

2001

S.F.H. C0010065

**IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)**

BETWEEN:

CHILDREN' S AID SOCIETY OF HALIFAX

APPLICANT

- and -

D.P.

RESPONDENT

Revised Decision: The text of the original decision has been revised to remove personal identifying information of the parties on May 2, 2008.

**D E C I S I O N
CITE AS 2002-NSSF-036**

HEARD: Before the Honourable Justice R. J. Williams, at Halifax, Nova Scotia on June 18, 24 and 25, 2002

DECISION: July 26, 2002

COUNSEL: Peter C. McVey, counsel for the Applicant
Samira Zayid, counsel for the Respondent

PUBLISHERS OF THIS CASE PLEASE TAKE NOTE THAT S. 94(1) OF THE **CHILDREN AND FAMILY SERVICES ACT**, S.N.S. 1990, CHAPTER 5 APPLIES AND MAY REQUIRE EDITING OF THIS JUDGMENT OR ITS HEADING BEFORE PUBLICATION. SECTION 94(1) PROVIDES:

"94(1) 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 A RELATIVE OF THE CHILD."

WILLIAMS, J.

This is a proceeding under the *Children and Family Services Act* concerning K.R.P., [born in 2001]. The Children=s Aid Society of Halifax is seeking an order placing K.R.P. in its permanent care and custody. D.P., the child=s mother, opposes the application.

BACKGROUND:

D.P. was born [in 1979]. She is 23 years old. It appears that she has had psychiatric problems or issues since approximately age 12. She has been involved in various treatment programs since. She has had difficulties and issues with drug use over a similar period of time. Her mother, M.P., stated at paragraph 5 of her affidavit of June 12, 2002:

¶5. When D.P. was approximately age 12 she began to experience some significant behavioral problems. Unfortunately to this day there has not been a great deal of success in treatment.¶

D.P. has one child other than K.R.P.. M.J.M. was [born in 1997]. He was the subject of child welfare proceedings in Ontario from July 6, 1998, to approximately April of 1999. As a result of those proceedings, he is in the custody of his maternal grandparents. During the course of this earlier proceeding, D.P.=s mental health appears to have deteriorated, there being auditory hallucinations, self harm and threats made to others.

As a parent, D.P. came to the attention of the child welfare authorities in Nova Scotia in September of 2000 - while she was pregnant with K.R.P.. Concerns prior to K.R.P.=s birth included alleged drug use, prenatal care and D.P.=s psychiatric history and condition. She had been treated for dissociative disorder by Dr. John Curtis for a number of years and had been hospitalized with a diagnosis of schizophrenia. D.P. reported (to Dr. Wafting at the Nova Scotia Hospital) that she had ¶a problem with violence and making threats,¶ had attempted to harm an ex-roommate by poisoning and setting an apartment on fire and had been to jail a number of times (May 3, 2000, letter of Dr. Wafting). She reported then that she was a regular user of street drugs.

K.R.P. was [born in 2001].

This proceeding was initiated by a Protection Application dated January 30, 2001. The course of the proceeding is as follows:

1. **January 30, 2001:** The Protection Application was commenced. It alleged that K.R.P. was a child in need of protective services as defined in the *Children and Family Services Act* sections:

“22 (2) A child is in need of protective services where

...

(b) there is a substantial risk that the child will suffer physical harm inflicted or caused as described in clause (a); *(clause (a) reads: the child has suffered physical harm, inflicted by a parent or guardian of the child or caused by the failure of a parent or guardian to supervise and protect the child adequately);*

...

(g) there is a substantial risk that the child will suffer emotional harm of the kind described in clause (f), and the parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm; *(clause (f) reads: **the child has suffered emotional harm, demonstrated by severe anxiety, depression, withdrawal, or self-destructive or aggressive behaviour and the child’s parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm);***

...

(ja) there is a substantial risk that the child will suffer physical harm inflicted or caused as described in clause (j); *(clause (j) reads: **the child has suffered physical harm caused by chronic and serious neglect by a parent or guardian of the child, and the parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm);***

In this application, the Children’s Aid Society of Halifax sought an order pursuant to s. 39(4)(b) placing the child in the care and custody of D.P. subject to the

supervision of the Agency and specified terms and conditions, including continued psychiatric treatment with Dr. John Curtis;

2. **February 2, 2001:** At the first court appearance, Justice Gass granted the Interim Order sought on a consent basis;
3. **April 2, 2001:** A pre-trial was held before this Court. The finding in need of protective services issue had to be dealt with by April 30, 2001;
4. **April 25, 2001:** K.R.P. was found in need of protective services pursuant to s. 22(2)(g) of the *Children and Family Services Act*. The finding was by consent.

Through February and March of 2001, D.P. had not complied with the expectations of the February 2 order of Justice Gass respecting availability for drug testing, psychiatric treatment, contact with Family SOS and attendance at a parenting course. D.P. indicated at these April court dates that she would now follow through.

The matter was adjourned to June 13, 2001, for review;

5. **June 6, 2001:** An emergency application was brought before Justice D. Campbell. The Agency sought an order that K.R.P. be in the care of the Agency [pursuant to s. 39(4)(e)] and that D.P. have supervised access. On June 2, 2001, D.P. stated that she was afraid that she would injure K.R.P.. She agreed to place the child in the care of the Agency on May 2 and did so.

The affidavit of Will Chambers dated June 6, 2001, outlines the circumstances at that time:

9. As appears from the recordings attached hereto as Exhibit A, on May 2, 2001, a case conference was held involving the parties. On May 3, 2001, a risk management conference was held by the Children's Aid Society of Halifax, the minutes of which form part of Exhibit A attached hereto. During the case conference, it was agreed that D.P. would keep all appointments with Ruth Herndon, family skills worker, make and keep appointments with her psychiatrist (Dr. John Curtis) until an alternative counselor could be arranged, and take the child to her family doctor on a weekly basis to ensure the child is thriving and properly cared for. On May 2, 2001, I made clear to D.P. that the child would be taken into care if she failed to follow through with these minimum terms and conditions.

10. The case conference on May 2, 2001, was necessary as D.P. was refusing me access to the child, and had failed to follow through with the family skills services provided by the Agency or by Family SOS. She had further failed to attend appointments with Dr. John Curtis since March 1, 2001. I had been informed by M.P., maternal grandmother of the child, that D.P. believed the child was about to be taken into care and was leaving the child with others so she could not be found. M.P. expressed concern about the risk this may pose to the child if the caregivers were inappropriate or the circumstances in which the child was left may put the child at risk. I was further informed by Dr. Steven Harley on April 27, 2001, that D.P. had failed to bring the child in for a scheduled appointment on April 25, 2001, and he had not seen the child in a month. I was further informed by Dr. Harley that the child had been referred to a cardiologist as a result of a heart murmur. On April 27, 2001, D.P. further declined to allow me to see the child under the terms of the existing Interim Order.

11. Following the case conference on May 2, 2001, Dr. John Curtis advised me that he had scheduled an appointment with D.P. for May 11, 2001. Dr. John Curtis had recommended that the case conference on May 2, 2001, that weekly appointments re-commence. He subsequently informed me on May 24, 2001, that D.P. had

kept only one appointment since the case conference, missed one appointment, and canceled one then scheduled for May 25, 2001.

12. When I met with D.P. on June 4, 2001, respecting the decision to take the child into care, I noted her eyes to be bloodshot, her pupils to be dilated, and her mood to be what I would describe as >mellow=, which is uncharacteristic in comparison with my other meetings with D.P.. D.P. denied that she was under the influence of drugs, but did state that she had used marijuana either late the night before or early that morning.

13. On June 4, 2001, I asked D.P. why she had made the decision to place the child in care on June 2, 2001. D.P. informed me of the following:

- a) She has been experiencing significant mood swings lately, describing herself as >fine= and then >very angry=. She has also experienced paranoia and described her mind as >all messed up=. She appeared not to wish her daughter to be exposed to her current mental state;
- b) She had found herself of late (including Friday, June 1, 2001) >very angry= with her child, and >yelling= at her child;
- c) She did not attend her scheduled appointment with Dr. John Curtis on June 1, 2001. Her medication (Novo Clanidine) had run out. However, she did not wish to see Dr. John Curtis, though she had left a message for him as she understood that her mood swings had to stop. D.P. declined my offer to assist her in getting in contact with Dr. Curtis;
- d) D.P. denied feeling suicidal despite her current mental state.

14. D.P. had advised me previously that she faced criminal charges. She refused to consent to an Order for Production with respect to her file with the Halifax Regional

Police Service. I had instructed counsel for the Children=s Aid Society of Halifax to have a subpoena and summons issued for this file, returnable at the previously scheduled Pre-hearing Conference set for June 13, 2001. However, I instructed counsel for the Children=s Aid Society of Halifax to contact the Provincial Court and determine the nature of any charges outstanding. I am informed by Peter C. McVey, counsel for the Applicant, that he obtained the charge information from the Dartmouth Provincial Court. Attached hereto as Exhibit >C= is a true copy of the Recognizance and Information with respect to outstanding charges. As appears from the Court Appearance Record attached to the Information, it appears that D.P. missed a court appearance on May 8, 2001, and a warrant has been issued for her arrest.®

Justice Campbell granted the order sought by the Agency.

6. **June 13, 2001:** The matter came back to this Court as previously scheduled. D.P. was not present. The initial disposition order was required to be made by July 22 (90 days after the April 23 finding in need of protective services). The matter was adjourned to July 11, 2001;
7. **July 11, 2001:** The Agency plan of June 6, 2001, sought an order continuing K.R.P.=s placement with the Agency subject to a series of conditions, including:
 - S the provision of supervised access;
 - S post-natal medical follow-up;
 - S continued psychiatric care, treatment for D.P.;
 - S random drug testing of D.P.;
 - S co-operation with the Agency;The order was granted by consent.

1. **October 11, 2001:** This order was renewed by consent;
2. **November 22, 2001:** This order was renewed by consent;
3. **February 4, 2002:** The order was renewed by consent. It was agreed that the access visits would be ~~as arranged~~ by the Agency - it being anticipated that they would begin to be unsupervised. There followed some unsupervised visits;
4. **May 1, 2002:** The matter returned for review. Circumstances had deteriorated. The Agency had filed an Agency Plan (dated April 22, 2002) seeking an order of permanent care and custody. The first disposition order was made July 11, 2001. The outside date for all disposition orders was in view of K.R.P.'s age and s. 45(1)(a) of the *Children and Family Services Act*, July 11, 2002. The existing disposition order was continued. A pretrial was set for May 22, 2002, and trial dates of June 18, 24 and 25 scheduled;
5. **May 22, 2002:** An organizational pretrial was held;
6. **June 3, 2002:** A further organizational pretrial was held;
7. **June 18, 24 & 25, 2002:** The trial proceeded. Evidence was called from Dr. John Curtis (a psychiatrist), Donna Best (a Children's Aid Society intake worker), Ms. Melissa Nowe (of Family SOS), Ruth Herndon (a Family Intervention worker with the Children's Aid Society of Halifax), Will Chambers (the principal Children's Aid Society worker), Cst. Shawn Auld (of the Halifax Police), M.P. (D.P.'s mother) and D.P.. A number of exhibits were filed by consent. I reserved my decision. I renewed the temporary care order and expressly concluded that it was in the best interests of the child, K.R.P., that the one-year temporal limit on disposition orders contained in s. 45(1)(a) be extended to allow me to fully review the evidence and prepare a decision.

I have had an opportunity to review the evidence of these witnesses and the exhibits filed and admitted.

DECISION:

The onus of proof in proceedings such as this is on the child welfare agency. The Nova Scotia Court of Appeal has recently stated of this burden, ^A . . . although on a balance of probabilities, [it] is enhanced to the extent that the proof must be on a high level.[@] (Chipman, J.A. at p. 17 *Benoit v. MCS*, 2002-NSCA-86).

In making a disposition order under the *Children and Family Services Act*, the Court must consider a series of statutory factors. They include:

1. The preamble to the *Act* must be considered. I have considered the whole of the preamble and, in particular, these portions:

^AWHEREAS the family exists as the basic unit of society, and its well-being is inseparable from the common well-being;

AND WHEREAS children are entitled to protection from abuse and neglect;

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

AND WHEREAS children have a sense of time that is different from that of adults and services provided pursuant to this Act and proceedings taken pursuant to it must respect the child=s sense of time.[@]

A number of services have been made available to D.P., including psychiatric, addiction counseling (drugs) and parenting services. She has not been able to successfully utilize any of them.

K.R.P. is an infant. The time lines permitted under the legislation for a child her age have been exceeded. She is entitled to a placement that holds the potential of stability and permanence;

2. S. 2(1) provides:

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

S. 2(2) provides:

2 In all proceedings and matters pursuant to this Act, the paramount consideration is the best interests of the child. 1990, c. 5, s. 2"

I have considered these sections in coming to my decision.

3. S. 3(2) defines **best interest** in this legislation. I have considered the whole of s. 3(2) but consider ss. 3(2)(a), (b), (c), (d), (e), (f), (i), (k), (l) and (m) of particular relevance. They provide:

3(2) Where a person is directed pursuant to this Act, except in respect of a proposed adoption, to make an order or determination in the best interests of a child, the person shall consider those of the following circumstances that are relevant:

(a) the importance for the child's development of a positive relationship with a parent or guardian and a secure place as a member of a family;

(b) the child's relationships with relatives;

(c) the importance of continuity in the child's care and the possible effect on the child of the disruption of that continuity;

(d) the bonding that exists between the child and the child=s parent or guardian;

(e) the child=s physical, mental and emotional needs, and the appropriate care or treatment to meet those needs;

(f) the child=s physical, mental and emotional level of development;

...

(i) the merits of a plan for the child=s care proposed by an agency, including a proposal that the child be placed for adoption, compared with the merits of the child remaining with or returning to a parent or guardian;

...

(k) the effect on the child of delay in the disposition of the case;

(l) the risk that the child may suffer harm through being removed from, kept away from, returned to or allowed to remain in the care of a parent or guardian;

(m) the degree of risk, if any, that justified the finding that the child is in need of protective services;@

K.R.P. has been out of her mother=s care for more than a year. Visits have occurred and, undoubtedly, D.P. has an attachment to her child. She protected her child by placing K.R.P. in care in May, 2001. She should be praised, credited to that. K.R.P.=s attachment to her mother is less certain. D.P. is unable, in my view, to provide secure, consistent care to her child. It is a challenge for D.P. to control and maintain her own circumstances. I have concluded that D.P.=s personal issues present an unacceptable risk to her potential care of K.R.P.;

4. S. 41(2) of the *Act* provides that where the Court finds that a child is in need of protective services:

A41(2) The evidence taken on the protection hearing shall be considered by the court in making a disposition order.©

K.R.P. has been found in need of protective services pursuant to s. 22(2)(g) of the *Children and Family Services Act* which provides:

A22(2)(g) There is a substantial risk that the child will suffer emotional harm of the kind described in clause (f), and the parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;©

The evidence satisfies me that K.R.P. is a child in need of protective services not only pursuant to s. 22(2)(g) but also s. 22(2)(b) which provides:

A22(2)(b) There is a substantial risk that the child will suffer physical harm inflicted or caused as described in clause (a);©

This is the reason D.P. placed her daughter in the care of the Agency on June 2, 2001.

D.P. suffers from serious, longstanding mental health problems. Dr. John Curtis, a psychiatrist, has treated D.P., on and off, since November, 1995. He is of the opinion that she suffers from a dissociative personality disorder - sometimes referred to as multiple personality disorder. He identifies one of these personalities as a male, Fred, who is capable of violence, harming, even perhaps killing. Dr. Curtis acknowledges that this is a controversial diagnosis. His view is that D.P.'s condition will not spontaneously get better. Whatever the formal diagnosis it is clear from the evidence that D.P. behaves unpredictably and violently at times - and that she has difficulty controlling her temper - or to use her words, there are times when she loses it.© She is not now in any treatment program.

A number of such incidents or concerns were related in the evidence. They include:

- (a) D.P. contacted the Agency asking that K.R.P. be placed with the Agency in June, 2001. She was concerned that she might harm her baby;
- (b) In the fall of 2001, D.P. threatened to kill Will Chambers, the Children=s Aid Society worker. She said "If you take my child, I=ll kill you."
- (c) On October 11, 2001, the police responded to a noise complaint - returning to an address, area twice. D.P.=s actions were, in the view of Cst. Auld, totally disproportionate to the circumstances. She called the police names - "Another fuckers, cock suckers" - threw a beer bottle at the police car, scratched, spat at and ripped the watch off Cst. Auld. She was arrested, handcuffed, and placed in the police car. She kicked the window out of the car and bent the door frame;
- (d) Incidents of D.P. losing her temper with her mother, M.P., were described. One occurred with M.J. present, one with K.R. present. D.P. said "I blew it out of proportion," "I don=t have my child because I could hurt my child." It appears that M.P. minimized the seriousness of the event that occurred with her in giving her evidence.
- (e) On February 17, 2002, an incident occurred between D.P. and "her girlfriend" N.S.. They were arguing. N.S.=s small child was present. D.P. said "she wacked me, I wacked her back . . ." A D.P. has been charged with assault;
- (f) On March 12, 2002, D.P. was arrested for shoplifting. She has pled guilty;
- (g) On April 15, 2002, D.P. saw Dr. Curtis. As she left he said "See ya." During the visit he had told her his ability to help her was limited. D.P. says "I went off." She grabbed a wooden coat pole. She swung it at Dr. Curtis who fled to his office locking the door. She swung the pole - damaging glass and a picture. Dr. Curtis terminated his involvement. He feared her;

- (h) Dr. Curtis and others, including D.P., referred to other incidents, some in the past, some more current, that demonstrate her difficulty in controlling her behavior - including incidents of choking someone named Lisa and starting a fire in an apartment building with the intent or desire to harm.

Ironically, and perhaps not coincidentally, the October 11 and February 17 incidents were preceded by the Agency relaxing access - on October 10, 2002, access was to move to her home; on February 15, 2002, the Agency had agreed to move back to unsupervised access.

D.P. acknowledged that there were times that she had ~~lost time~~ when she did not know what had happened. Dr. Curtis would say that, on these occasions, D.P. had an alterative personality(ies) acting. D.P. said there were times when she ~~didn't~~ feel in control of her actions. She said there was ~~lots~~ of stuff she couldn't remember. She was not, at the time of trial, in treatment of any kind.

At the time of trial, D.P. had a number of criminal charges or sentencings outstanding. They were identified as follows:

- (a) On July 4, 2002, she was scheduled to go to trial on charges related to events alleged to have occurred June 19, 2000. The charges were pursuant to s. 335(1) and s. 351 of the *Criminal Code* (relating to an alleged theft of a motor vehicle);
- (b) On July 18, 2002, she was scheduled to be sentenced:
 - (b)a)i on mischief and assaulting a peace officer charges arising from the October 11, 2001, events;
 - (b)a)ii On theft [s. 334(b)] and breach [s. 145(3)] charges arising from events of March 12, 2002;
- (c) On April 16, 2003, there will be a trial on charges relating to events alleged to have occurred February 17, 2002 [s. 266(b), assault, and s. 145(3), breach].

D.P. had, at the time of trial, secured and maintained a full-time job for something more than two months. This is to her credit. The overwhelming picture before me, however, is that she has a chaotic, unpredictable, even dangerous lifestyle or condition that present (would present) a substantial and unacceptable risk to the welfare of any child in her care. A variety of interventions have been unable to remedy her circumstances;

5. S. 41(3) provides that the Court consider the plans for the child=s care. Consideration of the plans must be done with reference to or acknowledgment of the time frames set out by the legislation

41(3) The court shall, before making a disposition order, obtain and consider a plan for the child=s care, prepared in writing by the agency and including

- (a) a description of the services to be provided to remedy the condition or situation on the basis of which the child was found in need of protective services;
- (b) a statement of the criteria by which the agency will determine when its care and custody or supervision is no longer required;
- (c) an estimate of the time required to achieve the purpose of the agency=s intervention;
- (d) where the agency proposes to remove the child from the care of a parent or guardian,
 - (i) an explanation of why the child cannot be adequately protected while in the care of the parent or guardian, and a description of any past efforts to do so, and
 - (ii) a statement of what efforts, if any, are planned to maintain the child=s contact with the parent or guardian; and
- (e) where the agency proposes to remove the child permanently from the

care or custody of the parent or guardian, a description of the arrangements made or being made for the child=s long-term stable placement. @

The Agency Plan here is to seek an adoption placement for K.R.P.. D.P. seeks the return of her child. She states she has stopped using drugs, gotten a job, and would turn to her mother for help (when needed) with respect to K.R.P.=s care. She testified that she would not again call the Agency. I conclude she would be very unlikely to cooperate with agency supervision. Her cooperation was problematic in the spring of 2001;

6. Section 41(5) states:

41(5) Where the court makes a disposition order, the court shall give

(a) a statement of the plan for the child=s care that the court is applying in its decision; and

(b) the reasons for its decision, including

(i) a statement of the evidence on which the court bases its decision, and

(ii) where the disposition order has the effect of removing or keeping the child from the care or custody of the parent or guardian, a statement of the reasons why the child cannot be adequately protected while in the care or custody of the parent or guardian. 1990, c. 5, s. 41.

I am providing these reasons.

7. S. 42(1) presents the options available to the Court in making a disposition order:

42 (1) At the conclusion of the disposition hearing, the court shall make one of the following orders, in the child=s best interests:

(a) dismiss the matter;

(b) the child shall remain in or be returned to the care and custody of a parent or guardian, subject to the supervision of the agency, for a specified period, in accordance with Section 43;

(c) the child shall remain in or be placed in the care and custody of a person other than a parent or guardian, with the consent of that other person, subject to the supervision of the agency, for a specified period, in accordance with Section 43;

(d) the child shall be placed in the temporary care and custody of the agency for a specified period, in accordance with Sections 44 and 45;

(e) the child shall be placed in the temporary care and custody of the agency pursuant to clause (d) for a specified period and then be returned to a parent or guardian or other person pursuant to clauses (b) or (c) for a specified period, in accordance with Sections 43 to 45;

(f) the child shall be placed in the permanent care and custody of the agency, in accordance with Section 47. @

Here we are not only at the end of the disposition time frame but we are beyond it. It is almost 18 months since the proceeding commenced. K.R.P. has been in foster care for more than one year. She is only 18 months old.

8. Section 42(2) provides:

A42(2) The court shall not make an order removing the child from the care of a parent or guardian unless the court is satisfied that less intrusive alternatives, including services to promote the integrity of the family pursuant to Section 13,

(a) have been attempted and have failed;

(b) have been refused by the parent or guardian; or

(c) would be inadequate to protect the child. @

A series of services have been attempted and failed or been constructively or overtly refused by D.P.. They are summarized in paragraph 6 of Will Chambers= affidavit of April 23, 2002:

A6. The Children=s Aid Society of Halifax has been attempting to implement the Agency Plan for the Child=s Care dated June 6, 2001, since this child came into the Agency=s care on June 2, 2001. The services offered to D.P. and their status may be summarized as follows:

(a) **Psychiatric Treatment:** D.P. has received extensive psychiatric assessment and treatment over several years, to treat Dissociative Disorder, auditory and visual hallucinations, and depression. Dr. John Curtis has been her primary Psychiatrist for many years. Throughout this proceeding, the Agency has encouraged D.P. to obtain treatment from Dr. John Curtis. Treatment has been halted from time to time as D.P. has both refused and resumed treatment throughout this proceeding. However, on or about April 15, 2002, I was informed by Dr. John Curtis that treatment with D.P. has ended. I was further informed by Dr. John Curtis that at the conclusion of an appointment on April 15, 2002, D.P. smashed a picture in the office of Dr. Curtis and threw a coat rack at his door. Attached hereto as Exhibit >C= is a true copy of brief report from Dr. John Curtis dated April 15, 2002, summarizing treatment in recent months. Dr. Curtis notes that D.P. has increasingly developed dissociative symptoms, become aggressive toward other people, and has had conflict with the law as a result. Dr. John Curtis offers the opinion that D.P. has been unable to accept that her behaviour are dissociative symptoms which must be dealt with in therapy. Treatment has been terminated by Dr. John Curtis as a result of the events on April 15, 2002;

(b) **Addiction Treatment:** Throughout this proceeding, D.P. has advised me that she used marijuana to self-

medicate, reporting that marijuana reduces her anxieties. D.P. has also informed me that she has been turned away from medical treatment recently, as doctors suspected she was engaging in drug seeking behaviour. I also noted D.P. to appear >glassy-eyed= during an office appointment on April 16, 2002, though she denied she was using drugs. Earlier efforts to refer D.P. to Drug Dependency Services for treatment have had limited success, as D.P. has reported that she cannot receive treatment in a group setting. I did recently convince D.P. to enter a detoxification program during the week of April 15, 2002. Past efforts at detoxification have been short-lived, and it remains to be seen whether or not this effort will be successful; and

(c) **Parent Education:** The Agency referred D.P. to Family SOS. This service was canceled in April, 2001, as D.P. was not committed to follow through with that program. The Agency then provided a Family Intervention Worker, Ruth Herndon, to undertake the Nurturing Program with D.P.. I am informed by Ruth Herndon that, over the past twelve months, she has been unable to complete this program with D.P.. On March 4, 2002, I contacted D.P. by telephone to discuss with her whether or not she would complete this service. D.P. informed me that she believes she does not require parenting education and would not complete the service. Attached hereto as Exhibit >D= is a true copy of the Family Intervention Worker notes of Ruth Herndon for the period January 28, 2002, to March 5, 2002.@

The time frames under the legislation have been exceeded. I cannot envisage a plan that would return K.R.P. to her mother=s care and be adequate to protect her (K.R.P.). Apart from the other concerns, there is little evidence that would suggest that D.P. would cooperate with supervision from the Agency c I would conclude that she would not so cooperate;

9. S. 42(3) provides:

A42(3) Where the court determines that it is necessary to remove the child from the care of a parent or guardian, the

court shall, before making an order for temporary or permanent care and custody pursuant to clause (d), (e) or (f) of subsection (1), consider whether it is possible to place the child with a relative, neighbour or other member of the child=s community or extended family pursuant to clause (c) of subsection (1), with the consent of the relative or other person.©

There is no long-term or other plan that has been put forward by relatives or neighbours or a member of the child=s community (for the care of K.R.P.);

10. S. 42(4) provides:

“**42(4)** The court shall not make an order for permanent care and custody pursuant to clause (f) of subsection (1), unless the court is satisfied that the circumstances justifying the order are unlikely to change within a reasonably foreseeable time not exceeding the maximum time limits, based upon the age of the child, set out in subsection (1) of Section 45, so that the child can be returned to the parent or guardian.©

We are beyond the statutory time limit at this point.

S. 45 of the legislation sets out the temporal limit on the disposition stage of the proceeding.

45 (1) Where the court has made an order for temporary care and custody, the total period of duration of all disposition orders, including any supervision orders, shall not exceed

(a) where the child was under six years of age at the time of the application commencing the proceedings, twelve months
... A

(From the date of the initial disposition order)(here July 11, 2001)

I cannot conclude that D.P.=s personal issues will improve or spontaneously be remedied so as to allow her to provide adequate appropriate care to K.R.P.. Her

illness, unpredictable, aggressive, even criminal behaviour is a significant impediment to her being able to adequately parent. There is no resource that I can identify that would rectify this, now or in the foreseeable future.

I am satisfied that the Agency has satisfied the burden of proof it bears.

The plan put forward by D.P. would present unacceptable ongoing risks to K.R.P.. D.P. has made some steps in being able to care for herself - and should be commended for this. Her problems and troubles are longstanding, however. They provide serious, substantial risks to any child in her care.

I conclude that the only viable plan before me that is consistent with the best interest of the child is the Agency plan of permanent care and custody and adoption. In the circumstances, it is not appropriate there be an order of access as that would interfere with the plan of adoption.

J.