

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

**Citation:** *McNeil v. Christie*, 2020 NSSC 145

**Date:** 20200417

**Docket:** *Sydney* No. 104022

**Registry:** Sydney

**Between:**

Bruce Gerard McNeil

Applicant

v.

Ashley Nicole Christie

Respondent

<b>ENDORSEMENT</b>
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**Judge:** The Honourable Justice Lee Anne MacLeod-Archer

**Corrected Decision:** The text of the original decision has been corrected according to the attached erratum dated April 21, 2020.

**Heard:** April 17, 2020, in Sydney, Nova Scotia

**Counsel:** Bruce Gerard McNeil, on his own behalf  
Danielle MacSween, for the Respondent

**By the Court:**

[1] The courts of Nova Scotia are currently operating under an emergency services model. A procedure for determining whether matters meet the definition of “urgent” is laid out in a memo from the court (found on the court’s website). It’s rough justice in circumstances that none of us have encountered before.

[2] Ms. Christie filed correspondence on April 14, 2020, requesting that the court deal with a parenting situation on an “urgent” basis. After reviewing her counsel’s correspondence, I determined that the request met the threshold, and I gave direction for the filing of materials.

[3] Ms. Christie filed her notice of motion for interim relief with supporting affidavit and proposed order on April 15, 2020. Mr. McNeil responded with a lengthy affidavit with numerous exhibits (including recordings) on April 16, 2020. Ms. Christie filed a brief rebuttal affidavit on April 17, 2020.

[4] In addition to the problem with Mr. McNeil’s affidavit being too long and attaching various recordings, it contains argument, child hearsay, and allegations not relevant to my determination of the current issue. I have not considered the recordings, nor the offending portions of his affidavit.

[5] In a nutshell, the situation is this: The parties have a young son. They have been in court on numerous occasions to deal with parenting issues. Mr. McNeil had been exercising supervised parenting time, due to abusive behaviours. This was only changed to unsupervised parenting time in recent months. He has long sought overnight and weekend parenting time, but it hasn't been granted yet. This is why the matter was deemed "urgent", at least on a threshold basis.

[6] Mr. McNeil's unsupervised parenting time was to be reviewed this month, but that review hearing was removed when the courts adopted the essential services model in mid-March, 2020.

[7] In her motion, Ms. Christie alleges that Mr. McNeil took the child for his daytime parenting time on April 9, 2020 and has kept him since. She requests that the child be returned to her care.

[8] In reply, Mr. McNeil says that the child is in "quarantine" at his home, because the child was exposed to the risk of contracting covid-19. He says that someone coughed near the child, but he offered no evidence that this person was infected with the disease.

[9] Secondly, Mr. McNeil alleges that the child is not safe in Ms. Christie's home, because her boyfriend returned from another province on April 5, 2020 and moved in with them, without a prior period of self-quarantine.

[10] Ms. Christie acknowledges that her boyfriend returned from western Canada on April 5, 2020 and moved into her home without a period of self-quarantine. She says that because she is now completing her nursing program online, she needs childcare, and it's better to have her boyfriend live in, than have people coming and going from the home during the pandemic.

[11] Ms. Christie offers no details as to the number of hours she must spend on her course each day, nor whether any of it can be done after the child goes to bed. Further, the child is not an infant or toddler, so he doesn't require constant supervision. Presumably, there are many parents working or studying from home during the pandemic without child care. These are extenuating circumstances where people are having to cope with many challenges. There's nothing in the evidence to show that Ms. Christie isn't able to rise to that challenge.

[12] The evidence doesn't satisfy me that having her boyfriend return to the home to provide childcare, without a period of self-quarantine, was reasonable in the circumstances.

[13] However, I'm satisfied that Mr. McNeil manufactured a reason to keep the child with him, taking advantage of the current covid-19 health directives. He did so for two reasons: 1) he feels he should have been granted overnight and extended parenting time with the child already; and 2) he learned that Ms. Christie's boyfriend had returned to Cape Breton and was living with her and the child.

[14] Given the state of emergency, the fact that someone living in Ms. Christie's home didn't properly quarantine after returning from out-of-province, and that police and child welfare checks have raised no alarms with the child in Mr. McNeil's care to date, I direct that the child stay with Mr. McNeil until Sunday, April 19, 2020. That will allow Ms. Christie's boyfriend a full 14 days since his return from western Canada. If he's showing no signs of illness by April 19<sup>th</sup>, Ms. Christie will text Mr. McNeil to notify him, and the child will be returned to her care at noon. She will drive to Mr. McNeil's home, where she will text to announce her arrival, and wait in the vehicle in the driveway. The child will be sent out to his mother. There will be no communication between the parties.

[15] In the event that Ms. Christie's boyfriend develops symptoms of covid-19 before the child is returned to her care, she will notify Mr. McNeil by text

immediately. In that event, the child will remain with Mr. McNeil pending review by the court.

[16] Once the child is returned to Ms. Christie's care, Mr. McNeil's in-person parenting time with the child will be suspended until further review by the court. He may have electronic communication with the child (messenger video, skype, facetime, zoom, whatsapp, etc), to be held every Sunday at noon and Thursday at 6 pm. Ms. Christie must make immediate arrangements to obtain the necessary software/app/devices to enable this to occur. She will initiate contact, and she will supervise the child's contact with his father from the same room. The parenting time will be child-focused, with no adult conversation or interrogation of the child. Ms. Christie will not interfere with the call unless inappropriate comments are directed to the child (questioning the child about his mother's activities, who is living with them, etc), in which case the call/connection may be terminated.

[17] For as long as the state of emergency continues in Nova Scotia, Ms. Christie will ensure that the child practices strict social distancing and is not unnecessarily exposed to risk. This includes in-person play dates, sleep-overs with friends, visits to public playgrounds, or other activity which contravenes public health directives.

[18] In the event Ms. Christie or anyone other than the child who lives in the home develops symptoms of covid-19 after the child is returned to her care, Mr.

McNeil must be immediately notified by text, and arrangements must be made for the child to be delivered to Mr. McNeil until they are both recovered.

[19] In the event the child develops symptoms of covid-19, Ms. Christie must immediately notify Mr. McNeil of this. She must follow all health directives regarding testing and treatment, and if the child develops symptoms of covid-19 infection, she must keep Mr. McNeil apprised of the child's condition on a daily basis.

[20] Both parties are cautioned to abide by all directives issued by the health authorities during the pandemic, and to abide by the terms of their parenting order (subject to the changes set out herein).

[21] A conference date was set in this matter before Ms. Christie filed her motion. That conference date will be rescheduled for May, 2020.

MacLeod-Archer, J.

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<b>ERRATUM</b>
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**Judge:** The Honourable Justice Lee Anne MacLeod-Archer

**Heard:** April 17, 2020, in Sydney, Nova Scotia

**Written Release** April 17, 2020

**Erratum Date:** April 21, 2020

**Counsel:** Bruce Gerard McNeil, on his own behalf  
Danielle MacSween, for the Respondent

**Erratum:**

Paragraph [8] should read as follows:

[8] In reply, Mr. McNeil says that the child is in “quarantine” at his home, because the child was exposed to the risk of contracting covid-19. He says that someone coughed near the child, but he offered no evidence that this person was infected with the disease.