IN THE SUPREME COURT OF NOVA SCOTIA
Citation: Children's Aid Society of Halifax v. V. and F.
2004 NSSF 54

Date: 20040322
Docket: CFSA 029575
Registry: Halifax

Between:

Children's Aid Society of Halifax

Applicant

v.

C.V. and L.F.

Respondents

Revised Decision: The text of the original decision has been revised to remove personal identifying information of the parties on October 3, 2008.

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 D. Smith

Heard: March 16th and 17th, 2004, in Halifax, Nova Scotia

Oral Decision: March 22nd, 2004

Written Decision: May 13th, 2004

Counsel: Ms. Elizabeth A. Whelton, for the Applicant

L.F., self represented
C.V., not present and not represented

By the Court:

[1]This case involves a Protection Application brought by the Children's Aid Society of Halifax on January 14, 2004. The Applicant applied under the Children and Family Services Act for a finding that M.C.F., who was born [in 2003], is a child in need of protective services pursuant to Sections 22(2)(b) and (g) of the Children and Family Services Act. The Respondents to the application are M.C.F.'s parents, C.V. and L.F..

[2]In order to fully appreciate the facts surrounding this case, it is necessary to provide some background information relating to each of the Respondents.

[3]C.V. and L. F. have, for a number of years, each been involved in numerous proceedings relating to their respective children from previous relationships. Both of the Respondents have previously been charged with child abduction involving children other than M.C.F.. In the case of L. F., he was convicted of this offence in August of 2000. In relation to C.V., she has outstanding charges against her.

[4]In the recent decision of L.C.M. v. C.V. [[2003] O.J. No. 4216], Justice Campbell of the Ontario Superior Court of Justice lists the various cases that C.V.

has been involved with. These cases dealt primarily with custody of and access to C.V.'s triplets from a previous marriage. It is the triplets that C.V. is accused of having abducted and taken to Mexico. The next court appearance in relation to C.V.'s criminal charges is scheduled to be held in Ontario on May 26, 2004.

[5]L.F. has also been involved in a number of court proceedings as is evidenced by the materials that he has filed with the Court. As indicated previously, in August of 2000, L F. was convicted of one count of Abduction in contravention of a Custody Order pursuant to Section 282(1)(a) of the Criminal Code of Canada for which he was sentenced to two years' penitentiary time. This abduction involved L.F.'s daughter, C.R.H.. L.F. is presently on probation in relation to that conviction. L.F. appealed both the conviction and the sentence in relation to that offence. He was unsuccessful in his appeals.

[6] According to B.D., who was called as a witness by L.F. at the time of the interim hearing, L F. presently has two Bench warrants outstanding in Ontario, one of which is for failing to attend counselling which, apparently, was a requirement of his probation.

[7]Justice Haines of the Ontario Superior Court of Justice sentenced L. F. in relation to his abduction conviction. In his decision, which is reported at [2000] O.J. No. 3457, Justice Haines stated the following at paragraphs 21 - 23 concerning L.F.'s abduction of his daughter, C.R.H:

> L.R.F. has steadfastly maintained that his actions were right and good. He actually stated, when he chose to give evidence on his sentencing, that if given the opportunity again, he would do everything the same way. L.R.F. has maintained throughout that he was acting out of love and concern for his daughter. These sentiments are, in my view, impossible to reconcile with his actions and attitude. He appears to have no insight into what he has done and how potentially harmful it was for C.R.H.
>
> L.R.F. seems to relish litigation. He spoke often during these proceedings about litigation he has underway against lawyers, police officers and others, and at the conclusion of the trial, was promising to launch yet another lawsuit. In speaking to his own sentence, L.R.F. said he did not care how many years he was given, but added ' I just want to be sent to a penitentiary with a law library, so I can keep my litigation going'. It is ironic that L.R.F. has such a distaste for lawyers, when he appears to get [such] gratification from attempting to emulate them.
>
> L.R.F. can be an engaging, even charming person, but he is volatile and unpredictable. Unfortunately, he appears to have passed way beyond the pale of someone who marches to the beat of a different drummer. He has, instead, taken on the mantle of the obsessed and seems to have foresaken reason.

[8]Less than a year ago, [in 2003], C.V. and L.F. married. In the decision of L.C.M. v. C.V. [*supra*], Justice Campbell, at paragraph 18 stated the following in relation to C.V. and L.F.:

> ...That marriage has created a formidable 'team' of like-minded persons who are dedicated to relentlessly attempting to indoctrinate these three naive, open,

> innocent minds to their mother's inflexible and adamant view of reality. It is clear from C.V.'s reactions to simple rulings against her in court that she brooks no dispute with or challenge to her own certain beliefs. She and L.R.F. have openly and persistently, by the recent escalation of their relentless program to undermine L.C.M.'s custody of the triplets, modelled an anti-social, antagonistic mind-set for the children. They are clearly committed to a tactic of confrontation of virtually any society institution as exemplified by their various ongoing lawsuits versus the police and the media. Their strategy is also easily identified by their aggressive postures, their outspoken, firmly held beliefs and their outrageous verbally assaultive behaviour in court, in their letters, press releases, web-sites, publications, and television interviews. No child of C.V.'s could ever withstand this 'team' of such strong, manipulative and forceful personalities.

[9]At paragraph 56 of the same decision, Justice Campbell stated the following in relation to C.V.:

> These disclosures further show C.V.'s delusion that she is being targeted and 'abused' by any person or, in this case, commercial enterprise that does not recognize her truth, accept her agenda or meet her expectations.

[10]In that case, Justice Campbell quoted the following from a previous decision of Justice Aston dealing with C.V.:

> The mother's conduct, behaviour and statements since March 2000 have unfortunately confirmed the fears of the trial judge that certain of her personality traits, if not controlled, 'have the potential of destroying the emotional well being of the children'. C.V. is unlikely to accept the truth of that assessment. However I hope she may come to understand that that has been the consistent perception by judges in this case and that, from the court's perspective, she has just about run out of second chances.

[11]In Justice Campbell's decision, which was released less than five months ago (on October 31, 2003), C.V.'s access to her triplets was terminated.

[12]C.V. was pregnant with M.C.F. at the time of Justice Campbell's decision. In November of 2003, C.V. and L. F. moved to Nova Scotia. M.C.F. was born [in 2003]. Prior to her birth, the [...] Children's Aid Society of [...], Ontario issued a Canada-wide Child Protection Alert which recommended a warrant to apprehend in the event that the family's whereabouts was determined.

[13]M.C.F. came to the attention of the Children's Aid Society of Halifax shortly after her birth. On January 14, 2004, the Children's Aid Society filed a Protection Application and Notice of Hearing with the Nova Scotia Supreme Court, Family Division, seeking a finding that M.C.F. is in need of protective services pursuant to Section 22(2)(b) and (g) of the Children and Family Services Act. In addition, they sought a Supervision Order, an Order that the Respondents be referred for the preparation of a psycho/social history, a psychological/psychiatric examination and assessment, a parental assessment including an examination and assessment of parenting skills and techniques, and a home study and assessment. In addition, they requested other relief as set out in their original application. The concerns raised by the Society related primarily to the mental health of the Respondents.

[14]Both Respondents were personally served with notice of the Protection Application on January 13th, 2004. The matter was first brought before the Court on January 15th, 2004. L.F. attended for this initial appearance. C.V., despite being personally served with notice of the proceeding, did not attend.

[15]The Interim Hearing could not be completed that day. The Court found, for the purpose of Section 39(3) of the Children and Family Services Act that there were reasonable and probable grounds to believe that M.C.F. was a child in need of protective services and determined that in the circumstances of the case, it was appropriate that a Temporary Care and Custody Order issue. Other terms and conditions such as supervised access were granted as are set out in the Order. The matter was then adjourned for the completion of the Interim Hearing.

[16]Following the Court's decision on January 15th, 2004, representatives of the Children's Aid Society of Halifax went to the home where C.V. and L.F. had been residing to take M.C.F. into custody. Upon arrival, they were advised by L.F. that C.V. had left the home with M.C.F. prior to his return from court and that their whereabouts was unknown. Both C.V. and M.C.F. have been missing since that date. L.F. has advised the Court that he is unaware of their location. It appears

from his testimony that he is intentionally unaware of their whereabouts; in other words, he told C.V. not to tell him where she was going with their newborn daughter.

[17]Since the initial court appearance on January 15th, 2004, it has become clear that the disappearance of M.C.F. was orchestrated by L.F. and C.V. prior to the initial hearing taking place. The Respondent, L.F., openly acknowledges that C.V.'s disappearance with the child was planned by the two of them and suggests that C.V. is “protecting her children against the abuses of the State”. This latter statement is perhaps best understood with some further background information.

[18]During the course of this overall proceeding, L.F. has presented the Court with a variety of conspiracy theories. He suggests that he is being persecuted because of his political opinions. He talks of government cover-ups and suggests that the Government of Canada has conspired to take his infant daughter, M.C.F., as well as his other daughter, C.R.H. During the course of his summation last week, L.F. referred to “the foster care business” and suggested that Children's Aid Societies want “white Anglo-Saxon babies to sell”. His conspiracy theories appear to include the Courts.

[19]The Interim Hearing continued on February 9th, 11th, and 12th, 2004. By this time, the Children's Aid Society had filed an amended Protection Application seeking temporary care and custody of M.C.F.. During the course of L.F.'s summation on February 12, 2004, he advised the Court that he doubted that he would ever get C.V. out of hiding.

[20]At the completion of the Interim Hearing, the Court confirmed that there were reasonable and probable grounds to believe that M.C.F. was in need of protective services and found that the child could not be protected adequately by an Order pursuant to clauses 39(4)(a),(b) or (c) of the Children and Family Services Act. The Court issued a further Order placing M.C.F. in the temporary care and custody of the Children's Aid Society of Halifax and granted supervised access to both of the Respondents. The Court referred both of the Respondents for the preparation of a psycho /social history, a psychological/psychiatric examination and assessment, a parental assessment including an examination and assessment of parenting skills and techniques and a home study and assessment. The full reasons of the Court were set out in my oral decision given on February 12, 2004 (a written copy of which was released on March 1, 2004).

[21]As a result of the Court's Interim Order granted on February 12th, 2004, the Applicant has arranged an appointment for L.F. with a psychiatrist by the name of Dr. Ahmad. During the course of this hearing, L.F. advised the Court that he will not be attending this appointment.

[22]Pursuant to Section 40 (1) of the Children and Family Services Act, the Court shall, no later than 90 days after the date that an application is made to determine whether a child is in need of protective services, hold a Protection Hearing and determine whether the child is in need of protective services.

[23]On March 4th, 2004, a pre-trial conference was held prior to the Protection Hearing. The Respondents were given notice of the pre-trial (C.V. by way of substituted service) but elected not to attend. During the course of that pre-trial conference, I advised that pursuant to Civil Procedure Rule 25.01, the Court, on its own motion, was setting down a preliminary Protection Hearing to determine whether the disappearance of M.C.F. during the course of a known Children and Family Services Act proceeding placed the child in need of protective services. I indicated that as a result of my finding on that issue, I would determine whether it

is necessary to proceed with a full Protection Hearing on all issues. The hearing of that issue was held on March 16th and 17th, 2004.

[24] There are a number of preliminary issues that L.F. has raised in response to the Court's motion. First, he suggests that there is no admissible evidence before the Court in support of the Agency's Protection Application and suggests that there is no cause of action disclosed in the materials filed with the Court. As I understand his position, he wants the Court to dismiss the application on this basis.

[25]I am satisfied that there is sufficient evidence properly before this Court to proceed with the Agency's application and I decline to dismiss the application on this basis.

[26]Next, he questions the jurisdiction of the Court to proceed with this matter under Civil Procedure Rule 25.01 as the parties have not agreed to submit a question of law to the Court based upon an agreed Statement of Facts.

[27]Civil Procedure Rule 25.01(1) indicates that the Court may, on the application of any party *or on its own motion* [my emphasis] at any time prior to a trial or hearing:

(a) determine any relevant question or issue of law or fact or both;

.....

(d) give directions as to the procedure to govern the future course of any proceeding, which directions shall govern the proceeding notwithstanding the provision of any rule to the contrary.

[28]Civil Procedure Rule 25.01(2) indicates that where, in the opinion of the Court, the determination of any question or issue under paragraph (1) substantially disposes of the whole proceeding or any cause of action, ground of defence, counterclaim or reply, the Court may thereupon grant such judgement or make such Order as is just.

[29]L.F. has referred the Court to the Court of Appeal decisions in Curry v. Dargie [[1984] N.S.J. No. 34] and Binder v. Royal Bank of Canada [[1996] N.S.J. No.126] in support of his suggestion that the parties must agree to submit a question of

law to the Court based upon an agreed Statement of Facts in order for the Court to proceed with an application under Civil Procedure Rule 25.01.

[30]There is no requirement set out in Civil Procedure Rule 25.01 for the parties to agree to submit a question to the Court along with an agreed Statement of Facts in order for the Court to determine a question of law or fact (or both) under that section. The fact that this Rule allows the Court to proceed on its own motion indicates that there will be occasions, rare as they may be, when the Court will hear such a motion without any agreement of the parties or an agreed Statement of Facts having been filed.

[31]In Curry v. Dargie [*supra*], MacDonald, J.A. referred to the case of McCallum v. Pepsi-Cola Canada Ltd. [[1974] N.S.J. No. 326 (T.D.)] and stated that Rule 25.01 *appears* [my emphasis] to be applicable only where the parties agree to submit a question of law to the Court based upon an agreed Statement of Facts.

[32]In Binder v. Royal Bank of Canada [*supra*], Bateman, J.A. stated at paragraph 10 ".....It was recognized in Seacoast Towers, supra, that there may be exceptional

cases where an agreed statement of fact is unnecessary, for example, where the facts underlying the resolution of the legal issue are a matter of public record....."

[33]In Brown v. Dalhousie Board of Governors [[1995] N.S.J. No. 264 (C.A.)] the Honourable Justice Bateman, when referring to Civil Procedure Rules 25 and 27 stated "......A question is only to be answered under such a procedure if all essential facts are agreed". [¶ 29]

[34]In the relatively recent decision of Fortune v. Reynolds [[2003] N.S.J. No. 45 (C.A.)], the Honourable Justice Cromwell stated at paragraph seven ".....It is well settled that under Rule 25, there generally must be agreement on all of the facts necessary to resolve the point of law advanced for decision....."

[35]I conclude from these decisions that a preliminary determination of a question of law and/or fact under Civil Procedure Rule 25.01 should only be made where the essential facts upon which the Court will rely to make such a determination are not in issue. This will usually be established by the parties filing an agreed Statement of Facts with the Court. In exceptional cases where the facts upon which the Court will base its decision are not in dispute, the Court can proceed

under Civil Procedure Rule 25.01 despite the fact that the parties have not agreed to submit a question to the Court along with an agreed Statement of Facts.

[36]In this case, I am satisfied that the essential facts upon which this preliminary question will be answered are not in issue. While the parties have not filed a formal agreed Statement of Facts, they do agree upon the essential facts that I will be relying upon in order to make my decision on this preliminary issue.

[37]During this proceeding, L. F. asked to take the stand to give *viva voce* evidence. While on the stand, the Court asked him a series of questions and he gave the following answers:

> THE COURT: Okay. Now am I correct in my understanding that you were moving out of the Province of Ontario because you were concerned that the Ontario Children's Aid Society may apprehend M.C.F.?
>
> L.F.: We knew they were going to apprehend. We knew, we didn't think. We were told they were going to apprehend if they get a call from a third party.
>
> THE COURT: And so --
>
> L.F.:. And we knew that call was coming.

Later on, the following exchange took place:

> THE COURT: But your desire to come to Nova Scotia was to ensure that you maintained or retained possession of M.C.F. rather than her being taken by Children's Aid in Ontario. Is that right?

L.F.: Absolutely, yes. We knew the danger of staying in Ontario because the Children's Aid told us.

THE COURT: Now, prior to the Protection Application being filed by the Children's Aid Society of Halifax, am I correct in my understanding that you and your wife had discussed a plan of C.V. disappearing with M.C.F. if Children's Aid of Halifax got involved in this matter?

L.F.: Ah, that was discussed back as far as June, way --

THE COURT: Of 2003?

L.F.: Yeah.....

And later on in the testimony:

THE COURT: So am I correct, just to clarify, that before -- to your knowledge, before C.V. even became aware of my ruling, she had disappeared with M.C.F.? Is that right?

L.F.: Yes.

THE COURT: Yes. Okay. Do you have any idea where M.C.F. or C.V. are at the present time?

L.F.: No.

[38]L.F. also confirmed in his testimony that it was November of 2003 that he and C.V. left Ontario and came to Nova Scotia.

[39]I am satisfied, based on the record before me (including L.F.'s *viva voce* evidence) that the following facts are not in dispute despite the fact that the parties have not filed a formal agreed Statement of Facts:

1. In August of 2003, L.F. was convicted of one count of Abduction in contravention of a Custody Order pursuant to Section 282 (1) (a) of the Criminal Code of Canada. L.F. disputes whether he should have been convicted of this offence but the fact that he was convicted is not in dispute.

2. C.V. has outstanding criminal charges of child abduction against her. Again, her guilt or innocence in relation to these charges is in dispute. The fact that she has these outstanding criminal charges against her is not in dispute.

3. Child protection agencies in Ontario and Nova Scotia have raised concerns about the mental health of both of the Respondents. Clearly, the mental health of the Respondents is in issue and is not agreed to. What is not in dispute is that concerns have been raised about the Respondents' mental health.

4. L.F. and C.V. left Ontario in November of 2003 because they knew that the Ontario Children's Aid Society was going to apprehend the baby that C.V. was pregnant with at that time, M.C.F..

5. L.F. and C.V. came to Nova Scotia to ensure that they maintained control over M.C.F. rather than have her apprehended by Children's Aid in Ontario.

6. M.C.F. was born in [...], Nova Scotia [in 2003].

7. Prior to this Protection Application being filed by the Children's Aid Society of Halifax, L.F. and C.V. had discussed a plan of C.V. disappearing with M.C.F. if the Halifax Children's Aid Society got involved with the family.

8. On January 13, 2004, L.F. and C.V. were personally served with Notice of a Protection Application brought by the Children's Aid Society of Halifax in relation to M.C.F..

9. On January 14, 2004, the said Protection Application was filed with the Nova Scotia Supreme Court, Family Division, seeking a finding that M.C.F. is in need of protective services pursuant to Sections 22(2)(b) and (g) of the Children and Family Services Act.

10. On January 15, 2004, C.V. disappeared with M.C.F..

11. On January 15, 2004, an interim five-day Order was issued out of the Nova Scotia Supreme Court, Family Division, placing M.C.F. in the temporary care and custody of the Children's Aid Society of Halifax.

12. On February 12, 2004, the Nova Scotia Supreme Court, Family Division, granted a further Interim Order pursuant to which it was ordered

that M.C.F. shall remain in the temporary care and custody of the Children's Aid Society of Halifax.

13. As a result of M.C.F.'s disappearance, the Children's Aid Society of Halifax has been unable to physically take her into their care.

[40] These are the facts that I will rely upon when answering the question of whether the disappearance of M.C.F. during the course of a known Children and Family Services Act proceeding places the said child in need of protective services. I am satisfied that these facts are not in dispute and that the Court can proceed under Civil Procedure Rule 25.01 to determine this preliminary question.

[41]If I was in error in setting this matter down under Civil Procedure Rule 25.01 or in finding that this is an appropriate case to proceed under Civil Procedure Rule 25.01 then I am, nevertheless, satisfied that it is appropriate to sever this single issue from the other issues raised by the Protection Application and have this issue determined on a preliminary basis.

[42]Had this matter been brought before the Court by way of an Originating Notice (Action), the Court could have ordered the severance of this issue pursuant to Civil Procedure Rule 28.04. This matter was not brought by way of an Originating

Notice (Action) and, accordingly, it does not appear that Civil Procedure Rule 28.04 would be applicable.

[43]Nevertheless, as stated by MacDonald, J.A. in the case of Curry v. Dargie [*supra*], "This Court has inherent jurisdiction, independent of any Rules of Court, to prevent abuse of its process". [¶ 39]

[44]L.F. has made it very clear that, in his view, if this case proceeds, it is going to be a very expensive proposition. In his summation given at the conclusion of the Interim Hearing on February 12, 2004, he stated:

> .....I don't care if it goes to the next step. It doesn't make a difference to me. It's going to cost the taxpayer upwards of $50-million to try. They have to -- the admissibility will be back to the conception of my oldest daughter, C. or N.- -N., 1976, [...], so we can go back nine months prior to that.....[Interim Hearing Transcript-Page 819-lines 2-8]

[45]It appears from L.F.'s comments to the Court given on March 17th, 2004 that he looks forward to this possibility. During his summation in this hearing, he stated:

> .....What am I going to do when I get discoveries and a full trial? Oh, I'm going to have a ball. You think I'm a little sloppy now - wait until I get into the show.

[46]Civil Procedure Rule 1.03 indicates that the object of the Rules is to secure the just, speedy and inexpensive determination of every proceeding.

[47]I am satisfied that in the circumstances of this case, it is appropriate to determine this initial issue before proceeding with the other issues raised in the Protection Application. I expect that it will be rare that this type of procedure is used in a proceeding under the Children and Family Services Act; however, in the exceptional circumstances of this case, I am satisfied that it is the appropriate route to follow.

[48]I turn now to the specific issue before me. That is; whether the disappearance of M.C.F. during the course of a known Children and Family Services Act proceeding places her in need of protective services. To be more particular, whether the intentional disappearance of M.C.F. as orchestrated by her parents to avoid the child coming into care of the Ontario or Nova Scotia Children's Aid Society places the child in need of protective services.

[49]In order to answer this question, it is useful to review the purpose of the Children and Family Services Act. Section 2 (1) of the Act states that the purpose of the Act is to protect children from harm, promote the integrity of the family and assure the best interests of children.

[50]Section 2 (2) of the Act states that in all proceedings and matters pursuant to the Act, the paramount consideration is the best interests of the child. Section 3(2) sets out the circumstances the Court should consider when determining the best interests of a child. Section 22(2) of the Act defines a child in need of protective services.

[51]The term "substantial risk" is used throughout Section 22(2) of the Act. Section 22(1) of the Act defines substantial risk as a real chance of danger that is apparent on the evidence.

[52]The Children and Family Services Act is designed *inter alia* to protect children from harm. While the integrity of the family is clearly recognized and promoted in the Act, the paramount consideration is the best interests of the child.

[53]Counsel for the Children's Aid Society of Halifax has referred the Court to a number of cases where children have been surreptitiously removed during the course of a child protection proceeding. In Re Child & Family Services of Eastern Manitoba and McKee et al [(1986), 31 D.L.R. (4^{th}) 271 (Man. C.A.)] a 13-year old

girl had been apprehended from the *de facto* custody of her grandparents by a statutory child care agency. Before the petition declaring the child to be in need of protective services had been heard, the child was removed from the Agency's custody and taken outside of the jurisdiction. The Agency immediately applied for an Order of temporary guardianship. That application was denied by the Court of Queen's Bench. On appeal, the Manitoba Court of Appeal granted the Order noting that the issue of the child's future care was already before the Court before the child was removed from the jurisdiction and that her removal was an affront to the Court. The Court went on to state that should the child be returned to the jurisdiction for a determination of the issue of the child's need of protection, that issue would have to be decided on the merits of the case and not by a reaction to the wrongful acts of the family in removing the child. In other words, despite the wrongful conduct of the parents, the Court still has to be satisfied that the facts of the case support a finding that the child is in need of protective services.

[54]In the case of Children's Aid Society of the Regional Municipality of Waterloo v. N.H. [[1995] O.J. No. 1819 (Ontario Court of Justice (Provincial Division))], the Respondent parents attempted to flee with their children outside of the jurisdiction 11 days after a protection hearing was held. The Court found that the father's

preparation for the abduction had begun weeks before the protection hearing. The parents were arrested shortly after the abduction began. During the course of the proceeding in which Crown wardship was granted, the Court stated at paragraph 61 "J.H. has absolutely no respect for the rule of law". And later in that same paragraph, the Court commented:

> What J.H. does not like, he simply does not abide. What he cannot acquire legally, he simply takes when people have their guard down. That is a philosophy of conduct that requires a strong and abiding safety net for the children, least they be swept away again by their father's needs.

[55]See also Children's Aid Society of Cape Breton v. L.M. [(1998) 169 N.S.R. (2d) 1 (C.A.)]

[56]The child in this case, M.C.F., is an infant barely three months old. Her parents, both of whom have been accused of child abduction in the past (her father having been convicted of this crime) have arranged for her disappearance in order to avoid having her placed in care pursuant to child protection legislation. The question that the Court has to answer is whether these facts, together with the other facts referred to previously, establish that M.C.F. is in need of protective services.

[57]Section 22 (2) of the Children and Family Services Act which sets out the circumstances under which a child will be found to be in need of protective services, must be read in a purposive manner.

[58]As indicated previously, the purpose of the Children and Family Services Act is, *inter alia*, to protect children from harm. If the integrity and purpose of the legislation is to be maintained, then the Court must ensure that the protections afforded to children by the legislation are not thwarted by parents surreptitiously hiding their children from child protection agencies or the Court. The potential risks to children is obvious if such conduct is tolerated.

[59]After carefully considering the matter, I have concluded that the facts of this case support a finding that M.C.F., who was born [in 2003], is a child in need of protective services as defined by Section 22 (2) (g) of the Children and Family Services Act.

[60]I am also satisfied that in light of this finding, it is not necessary to proceed further with the Protection Hearing as the protection finding has been made.

[61]In addition, it is not necessary for me to deal with the question of whether in the circumstances of this case it would have been appropriate for me to exercise my *parens patriae* jurisdiction.

J.