

**Supreme Court of Nova Scotia (Family Division)**  
**Citation: *Sylliboy v. Francis*, 2018 NSSC 296**

**ENDORSEMENT**

November 21, 2018

Sylliboy v Francis, SFSNMCA 108755

Heidi Fahie on behalf of the Applicant

Self-represented Respondent

**Decision on Costs**

**Reasons:**

[1] Ms. Sylliboy applied for custody and child support of the child on February 9, 2018. Mr. Francis denied paternity, so testing was ordered and completed. His paternity was confirmed, and the matter was brought back to court. At that time, I granted an order confirming paternity under the **Vital Statistics Act**.

[2] Ms. Sylliboy then filed a motion seeking an order to force Mr. Francis to attend the Band office to execute status card documents and a Band membership application to allow the child to receive certain benefits. Mr. Francis refused to do so.

[3] The matter came before the court, at which time Mr. Francis did not appear, though he had notice. I was prepared to grant an order directing Mr. Francis to sign the necessary documents on behalf of the child, failing which the Sheriff would be authorized as his trustee and representative to do so. However, counsel

in the meantime consulted with a government representative, who advised that an amended birth certificate would suffice for Ms. Sylliboy to sign these documents.

[4] Ms. Sylliboy now seeks costs of these proceedings. She relies on **Rule 77.02, 77.03(5)** and my decision in **Colbert v. Warner, 2015 NSSC 247** in which I discussed the court's discretion to award costs in excess of the amounts outlined in the Tariffs.

[5] She submits that Mr. Francis' actions in failing to execute the necessary documentation and his failure to appear on the hearing of the motion demonstrates his complete lack of respect for the court. She also says his actions resulted in unnecessary steps being taken, and wasted valuable public resources, including the services of her legal aid lawyer and the court system.

[6] Mr. Francis clearly wants nothing to do with this child and has balked at every step taken by Ms. Sylliboy. He failed to appear on the motion and failed to take some simple steps to allow the child to fully benefit from his Mi'Kmaq ancestry and Band membership. He jeopardized the child's benefits in doing so. However, counsel for Ms. Sylliboy filed the motion before making full enquiries about what is required, and in the end an amended order under the **Vital Statistics Act** was all that was necessary.

[7] In all of the circumstances of this case, I exercise my discretion in awarding costs of \$300.00 payable by Mr. Francis to the Nova Scotia Legal Aid Commission. This amount falls in the mid range of costs awards under Tariff C of **Rule 77** for a hearing of less than one hour.

[8] I believe this sum will do justice between the parties. Mr. Francis jeopardized the child's status in refusing to sign basic documents, but Nova Scotia Legal Aid counsel filed the second motion without fully researching the matter. The award of costs is payable within 30 days.

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**Lee Anne MacLeod-Archer, J.S.C.(F.D.)**