

**SUPREME COURT OF NOVA SCOTIA**  
**FAMILY DIVISION**

**Citation:** *Belisle v. Henneberry*, 2019 NSSC 277

**Date:** 09-13-2019

**Docket:** 107347

**Registry:** Halifax

**Between:**

**Elaine Michelle Belisle**

**Applicant**

**v.**

**Reagan Taylor Henneberry**

**Respondent**

**and**

**Susan Henneberry**

**Applicant**

**And**

**Elaine Belisle and Reagan Henneberry**

**Respondents**

**Endorsement**

**Date**

Written Endorsement: September 13, 2019.

Oral Decision: August 27, 2019

**Background**

[1] The mother, Elaine Belisle, filed an interim variation application to vary the interim parenting order dated September 11, 2018 pending the final hearing scheduled in March 2020. The interim parenting order was based on the child living with the father, Reagan Henneberry, from Sunday at 4:00 pm until Thursday at 4:00 pm. The order placed the child with the mother from Thursday at 4:00 pm until Sunday at 4:00 p.m.

[2] The father objected to the mother's interim variation motion.

**Should the interim parenting plan be varied pending the final hearing?**

*Position of the Parties*

[3] The mother asked for the variation because the child was starting grade primary. The mother wanted the child to attend the school in her neighbourhood. The mother said that she was unable to take the child to school on Friday morning at the school near the father's home because of work commitments and because of traffic. The mother also stated that the father was not always at home because he was fishing. In addition, the mother said that the father did not assume a role in the child's health and general welfare, but rather left those responsibilities to his common law wife, Emily Brodie, or to his mother, Susan Henneberry.

[4] The father disputed the mother's motion. He said that the child lived with him since December 2017. He said that the child was happy and healthy. He said that he, his wife and his mother were involved with the child's care and that they successfully met all her needs. He agreed that there were times when he was away from home because of his work as a fisher. He said that the child should not be moved from her home pending the final hearing. The child was doing well in his primary care. The father was also concerned about the mother's parenting and its impact on the child.

### ***Decision***

[5] The court is mandated to apply the best interests principle in all parenting decisions as noted in s. 18(5) of the *Parenting and Support Act*. This motion is framed as an interim variation motion, and not a final hearing. Interim variation hearings are rare; they should only be brought if there are serious issues that must be immediately addressed. Interim hearings are meant to provide a temporary solution that will operate for the period pending a full and final hearing.

[6] During an interim hearing, the court targets the temporary parenting arrangement that will be the least disruptive, and the most supportive of the child: *Pye v. Pye*, [1992] N.S.J. No. 133 (N.S. T.D.); *Stubson v. Stubson*, [1991] N.S.J. No. 210 (N.S. T.D.); *Foley v. Foley*, [1993] N.S.J. No. 347 (N.S. S.C.); *M.(A.) v. Y.(A.)*, [2012] N.S.J. No. 33 (N.S. S.C.); and *Horton v. Marsh*, 2008 NSSC 224 (N.S.S.C.). The focus of an interim hearing is thus on the preservation of the status quo, unless the status quo is no longer in the child's best interests. The status quo is the parenting arrangement that the parties followed without reference to the unilateral conduct of one parent: *Kimpton v. Kimpton*, [2002] O.J. No. 5367 (Ont. S.C.J.), and provided that the status quo is not contrary to the child's best interests.

[7] It is in the child's best interests to maintain the current interim parenting plan as it continues to be the most protective and least disruptive of the child. This order will operate until the court has the ability to more fully examine all issues during the final hearing scheduled from March 9 to March 11, 2020. A two-hour interim variation hearing is not the appropriate venue to displace the status quo when the status quo has worked well for the child.

[8] The status quo provides the child with the most stability for the following reasons:

- The child's principle residence is the home she shares with the father, his wife and the child's baby brother. The child lived primarily in this home since December 2017.
- The child attended preschool for four days a week in the school where she will begin grade primary. The child is familiar with Sambro Elementary School, the teachers and

the other children who live in the same community. Attendance in grade primary will provide interim stability for the child. The teachers at Sambro Elementary met the child's special needs.

- While living with her father, the child has the support and assistance of extended family, who provide excellent care. The extended family include the father's wife, the child's grandmother, and the child's great grandparents.

[9] The mother's plan involves a significant disruption to the child on an interim basis. Under the mother's plan, the child would live primarily with her and have visits with the father and grandmother. The child would attend a new school. The mother's plan is disruptive to the child on an interim basis.

[10] The mother raises concerns about the father's parenting. Many of these concerns were raised during the first interim hearing held before me in 2018. The mother's concerns will be fully examined during the final hearing scheduled for March 2020.

[11] In the meantime, the status quo will continue. If the mother is unable to take the child to school on Friday mornings, the child will remain with the father until Friday after school. The mother's weekend will begin on Friday, not Thursday. In such circumstances, the mother will be given all Fridays and Mondays when there is no school. Telephone calls between the mother and child will be at 6:30 pm. The father will inform the mother when he leaves for and returns from fishing. The parties must follow all provisions in the interim court order, including the counseling and therapy provisions.

Forgeron, J.