00 p.m. until 5:00 p.m. in the event the parties cannot agree as to a convenient time. Mr. Aziz shall chose the place of access. Ms. Dolomont shall arrange to have Jonathan transported to and from the place of access.

- iii) Mr. Aziz shall have access to Jonathan in Cape Breton when he attends for visits in 2006 and 2007 until the review hearing is scheduled pursuant to paragraph 62(iv). Such visits shall occur for a two week period during the 2006 summer vacation; for seven days over the 2006 Christmas holidays, but which shall not include December 24th and December 25th, which days Jonathan shall spend with Ms. Dolomont; for the 2007 March break; and seven days in May 2007. Access shall commence with two hour visits on days 1 and 2, increasing to four hour visits on days 3 and 4, and increasing to

eight (8) hour visits for the balance of the vacation time. Mr. Aziz shall chose the place of access. Mr. Aziz shall provide 30 days written notice of his intended vacation days for the summer of 2006. Ms. Dolomont will advise Mr. Aziz of the dates of the 2007 March break vacation as soon as she becomes aware of them in September 2006 when Jonathan commences school.

- iv) Access shall be reviewed during a hearing to be scheduled in May 2007.
- v) Mr. Aziz shall purchase a computer camera for Ms. Dolomont's computer to enable Mr. Aziz and Jonathan to communicate orally and visually. Telephone/computer access shall occur twice per week when Mr. Aziz is not in Cape Breton at times which are mutually convenient.
- vi) Ms. Dolomont shall provide Mr. Aziz, via email, with details as to the health, education, and social welfare of Jonathan at least once a month, and such communication shall also include copies of reports and other relevant information. In the event of an emergency, Ms. Dolomont shall notify Mr. Aziz as soon as reasonably possible in the circumstances of the emergency.

- vii) Each party shall exchange e-mail addresses, residential addresses and telephone numbers, and all changes thereto on a timely basis.

- viii) Ms. Dolomont shall deliver all mail, cards and presents which are provided from time to time by Mr. Aziz to Jonathan. Cards and mail can be sent as frequently as Mr. Aziz wishes. Presents should be sent only for special occasions and consult with Ms. Dolomont should occur prior to presents being purchased to ensure they are not extravagant and are in keeping with Jonathan's lifestyle.

- ix) Ms. Dolomont shall forthwith provide Mr. Aziz with details as to Jonathan's likes and dislikes and a general outline of any specific needs that Jonathan may have inclusive of dietary or medical needs. Jonathan's health card number shall also be provided during visits.

- x) At this time, access shall occur in Cape Breton, Nova Scotia.

VI. Conclusion

[63] The application of Mr. Aziz for access to his son, Jonathan is granted in Jonathan's best interests and pursuant to the terms stated. Ms. McCarthy shall prepare the order. I wish to thank counsel for their helpful briefs.

Justice Theresa M. Forgeron