SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: *Nova Scotia (Community Services) v. R.H.*, 2018 NSSC 104
Date: 2018-04-27
Docket: SFHCFSA-099993
Registry: Halifax

Between:

Minister of Community Services

Applicant

v.

R.H.

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.

Judge: The Honourable Justice Elizabeth Jollimore

Heard: April 3-5, 2018

Written release: April 27, 2018

Counsel: Peter C. McVey, Q.C. for Minister of Community Services
Andrew I. Kirk for R.H.

By the Court:

Introduction

[1] The Minister of Community Services asks for an order for permanent care and custody of a 4 year-old boy, G, and a 2½ year-old girl, A. The Minister asks that there be an order Ms. H have no access to the children after they are placed in permanent care. The application pre-dates amendments to the *Children and Family Services Act* made by S.N.S. 2015, c. 37.

[2] The children's mother, Ms. H, is the only respondent. Ms. H identified the children's father. He was served with notice of the Minister's application, but he has not participated.

[3] The issue is whether there is a real chance of emotional or physical harm to the children because of Ms. H's untreated mental health condition or her inability to manage her anger.

[4] If I decide there is such a risk and that it is in the children's best interests to be in permanent care, Ms. H does not contest an order that there be no access. She offered no evidence and challenged none of the Minister's evidence on this point.

Ms. H

[5] Ms. H and her family came to Canada in 1991 from the Middle East, fleeing the Gulf War, when she was 9. She started elementary school knowing little English, but quickly learned the language. She was bullied at school, and sexually abused as a youngster.

[6] Ms. H attended university for two years. She married in 2005 and divorced six years later. From her marriage, she has a son who is in the custody of her parents. After her divorce, she had another relationship. G and A are the children of this relationship.

[7] From 2014 to 2015, Ms. H was involved in a child protection application that related to her older son and G. At the time, the Minister's concerns included Ms. H's poor mental health and her verbal and physical aggression toward others.

[8] Those who have worked with Ms. H, providing the services required by the Minister, described her as an intelligent woman. She is hardworking and loves her children deeply.

Review hearing considerations

[9] This is a review hearing. Before I make my order, I must consider three things:

- if the circumstances have changed since the last disposition order;
- if the plan I applied in the previous disposition order is being carried out; and
- the least intrusive alternative available to meet the children's best interests.

[10] Because we are at the end of the statutory time limits, I can't consider whether circumstances are likely to change.

[11] Since the last disposition order was granted, the children have remained in foster care. The children's access with their mother continues to require supervision by the Minister's staff.

[12] The most recent plan identified concerns with Ms. H's:

- mental health
- lack of parenting skills
- anger management and
- substance abuse

[13] In terms of her mental health, the plan was for Ms. H to have a psychiatric assessment and to take part in counselling with a mental health counsellor.

[14] The plan required Ms. H to address her lack of parenting skills by working with a Family Support Worker, Abby Miller. Through this, Ms. H would learn about age-appropriate supervision and discipline, nutrition, household management, child development, attachment, the impact of domestic violence and substance abuse on children, and the inappropriateness of placing her oldest child (who is no longer part of this proceeding) in the position of parenting the younger two children. Abby Miller described the focus of her work as: stress management,

structure and routines, communication, attachment, safety, boundaries, anger management, household management, and organizational skills and goal setting.

[15] The plan required Ms. H to undertake anger management counselling with John Manning and to demonstrate that she could control her anger in her interactions with the children, the Minister's staff, and the public.

[16]The plan also required Ms. H to address her substance abuse by not using illegal drugs and alcohol and taking part in random drug and alcohol screening. She was to be available for all sample collection sessions.

[17] The Minister's plan for the children focussed on maintaining their access with their mother and extended family. G was referred to a speech therapy, which he has completed. When G was 3 he presented as anxious, reactive, defiant and aggressive. This resulted in a referral to a pediatrician and to a therapist who's met with G four times.

[18] G is 4. He has lived with his mother for 13 months over the course of his entire life. He has not lived with his mother since he was 2½ years old.

[19] A is 2½. She lived with her mother for the first 7 months of her life and has not lived with her since.

[20] Services were put in place. Ms. H has not absolutely refused any service. Her participation has been incomplete.

- She completed the psychiatric assessment with Dr. Kronfli, but didn't follow his recommendations for medication or Cognitive Behaviour Therapy.
- She met with Dr. Sadek, another psychiatrist, but didn't take the medication he prescribed as directed, and she didn't participate in the Dialectical Behaviour Therapy he recommended.
- She participated in random urine testing, but acknowledged she continues to use marijuana despite the recommendation that she not use it.
- She attended counselling with Mr. Manning from May 2016 until March 2018. He said that her issue was performance and "not just talking about what she should do".
- She participated occasionally in Family Support Work over the course of 22 months, with breaks of 3 to 4 months between some sessions. Ms. H admitted that there were times when she has refused to accept Family Support Work.

The Minister's claim

[21] The Minister claims there's a substantial risk of harm to the children because of Ms. H's untreated mental health condition and her inability to manage her anger. The Minister grounded her claim for permanent care in clauses 22(2)(b) [substantial risk of physical harm] and (g) [substantial risk of emotional harm].

[22] "Substantial risk" is a real chance of danger that's apparent on the evidence: *Children and Family Services Act*, R.S.N.S. 1990, c. 5, subsection 22(1). It is the real chance of physical or emotional harm that must be proved to the civil standard. The Minister is not required to prove that future physical or emotional harm will actually occur: *MJB v. Family and Children Services of Kings County*, 2008 NSCA 64 at paragraph 77, adopting *B.S. v. British Columbia (Director of Child, Family and Community Services)*, 1998 CanLII 5958 (BC CA), at paragraphs 26 to 30.

[23] The Minister identified the factual bases for her claim as:

- Ms. H's unresolved mental health condition; and
- Ms. H's inability to manage her anger.

[24] The Minister says that Ms. H's unresolved mental health condition and her inability to manage her anger mean there is a real chance of physical or emotional harm to the children if they are returned to her.

[25] If the Minister does not establish that there is a real chance of harm, then the children must be returned to Ms. H.

[26] If the Minister does show there is a real chance of harm, the question is one of the children's best interests, as between permanent care (adoption) and a return to Ms. H. A return to Ms. H is the less intrusive option, but I must decide which option is less intrusive **and** in the children's best interests.

Ms. H's mental health

[27] Ms. H was ordered to have a psychiatric assessment and to take part in counselling with John Manning, a mental health counsellor.

[28] Ms. H completed a psychiatric assessment with Dr. Risk Kronfli on November 2, 2016. During this, Ms. H reported that she'd had difficulties with her mental health since she was 16. She believed that sexual abuse she experienced as

an adolescent contributed to this: she reported being sexually abused for two years at age 11.

[29] Dr. Kronfli was qualified as an expert able to offer evidence in psychiatry. He reported that Ms. H has a longstanding diagnosis of Attention Deficit Hyperactivity Disorder "which has been a significant contributor to her problems. She demonstrates classic symptoms of ADHD which include impulsivity, reckless and risk-taking behaviours, disorganization, low frustration tolerance, and anger management problems". Dr. Kronfli said that her symptoms have resulted in lifelong problems in her relationships and employment, and with money and the legal system.

[30] Dr. Kronfli recommended that Ms. H receive a consistent, monitored pharmacological intervention, saying that

> [u]ntil she is stabilized on prescribed medication, she will likely be unable to comprehend and internalize any of the skills that have been taught to her Family Support Work, anger management training, or counselling. And she would not be appropriate as a primary care provider for her children. [Report, page 15]

[31] Dr. Kronfli felt that once her anxiety, mood and ADHD had been stabilized by medication, Ms. H might be more amenable to individual or family therapy and could benefit from individual Cognitive Behaviour Therapy. He felt she would need "an extended period of intensive monitoring" to ensure she engaged in mental health and parenting skills services.

[32] Ms. H said she didn't feel comfortable with Dr. Kronfli, so she consulted with Dr. Joseph Sadek, who was also qualified to offer expert evidence as a psychiatrist. Ms. H told Dr. Sadek that she'd been "sexually abused from age 5 to 15 by relatives and strangers."

[33] Ms. H had 5 visits with Dr. Sadek between April 2017 and November 2017. Dr. Sadek diagnosed Ms. H with severe borderline personality disorder.

[34] Dr. Sadek provided treatment: pharmacotherapy and a referral for psychotherapy. He felt Ms. H could do well in "a proper [Dialectical Behaviour Treatment] treatment setting, and he prescribed Lamotrigine. He also felt Ms. H would do well to refrain from illegal substances.

[35] Ms. H was not compliant in taking the medications Dr. Sadek prescribed her. Dr. Sadek understood that Ms. H received Dialectical Behaviour Therapy from Crystal John. Ms. H continued to use marijuana.

[36] There is no evidence that Ms. H received Dialectical Behaviour Therapy from Crystal John. Ms. John is the Executive Director at the Mulgrave Park Caring and Learning Centre. Her curriculum vitae and affidavit were admitted into evidence by agreement because she was unable to be at the trial. Ms. John's affidavit and her CV don't disclose any training in Dialectical Behaviour Therapy and she doesn't say that she provided this service to Ms. H. Ms. H did not say that she received Dialectical Behaviour Therapy from Ms. John.

[37] The psychiatrists offered different primary diagnoses: ADHD and borderline personality disorder. Each had his own view of appropriate medication and therapy. Ms. H didn't comply with either psychiatrist's treatment plan for her.
[38] Both psychiatrists felt Ms. H's use of marijuana detracted from the treatment of her mental health condition. Ms. H didn't comply with their recommendation - and the Minister's requirement - that she stop using marijuana.

[39] Ms. H was involved in counselling with John Manning, a clinical counsellor, from May 2016 until March 2018. The focus of Mr. Manning's counselling was:

- reducing stress and anger and learning alternate non-aggressive responses
- setting realistic consequences for children's difficult behaviour and understanding the importance of follow through
- improving her own self-confidence and setting positive personal goals.

[40] According to Mr. Manning, Ms. H's issue has been performance. Despite her intelligence, she hasn't been able to transform the content of her counselling sessions into performance, despite almost two years of counselling.

[41] Mr. Manning said that her initial progress was slowed by her drinking, which later changed significantly.

[42] Mr. Manning only recently learned that Ms. H was sexually abused as a young person. He suggested that the absence of this information was relevant to Ms. H's lack of progress. Ms. H said she was uncomfortable talking to Mr. Manning about the abuse, so Agency staff suggested alternatives for her, such as counselling at the Avalon Sexual Assault Centre or a referral to a female therapist, but Ms. H was unwilling to pursue these options.

[43] In his reports to the Agency, Mr. Manning said that Ms. H knew she needed to control her temper. She was aware of her frustration, impulsivity and verbal aggression. He gave her anger management techniques such as wearing an elastic wristband. She abandoned this because she found it uncomfortable. He recommended she keep a daily journal of her behaviour, but she didn't do this consistently, even though she said it was helpful.

[44] Dr. Kronfli predicted Ms. H wouldn't be able to comprehend and internalize any of the skills taught through Family Support Work and anger management counselling, until she was stabilized on prescribed medication. This prediction seems to have been right.

[45] I have elsewhere remarked on the impact of poor mental health in permanent care applications. Parents whose poor mental health puts their children at risk and who do not seek needed treatment may be deprived of their children: *Minister of Community Services v. S.C. and M.S.*, 2017 NSSC 336, paragraph 39. The real issue is whether the untreated mental health condition causes the children to be at risk.

[46] In his assessment, Dr. Kronfli identified impulsivity, reckless and risk-taking behaviours, disorganization, low frustration tolerance, and anger management problems as the "classic symptoms" of Ms. H's mental health condition.

[47] Dr. Sadek saw Ms. H five times. He variously noted depressed mood, mood fluctuations, significant anger issues or difficulty controlling her anger, significant impulsive behaviour, difficulty with emotional regulation and distress tolerance.

[48] Ms. H's failure to comply with treatment and medication recommendations means that her mental health condition has not changed. Since Ms. H's contact with the children has been limited and supervised, there is no evidence of how (or if) her health condition would impact her solo parenting.

Ms. H's anger management

[49] Ms. H's mental health condition is most manifest in symptoms identified by Dr. Kronfli and Dr. Sadek: her inability to manage her anger, her low tolerance of frustration, her impulsive behaviour, and her difficulty with emotional regulation and distress tolerance. I collect these symptoms under the description of anger management because her intolerance of stress and frustration are expressed

through anger. Her impulsive behaviour and emotions are also expressed as anger. Anger is Ms. H's default response to challenging situations.

[50] Ms. H's anger is a longstanding problem. During an investigation by the Minister of Community Services in 2013, staff were told that Ms. H had attended Community Mental Health for help with anger management. Around 2015, Ms. H took part in an anger management program through the Coverdale Community Outreach Centre. This is the Minister's second application where Ms. H's inability to control her anger has been a focus of the Minister's concerns.

[51] Crystal John, a trusted confidant of Ms. H, said that Ms. H can be "defiant and aggressive when challenged about how she lives her life." Mr. Manning reported that Ms. H "admits that she has serious problems in controlling her anger if she feels others are unfair to her and/or her children." These descriptions are correct.

[52] It is also correct that Ms. H reacts with equal aggression in other circumstances. When her Family Support Worker, Abby Miller, complimented her on the cleanliness of her home, Ms. H says she took this remark as "mildly rude", and implying that because she lived "in an impoverished area that somehow [she] couldn't keep house" and Ms. Miller "acted surprised that I had basic life skills to keep house". The visit deteriorated and Ms. H became abusive to Ms. Miller, ultimately ending the visit and saying she didn't want Ms. Miller "to come to any of my fucking visits. I am fucking done with you guys."

[53] During this visit, Ms. Miller mentioned to Ms. H that G "seemed very scared of her" when she became very angry at him and smacked her hands on the table. Ms. H's response was "so" and to say that G wasn't being good.

[54] When Ms. H met a person that she didn't want to talk to on the street, she ignored the person and, when the person spoke to her (swearing), Ms. H commented on the swearing and called the police.

[55] Ms. H has difficulties at work with co-workers who don't meet her expectations.

[56] Ms. H believes that her behaviour has improved. She seems to be involved in fewer physical fights than she did in the past. She continues to be extremely verbally aggressive.

[57] Ms. John said that Ms. H felt her cultural and racial background were not being considered when the Minister's staff assessed her and her circumstances.

[58] Cultural differences played a part in this case at the outset. When the Minister initially became involved it was because of a report that Ms. H's oldest child was - on his own - supervising the youngest two children in the community. At the time, the oldest child was 8 and the younger children were 2 years old and 6 months old. Ms. H and her father both said that in their culture this level of responsibility was appropriate for an 8-year-old. Ms. H now understands the Minister's position that this is not appropriate.

[59] The Minister's ongoing concern is about Ms. H's ability to control her anger in parenting G and A. I have no evidence of a cultural difference on this point. Ms. H's father testified that "We respected children and would never hurt them." He said, "Children could argue politely with parents or parents could argue with each other, but never fight. Violence was not allowed."

[60] When she lived in Dartmouth, Ms. H would not let the children go to the playground near her building, apparently because she had one or more fights with neighbours who also frequented the playground.

[61] Ms. H admitted in cross-examination that she had hit a girl following a confrontation over her oldest child being bullied.

[62] While living in Dartmouth, Ms. H was banned from two neighbourhood grocery stores by orders under the *Protection of Property Act*.

[63] Ms. H left her Dartmouth neighbourhood and moved to Halifax in February 2017.

[64] In March 2017, Ms. H was sentenced on various criminal charges (breach of probation, failure to comply with an undertaking and uttering threats). She breached the terms of her conditional sentence and was in jail for 9 days. Ms. H's conditional sentence included terms relating to assessment and treatment of her mental health. I was not given details of her assessment and treatment.

[65] In April 2017, there was an incident in another grocery store. Ms. H has been referred to the Mental Health Court to deal with this.

[66] Ms. H has allowed the children to see her anger: during access visits, she has screamed and cursed at the access facilitator in the children's presence or within their hearing.

[67] Ms. H did not challenge the evidence that in an access visit on February 27, 2018, she pushed and pulled G aggressively. G said that his mother was hurting him. Katelyn O'Reilly, the long term social worker, spoke to Ms. H about this two days later, telling Ms. H that "she was modelling aggressive behaviour for the children throughout the visit, and her anger appeared to affect her interactions with her children." Ms. O'Reilly says that Ms. H didn't deny pushing G, and Ms. H said that she "did not do it intending to hurt [G], and no marks were left on [G] as a result."

[68] Ms. H has said that when she gets angry, she says "all kinds of mean things and bad words" and that if she is asked about it later, she cannot recall what she said. She didn't deny calling Agency staff "black hood bitches", telling Ms. O'Reilly she was a "useless fucking retard", refusing to call Ms. O'Reilly by her name or as "she", but calling her "it", and calling Mr. Manning "that black asshole". These are some of the things she can't remember having said when she was angry.

[69] Curtis Davidson is an experienced case aide with the Department of Community Services. He's done this work for 1 year full-time and for 18 years on a part-time basis. He's been the case aide on G and A's access visits once or twice each week for the past two years.

[70] Mr. Davidson described Ms. H's good days and bad days: on bad days, she may leave a visit early. Or she will be quiet and if the kids do something, she is very short-tempered and yells at them. G usually bears the brunt of this because A usually behaves, though A can be yelled at too. When Ms. H yells, the children are scared. They hide. They go behind something. They go stand quietly somewhere or A would sit next to Mr. Davidson.

[71] When asked how the children responded to their mother's yelling, Mr. Davidson physically drew away and shrank back from Mr. McVey, who was questioning him. Mr. Davidson agreed that he was enacting the children's response: crouching and cowering.

[72] Abby Miller, the Family Support Worker, noted multiple times when G appeared scared of his mother when she lost her temper during visits. Ms. H asked

G “what his problem was” and complained that he was “so needy” when he tried to snuggle against her and hug her. She was sarcastic about the children’s wishes and called them “crazy animals”.

[73] Bonnie Johnson is a case aide who attended access visits between Ms. H and the children. Ms. Johnson described G and A as “beautiful children who enjoy their visits”. Ms. Johnson said she sees a lot of love from Ms. H, but expresses concern about when Ms. H is frustrated.

[74] Ms. Johnson said that sometimes Ms. H gets frustrated and she can go from “0 – 60 in a very short time”. Sometimes, Ms. Johnson said, Ms. H’s reactions are “extreme”.

[75] Ms. Johnson said it’s not always the case that Ms. H can handle things when she’s frustrated. For example, during one visit, Ms. H was visibly upset and said she was leaving and ending the visit. The children were crying. The problem was that A had “a little rash”. Ms. Johnson described Ms. H’s reaction to the rash as “extreme”. The situation was resolved by having Ms. Johnson contact the children’s worker to ensure there was follow up on the rash.

[76] During a visit on March 27, 2018, when there was a flashing light, G asked Ms. Johnson if the police were coming “again”.

[77] Ms. H has blamed her oldest child for the Minister’s involvement with the family.

[78] Ms. H does not shield her children from the anger, or the obscenity and insults she directs at others.

[79] Katelyn O’Reilly says the risk to G and A is that they are in their formative years and that volatility, reactivity and unpredictability are detrimental to their physical and mental health. Ms. H did not contest this evidence. Instead, she minimizes her behaviour and its impact.

[80] Despite years of services, Ms. H remains unable to control her behaviour. She doesn’t appreciate that, for example, the use of force on a child is inappropriate even when it doesn’t leave a mark. She minimizes the impact of the derogatory comments she makes in the children’s presence.

[81] Expert evidence is not always needed to make the connection between bad parenting and the risk of emotional harm. "There may be cases where expert evidence is helpful, but the words of s. 22(1), 22(2)(f) and (g) of the Act are plain words that are capable of being applied to situations such as this by the judges to whom that task is entrusted.": *JGB v. Nova Scotia (Community Services)*, 2002 NSCA 86 at paragraph 10.

[82] At the very first court appearance after the Minister began her application, the oldest child was ordered to receive counselling. The second oldest child, G, was referred to counselling at age 3 when he presented with anxious, reactive, defiant and aggressive behaviours.

[83] Clause 22(2)(g) requires both that there be a substantial risk of emotional harm and that the parent refuses or fails to co-operate with the provision of services or treatment to remedy or alleviate the harm. I have outlined Ms. H's refusal and failure to co-operate with the provision of services in paragraph 20 of my reasons.

[84] I conclude that Ms. H's inability to manage her anger places G and A at risk of emotional harm.

Is it in the children's best interests to be placed in the Minister's permanent care?

[85] Having found that the children are at risk of emotional harm, I must decide what the least intrusive alternative is, that is in the children's best interests. The *Act* identifies various circumstances relevant to children's best interests in subsection 3(2).

[86] Some of the relevant considerations in subsection 3(2) relate to the children and their family:

- the importance of a positive relationship with a parent and a secure place as a family member
- the children's relationships with relatives
- the importance of continuity in the children's care
- the bonding between parent and child
- the children's cultural, racial and linguistic heritage and
- the religion in which the children are being raised.

[87] These children have lived in foster care for most of their lives. Their relationship with Ms. H contains love and affection, and fear and yelling and disparaging remarks and impatience and anger. They are not upset when their mother leaves at the end of an access visit.

[88] G and A know, and have visited with their maternal grandparents and their older brother, K. For a while, they stayed with their grandparents. Their grandfather is 80 and their grandmother is 65. They are raising K, but are unable to raise G and A as well.

[89] The children have a diverse background. Their maternal grandparents are from India and Egypt. Their mother was born in the Middle East. Ms. H and her family are Muslim, though Ms. H is not active in her faith.

[90] Ms. H and her parents speak languages in addition to English. I have no evidence that G and A can speak any language other than English.

[91] Much of the children's exposure to their heritage would come through involvement with their extended family when it gathers at the home of Ms. H's parents. Ms. H lives in Halifax while her parents are in Dartmouth.

[92] The children have not been in a Muslim foster home. Efforts have been made to provide some cultural exposure. At their ages, they have not been active in religious observation.

[93] I have not been asked to determine what the children's religious faith is – or whether they have a faith - under section 50.

[94] The children's father has African and Chinese heritage according to Ms. O'Reilly, who testified that he was Christian. Lynnette Douglas, the adoption worker, described him as being born in the West Indies with African heritage.

[95] The Minister supports an adoption placement which reflects the children's background.

[96] According to Ms. Douglas, until a child is "legally available for adoption", there are conferences where a list of available prospective adoptive homes can be reviewed "to see whether or not there is a match between the child's needs and the approved wishes of any prospective adoptive home." I have no evidence that an adoptive home (or homes, if the children cannot be placed together) will match the

cultural, racial or religious background or provide them with Arabic language skills.

[97] According to Mr. H "In Islam adoption is not allowed." If this is a universally accepted tenet of Islam, it will be impossible for the children to be adopted into a Muslim family and, if the Minister wishes to foster the children's religious heritage, she may need to consider a placement arrangement other than an adoption. Contact between the children and their maternal grandparents may also need to be considered.

[98] G and A have been in foster care since July 2016. Regardless of the outcome, there will be no continuity in their care. Since the children were placed in foster care, Ms. H has moved to a home the children do not know. Adoption would place the children in a new home.

[99] Other relevant considerations relate to the individual child:

- the child's physical, mental and emotional needs and meeting those needs
- the child's physical, mental and emotional level of development.

[100] At their ages, G and A are entirely dependent on their caregiver for their healthy mental and emotional development. Like his older brother, G demonstrated a need for counselling because of anxious, reactive, defiant and aggressive behaviour. On the evidence, it is unlikely Ms. H can ensure the children's healthy mental and emotional development. She has been unable to do so to date.

[101] Ms. H's entire support in parenting the children would come from her parents or from Crystal John. She has not developed friendships in her current neighbourhood. She has abandoned past friendships.

[102] Ms. H's mother and her father are not able to provide immediate help if needed because they do not live nearby. In the past, G and A were placed with their grandparents but this was, as Mr. H testified, "just too hard". One of Ms. H's brothers is in Bedford. He attends family gatherings but there was little evidence of any other involvement with the family. I have no evidence about Ms. H's other brother.

[103] Ms. John knows Ms. H through her work at the Mulgrave Park Caring and Learning Centre. She has been supportive of Ms. H's efforts to have the children returned and would, no doubt, maintain the "trust relationship" she says they have.

[104] Overall, I am to balance the risks of Minister's plan and the risks of the mother's plan and to consider the degree of risk that justified my finding the children needed protective services.

[105] The risk of the Minister's plan is that the children will suffer through being kept from their mother and their heritage. The risk of the mother's plan is that they will experience emotional harm because of her inability to control her anger.

[106] Ms. H is less violent than she has been in the past. She no longer physically assaults people. She remains verbally abusive and physically aggressive with the children. She minimizes her current behaviour and doesn't understand its impact on G and A. I am sadly confident that this behaviour will continue. Police reports to the Minister about Ms. H's anger and violence began five years ago. There has already been one application under the *Children and Family Services Act* (from 2014 to 2015, involving G and his older brother). Ms. H has had many years to resolve this problem and she has not.

[107] Placing the children in the Minister's permanent care and custody may deprive them of being brought up in the cultural, racial, linguistic and religious heritage of their birth. It will provide them with a mentally and emotionally healthy upbringing. As a foundation for the rest of their lives, the Minister's plan is in their best interests.

Conclusion

[108] I find that the children remain at risk of emotional harm and that it is in their best interests to be placed in the Minister's permanent care and custody. I order that there be no access.

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Elizabeth Jollimore, J.S.C. (F.D.)

Halifax, Nova Scotia