SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: *Nova Scotia (Community Services) v. BR, TS*, 2024 NSSC 93

Date: 20240404
Docket: 127294
Registry: Sydney

Between:

Nova Scotia (Community Services)

Applicant

v.

BR, TS

Respondents

And Between

BR

Applicant

v.

TS

Respondent

LIBRARY HEADING

Judge:	The Honourable Justice Pamela Marche
Heard:	March 5, 2024, in Sydney, Nova Scotia
Final Written Submissions:	March 19, 2024, Adam Neal, from Nova Scotia (Community Services) April 2, 2024, from Damian Penny
Written Decision:	April 4, 2024
Subject:	Risk of Physical or Emotional Harm; Best Interests of the Child, Expulsion of Self-Represented Litigant from Court Proceeding

Summary: The Minister of Community Services became involved due to protection concerns related to the living conditions of BR. Protection concerns soon expanded to include concerns about the mental health of TS. Upon the conclusion of the statutory timeline for Minister involvement, the Minister sought to terminate upon a *Parenting and Support Act* order being issued that placed the child in the primary care of the mother, BR and permitted only supervised parenting time for the father, TS.

Issues: (1) What is the authority for removing TS from the court process?

(2) Have protection concerns been reduced such that S is no longer at risk of harm?

(3) What parenting arrangement is in S's best interest?

(4) Should TS's parenting time with S be supervised?

Result: The Supreme Court has inherent authority to effectively administer a court of law and prevent an abuse of its process. In exceptional circumstances, it may be necessary to remove an unrepresented litigant from a court proceeding to maintain the integrity of the court process.

BR sufficiently reduced the risk of harm to S by cleaning and repairing her home and partaking in family services programming. Despite engaging in services, including a Mental Health Assessment, TS's mental health issues (PTSD and Paranoid Personality traits) continued to pose a significant risk of harm to S. Primary care and final decision-making authority to BR found to be in the child's best interests. Supervised parenting time to TS found to be necessary given his clinical issues.

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Written Release:	April 4, 2024
Counsel:	Adam Neal, for Nova Scotia (Community Services) Damian Penny, for BR TS, Self-Represented

By the Court:

Introduction

[1] This case is about, S, who is almost four years old. Safety concerns related to both of S's parents prompted the Minister of Community Services (the Minister) to start a child protection proceeding under the *Children and Family Services Act*, 1990, c. 5, s. 1, (the *CFSA*). The statutory timeline for the Minister's involvement with this family ended on March 3, 2024. The Minister argues that protection concerns related to S's mother, BR, have been resolved but that S's father, TS, continues to pose a significant risk of physical and emotional harm to S because of his mental health issues.

[2] BR is seeking primary care and decision-making authority for S having filed an Application under the *Parenting and Support Act*, 2015, c. 44, s. 1, (the *PSA*) on July 17, 2023. She argues TS should have supervised parenting time arranged at her discretion. The Minister agrees this parenting arrangement would be in S's best interest and is necessary to ensure S's protection. The Minister moves to terminate upon such an order being issued.

[3] TS does not agree. He denies any protection concerns related to him and suggests the Minister has overlooked or minimized risks related to BR. He argues the Minister's involvement has violated his *Charter* rights and has caused emotional damage to both him and his daughter.

[4] TS is seeking an order that places S in his primary care. In the alternate, he argues a shared parenting arrangement should be ordered that reflects the *de facto* arrangement the parties had in place prior to Minister's involvement. He does not agree his parenting time should be supervised.

Procedural Overview

[5] The Minister became involved with this family due to referrals made by TS about the suitability and safety of BR's housing. Related to this issue were incidents of withholding parenting time that were eventually resolved by consent. Protection concerns soon expanded to include the risk of emotional and physical harm associated with TS's behaviour believed to be related to his mental health. At all times during the Minister's involvement, S has remained in the care of her

mother, BR, pursuant to a supervision order and TS's parenting time has been supervised.

[6] The interim hearing was started on September 20, 2022**.** Both parties appeared unrepresented. TS attempted to enter a plea of demurrer. He also indicated his intention to raise constitutional challenges as he felt his civil rights had been violated. The Court provided TS with basic information about the court process and the legal test as it relates to an interim hearing under the *CFSA*. TS was advised he would need to provide appropriate notice if he wished to raise a constitutional issue and he was strongly encouraged to get legal advice.

[7] The next court appearance was held on October 18, 2022. TS reiterated his desire to enter a plea of demurrer and repeated his intention to raise constitutional challenges in response to his perceived violations of his *Charter* rights. The Court reminded TS he would need to provide appropriate notice if he wished to raise constitutional issues. TS told the court he was appealing a Legal Aid decision denying him counsel. He did not agree there were reasonable and probable grounds to believe that S was a child in need of protective services, and he did not wish to proceed to hearing without a lawyer. The matter was put over until October 20, 2022, to allow BR to consult with her newly retained counsel and to allow TS further opportunity to secure counsel.

[8] On October 20, 2022, BR agreed there were reasonable and probable grounds that S was in need of protective services. TS did not consent, and a contested hearing was scheduled for November 15, 2022, past the 30-day statutory deadline to conclude the interim hearing. I found it was in S's best interest to go past the deadline to allow TS additional time to get legal counsel. The parties were advised the interim hearing would proceed by way of cross examination of affidavit evidence and were provided filing deadlines.

[9] TS's request to have the matter dismissed because the 30-day deadline had been exceeded was rejected given the delay was a direct result of putting the matter over so he could have additional time to get a lawyer. At this point, TS put the Court on notice that he would be conducting his own parallel court proceeding and that all parties could be expected to be named in future lawsuits.

[10] TS did not file affidavit evidence as directed before the interim hearing. At the hearing TS, who had still not secured a lawyer, was argumentative and disruptive. TS was warned on several occasions that if he continued to interrupt the court proceeding, he would be directed to leave the courtroom. TS presented

as highly dysregulated and agitated. Because his behaviour was effectively prohibiting the conduct of the hearing, TS was escorted from the court room, physically flailing and hurling derogatory comments to court personnel. In TS's absence, I made the finding there were reasonable and probable grounds to believe that S was in need of protective services.

[11] The protection docket was held on December 12, 2022. TS remained unrepresented but was accompanied by support workers from Family Place Resource Centre. On this occasion, TS was much more composed. He continued to assert that his rights were being infringed upon but agreed to a protection finding pursuant to s. 22(2)(b) of the *CFSA* based on safety concerns related to BR's home.

[12] First disposition was held on January 27, 2023. The Minister advised the state of BR's home was no longer a protection concern and that TS's access had been suspended because of an incident that had occurred during a supervised visit. By this time, TS had secured counsel and was consenting to the disposition order sought, while reserving his right to cross examine the Minister's evidence at a later date.

[13] A review was held on March 3, 2023, and both BR and TS consented to a continuation of the protection order. Despite being encouraged to have his lawyer speak for him, TS continued to claim he was being parentally alienated and traumatized by the Minister. He argued he was being abused by the court process. Counsel for TS raised the concern that TS's access visits with S remained suspended and that TS wanted to have the visits with his daughter reinstated.

[14] The matter was adjourned to March 30, 2023, so the Court could be updated on the status of TS's access and planned mental health assessment. Unfortunately, on March 30, 2023, TS once again presented as highly dysregulated and interrupted court to such an extent that, despite many cautions, he was once more escorted from the courtroom.

[15] A review held on April 13, 2023, proceeded by consent on a reservation of rights basis. However, by this time, TS's access had once again been put on hold. A hearing was scheduled for August 2023 to deal with the access issue. A settlement conference was conducted in July that resulted in an agreement that would allow TS to have supervised access in the community, with the potential for additional visits, if the access went well. The August hearing date was therefore converted into a consent review docket.

[16] At a conference held on September 20, 2023, counsel for TS advised there had been a break-down in their solicitor client relationship. TS was again highly dysregulated. TS complained to the court that he had been harassed by a Case Aide for the Minister during an access visit. TS accused the court of only being concerned with policy and procedure and not the truth.

[17] At a review held on November 7, 2023, TS reported being in a much better frame of mind. He raised concerns that his access to S was once again suspended. The Court granted his adjournment request so he could have additional time to get new legal counsel.

[18] When the matter returned for further review on December 19, 2023, TS had secured a new lawyer who advised that while TS was consenting to the continuation of the order on that day, he was disputing the ongoing placement of S with BR. A second settlement conference did not result in an agreement, but a referral to the Supervised Access and Exchange Program was ordered so that TS's access to S could resume pending the conclusion of the contested final disposition hearing.

[19] By the time the parties had returned to Court for a case management conference on January 30, 2024, TS was again self-represented. He claimed the lawyers he had been provided had only wanted to make deals and that his constitutional rights were being violated. TS again presented as highly agitated and disruptive. He was warned on several occasions he would be asked to leave the court room if he continued to interrupt the court proceeding. Unfortunately, it was necessary to have TS escorted from the courtroom so the conference could proceed.

[20] Because TS's conduct effectively precluded him from participating in the case management conference, a Conference Memorandum outlining hearing dates and filing deadlines was served personally upon TS. The Conference Memorandum advised that "disruptive or abusive behaviour during the court proceeding will not be tolerated and that anyone engaging in such behaviour may be removed from the courtroom and/or may have their ability to participate in the proceeding limited or restricted."

[21] The final disposition review was scheduled to be heard in conjunction the *PSA* parenting application on March 5, 6, 7 and 8, 2024, with the same evidence to be considered in both matters. TS remained self-represented. He filed no evidence in advance as directed by the Conference Memorandum.

[22] Based on past court proceedings, I anticipated that TS might have difficultly complying with court processes and procedures. It is for this reason that I allowed TS to put his position fully before the court in response to my query about preliminary issues. TS was given this opportunity to reduce the risk of him engaging in tangential, irrelevant or incendiary argument as he had been prone to do at previous court appearances. In summary, TS put forth the following position:

- That the court was without jurisdiction, had proceeded without due process and I had abandoned my oath as a judge. He argued *"Nothing here has been impartial or unbiased. Nobody has seen any of my evidence and you've had me removed from this Court for saying I'm trying to get a lawyer. That I don't agree with this or that. Nobody's seen my evidence. You've had men assault me, but I'm not supposed to have trust issues for people in positions of authority."*
- That he wished to rescind his own birth certificate because the Department of Community Services were claiming to be the beneficiary of the use of his birth certificate. He argued *"I am a natural living man and there's a fraud going on here so that these people can generate revenue through services rendered, through a usufruct, granted to me through the government. I am in possession of a title of government property. All of these pieces of paper given to me through the courts are all written in dog Latin, with capitol letters."*
- That Child Welfare, after getting him *"out of the way,"* will go back after BR, *"where they will be able to place my daughter, S, in foster care and generate revenue for the next fourteen years through services rendered."*
- That the two lawyers provided to him caused him loss and damages and one of the lawyers perjured himself.
- That Child Welfare mismanaged and cut short his visits with S and when he complained, they suspended his visits.
- That S's early childhood development has been damaged by government mandates, through Covid and afterwards, and that public servants do not have more rights than Canadian citizens. That public servants are *"masquerading as my overlord shepherds and master*

and telling me, this is how it's going to be, you have no rights, sit down, shut up and listen to us."

- That Child Welfare authorities "*entered his home without warrant and found no cause. That he has caused no victim or no crime, caused no damages or loss to any person or their property*." He said *"Throughout this, I have still not gotten any charges. What am I even doing in a Canadian court system without breaching a code or statute? I am simply expressing through my freedom of speech, that I disagree with government services intervene, you've never had my consent." ... "I made it very clear that I do not consent and I do not require services and I've been coerced the entire time, because if I don't A, B and C, they don't D, E and F, and I don't get to have any type of meaningful relationship with my daughter who was in my home every weekend since her birth."*
- That BR has a long history of child protection involvement based on complaints like those he had made about BR. That BR and her associates pose a risk to S. He said "*I would like her new boyfriend, *, vetted please. I don't want my daughter around * [names of BR's family members], they're drug dealing addicts. I will not tolerate that. I don't care what order comes from the Court, if I have to be vigilante Batman to get this guy busted, I'm going to shine a light on all of the corruption that's been going on here through Child Welfare and everything else in the Court system that denying my rights.*
- That he had no issues before BR came into his life. That BR has mental health issues and S should not be residing with BR in an isolated area. That BR's other two children have mental health issues that require medication, and he would like to avoid that for his daughter.

[23] Having allowed TS the opportunity to speak freely for over twenty minutes, I began the process of redirecting him to the court proceeding. TS continued to speak over me, attempting to argue with me and challenging me to answer questions about his rights, thereby effectively preventing me from conducting the court proceeding.

[24] When warned we would be unable to continue with him present in the courtroom if he persisted in his behaviour, TS said: *"I comprehend more than*

every single person in this courtroom and I'm aware if what's going on, on this planet, more than all of you who just go along to get along and follow orders to get your paychecks. I'm not a part of your herd. I'm not under your authority. You are an administrator of acts, codes and statutes, who has violated her oath to uphold my Constitutional Rights, that's what you are."

[25] Faced with few alternatives, I suggested to TS that he participate in the court proceeding via video conferencing from a separate room in the courthouse. Initially he disagreed, citing coercion and a violation of due process. Court recessed to give TS time to calm down and consider his options.

[26] TS eventually agreed to participate via video conferencing. An attempt was made to moderate the process by muting TS when he became disruptive. After several hours of trying to manage this, however, TS had cross examined only one witness and partially cross examined a second witness. It became clear that TS was not going to be capable of participating in the court process. He was belligerent and combative with witnesses and with the court. His cross examination of the Minister's witnesses was argumentative and abusive. It was necessary, therefore, to have TS removed from the court proceeding to effectively move the matter forward.

[27] I considered the following affidavit evidence from the Minister:

- Social workers Jenna Paquet, Lauren Simmons and Alysha Sheppard.
- Access Support Workers Leanne Grady, Robert Newman, Ken Tracy and Access Support Worker Team Lead, Stan Brown.

[28] Other than Ms. Paquet who was cross examined by TS and Ms. Simmons who was partially cross examined by TS, none of the Minister's affidavit evidence was subject to cross examination.

[29] I considered the affidavit evidence of BR, also not subject to cross examination. A report from Veith House containing one observation note describing TS's supervised visit with S on March 2, 2024, was tendered. The mental health assessment of TS completed by Registered Psychologist, Dr. Jeff MacLeod, was tendered.

[30] A Conference Memo directing written submissions be filed by the Minister on March 19, 2024, and by the Respondents on March 28, 2024, was served personally on TS on March 12, 2024. Final submissions were received from the

Minister on March 19, 2024, and from BR on April 2, 2024. TS did not file final written submissions.

The Position of the Parties

The Minister

[31] The Minister believes child protection concerns related to BR have been resolved, but TS's mental health issues continue to pose a significant risk of emotional and physical harm to S. The statutory timeline for their involvement has ended and they wish to terminate upon a *PSA* order being issued which places S in the primary care of BR with TS's access (or parenting time under the *PSA*) being supervised.

BR

[32] BR argues it is in S's best interest to be placed in her primary care and for her to have final decision-making authority for S. She agrees TS's parenting time should be supervised.

TS

[33] From his earlier comments, I gather that TS argues:

- this is a private matter between himself and BR and the government (child protection) and the judiciary have no jurisdiction, authority or reason to be involved in his life or the life of his daughter.
- his *Charter* and common law rights have been violated and he has been denied due process by the court.
- he is being unfairly punished or persecuted by child protection authorities who have caused him and his daughter harm and loss.
- child protection authorities unfairly cancelled, cut short, and suspended his access visits with his daughter on several occasions and his justified complaints about this generated unwarranted child protection concerns.
- child protection authorities are involved with his family as a means to generate revenue.

- BR continues to pose a risk of harm to S.
- he does not present a risk of harm to S who should be in his primary care or, in the alternate, in a shared parenting arrangement.
- there is no need for his parenting time to be supervised.

Issues:

1. **What is the authority for removing TS from the court process?**

2. **Have the protection concerns been reduced such that S is no longer at risk of harm?**

3. **What parenting arrangement is in S's best interests?**

4. **Should TS's parenting time with S be supervised?**

Issue One: What is the authority for removing TS from the court process?

The Law

[34] A Supreme Court justice has inherent authority, and indeed an obligation, to effectively administer a court of law and to prevent an abuse of its process. Unfortunately, in exceptional circumstances, it may be necessary to remove an unrepresented party from a court proceeding in order to maintain the integrity of the court process (***R. v. Fabrikant,*** (1995), 97 C.C.C. (3d) 544; ***CEJK v. HWK***, 2016 SKQB 24).

Findings and Decision

[35] The decision to exclude TS from participating in the final disposition review hearing was not made lightly. TS's struggle to comply with the court process was apparent from the outset. By the time of the final review hearing, the Court had been provided with TS's Mental Health Assessment Report with offered some insight into TS's interaction with the court system.

[36] TS has longstanding Post Traumatic Stress Disorder (PTSD), (related to childhood and adult traumas), mixed with anxiety and depressed mood, (related to current child protection involvement). Cannabis Use Disorder was also identified as a concern. Additionally, TS was found to have paranoid personality

patterns. It was considered likely that TS has Paranoid Personality Disorder although this diagnosis could not formally be made given the concern that TS's involvement with child protection and the court process likely had a negative affect upon his mental health and behaviour. The Assessment Report describes Paranoid Personality Disorder as follows:

> *Individuals with paranoid personality disorder are generally difficult to get along with and often have problems with close relationships. Their excessive suspiciousness and hostility may be expressed in over argumentativeness, recurrent complaining, or hostile aloofness. They display a range of affect, with hostile, stubborn and sarcastic expressions predominating. Their combative and suspicious nature may elicit a hostile response in others, which then serves to confirm their original expectations.*
>
> *Because individuals with paranoid personality disorder lack trust in others, they need to have a high degree of control over those around them. They are often rigid, critical of others, and unable to collaborate, although they have great difficulty accepting criticism themselves. They may blame others for their shortcomings. Because of their quickness to counterattack in response to the threats they perceive around them, they may be litigious and frequently become involved in legal disputes. Individuals with this disorder seek to confirm their preconceived negative notions regarding people or situations they encounter, attributing malevolent motivations to others that are projections of their own fears.*

[37] The author of the Assessment Report offered the following opinion: "*It is quite clear that [TS's] mental health problems have caused substantial problems in his interactions with DCS and family court. Indeed, involvement of any sort with government agencies that assert control over any aspect of his life is likely to be exceptionally distressing for TS and he is likely to behave in ineffective ways as a result."*

[38] I accept, based on the foregoing, that TS's conduct in the courtroom was not likely reflective of a deliberate strategy of defiance or disruption. Notwithstanding this finding, TS's behaviour amounted to an abuse of the court process. He rejected, with overt disdain and disrespect, the jurisdiction of the court. He presented as belligerent, aggressive and inappropriate within the

courtroom setting. His cross examination of witnesses consisted primarily of hostile diatribes from which little relevant evidence could be gleaned and from which he could not be redirected.

[39] Several attempts were made to accommodate TS's participation in the court process, including:

- Deadlines were extended and adjournments were granted to allow TS opportunities to secure legal counsel. The Court directed that legal counsel appear in person when representing TS, despite being located several hours away.
- TS was recognized and encouraged when he was able to maintain his composure during court appearances. It was noted that TS was self-possessed most often when accompanied by a community support person and that person was encouraged to attend all court appearances with TS.
- Two settlement conferences were arranged in an effort to provide TS with greater autonomy within the child protection proceeding.
- Basic legal information was offered to TS during his periods of self-representation.
- An alternate method of participating in the court process, outside of the courtroom through videoconferencing, was offered with hope of increasing TS's capacity to effectively engage in the final review hearing.
- TS was advised on multiple occasions, both verbally and in writing, that the Court could not tolerate abusive and disruptive conduct. TS was made aware that such behaviour could result in expulsion from the court process.

[40] Despite efforts to facilitate TS's meaningful engagement in the court process and to dissuade him from disruptive and abusive conduct. Ultimately, in the exceptional and unfortunate circumstances of this case, it became necessary to remove TS from participating the final disposition hearing in order to maintain the integrity of the court process.

Issue Two: Have the protection concerns been reduced such that S is no longer at risk of harm?

The Law

[41] The Minister must prove its case on a balance of probabilities by providing the Court with clear and convincing evidence that S remains at substantial risk of harm from TS and that it is in S's best interest to be placed in the primary care of BR ***(Nova Scotia (Community Services) v. C.K.Z.,*** 2016 NSCA 61).

[42] Child protection decisions must be made keeping in mind the legislative purpose stated in s. 2(1) of the *CFSA*: to promote the integrity of the family, to protect children from harm and to ensure the best interests of the children. The best interest of the child is the paramount consideration (s. 2(2) and s. 42(1) of the *CFSA*).

[43] The *Act* must be interpreted according to a child-centered approach. Circumstances that may be relevant to determining a child's best interests are outlined in s. 3(2) of the *CFSA*. This list is a non-exhaustive. The Court must consider factors unique to the needs of each individual child and how those needs relate to risk of harm ***(Nova Scotia (Community Services) v. R.M.N. and M.C***., 2017 NSSC 270).

[44] "Substantial risk" is defined in s. 22(1) of the *CFSA*. It means a real chance of danger that is apparent on the evidence. The Court must be satisfied that the chance of danger is real, rather than speculative or illusionary, and substantial in that there is a risk of serious harm or a serious risk of harm ***(C.R. v. Nova Scotia (Community Services)***, 2019 NSCA 89).

[45] The statutory time limit for the Minister to be involved with this family has ended. At this final disposition review hearing, I must decide whether the circumstances which resulted in the original protection order still exist or whether there have been changes in the parties or the circumstances such that the children are not longer at risk ***(Nova Scotia (Community Services) v. R.M.N. and M.C.***, *supra*).

Findings and Decision

[46] A basic premise of the adversarial process is that the court can rely on evidence that is tested through cross examination. In this situation, because TS could not effectively participate in the final review hearing, I must proceed with caution when assessing the evidence before me.

Protection Concerns Related to TS

[47] Even in the face of such evidentiary limitations, I am able to make the following findings:

- The fact that TS has mental health issues does not, in itself, present a protection concern. In his Mental Health Assessment Report, Dr. MacLeod observed that child protection initially became concerned about TS because they believed he was having a mental health crisis. Dr. MacLeod was of the opinion, however, that TS did not experience such a crisis. He felt TS's psychiatric disorders were likely to have been "*stable, and problematic, for many years"* and it was likely the involvement of government agencies that caused TS to behave in *"ineffective ways."* Dr. MacLeod thought it might be difficult for child protection to assess whether TS represented a risk to his daughter given they were seeing him at his worst. Dr. MacLeod was clear that TS's diagnosis does not necessarily indicate he is a risk to his daughter.
- The fact that TS displayed overt hostility, disdain and distrust towards child protection authorities and towards the court also does not, in itself, present a protection concern. People who present as difficult or uncooperative do not necessarily pose a risk of harm to their children.
- I accept TS's assertion that there were scheduling difficulties associated with his access visits with S. However, I do not accept that any such error was a deliberate attempt to harm TS. I do not accept that any such error justified TS reactions to that situation.
- The Supervised Access and Exchange Observation Note describing TS's visit with S on March 2, 2024, raised no protection concerns. On that day, in that setting, TS presented as loving and attentive to his daughter.

[48] Despite the foregoing, I find TS continues to pose a risk of physical and emotional harm to his daughter. As a result of TS's mental health issues, he is prone to dysregulated and escalated over-reactions that divert the attention needed for him to safely attend to his child's needs. He is easily moved to aggressive and abusive behaviour which he is unable to control, even within the presence of his daughter. This is evidenced by the multiple occasions when the

Minister found it necessary to place TS's access on hold due to TS's verbal and physical aggressive behaviours and their tangible impact upon S.

[49] For example, during one supervised visit, TS became enraged when directed by a Case Aide not to ask S probing questions about where she and her mother were living. TS began screaming into the visiting room camera, demanding to speak with the Case Aide's Supervisor. During this incident. S was observed rocking back and forth and repeatedly saying "I'm sorry Daddy." The situation escalated with TS aggressively pushing S's diaper bag into the Case Aides chest and culminated with the Case Aide holding S in her arms while she tried to secure the visiting room from TS. TS repeatedly pushed against the door, blocking it from being closed with his arms and legs, in an effort to regain entry into the room. Security was called to escort TS from the building.

[50] The risk of harm is exacerbated because TS is unable to recognize of identify the role his behaviour plays in his current situation. His suspicions and distrust preclude him from gleaning any awareness about how his behaviours create protections concerns. Without insight, there can be no change. TS has been clear; he does not need to change. Everyone else is at fault.

[51] TS's paranoia about government agencies is also concerning. For example, he referenced not wanting S to be on medication. He wanted to rescind S's birth certificate. Modern society is governed by rules and regulations and is populated by people in authority. TS views these people with disdain, referring to as "*sheep*" and other derogatory terms. TS says he is not part of the herd. TS can make that decision for himself, but S deserves to benefit from the services and protection of teachers, doctors, police officers and others in positions of authority.

[52] TS has threatened to go *"vigilante Batman"* in response to this perceived corruption. Threats of physical violence also place S at risk. TS's escalated behaviours compromised the safety and security of S when around TS.

[53] TS did participate in services and programs as required by the Minister as part of a case plan designed to reduce risk. He attended Family Place Resource Centre for parenting groups, and he completed a Mental Health Assessment as requested, although he argued he was coerced to do so. Participation in the services recommended by the Minister, however, has not reduced the risk associated with TS's mental health issues. Dr. MacLeod recommended that TS might benefit from psychotherapy, but that TS would require an extended period of treatment (months to years) to see any notable gains. Dr. MacLeod further noted that

paranoid personality patterns are associated with an increased risk of treatment failure.

[54] There has been no evidence of positive change in TS following his participation in programming and no reasonable expectation of change in the foreseeable future.

Protection Concerns Related to BR

[55] I find that BR has reduced the risk of harm to S. BR was asked to clean her home, which was in quite a state of disarray, and to do a significant amount of work to this home to make it habitable. She repaired and cleaned the home. She also successfully completed Family Support Sessions as requested by the Minister. I accept the position of Minister that they may safely terminate their involvement upon an order placing S in BR's primary care being issued. Protections concerns related to BR have been sufficiently reduced.

Issue Three: What parenting arrangement is in S's best interests?

The Law

[56] The *PSA*, *supra*, states the paramount consideration in any parenting decision is the best interests of the child. The list of best interest factors is non-exhaustive. The weight to be attached to any factor varies from case to case depending on the circumstances. In determining what is in the child's best interests, I must compare and balance the advantages and disadvantages of each proposed parenting scenario*:* ***D.A.M. v. C.J.B.***, 2017 NSCA 91; ***Titus v. Kynock***, 2022 NSCA 35.

[57] Section 18(8) of the *PSA* says I must give effect to the principle that a child should have as much contact with each parent as is consistent with the child's best interests. In making this determination, I must consider the impact of any family violence, abuse, or intimidation upon parenting arrangements. There is no presumption in favour of shared parenting: ***Barendregt v. Grebliunas***, 2022 SCC 22.

[58] In ***A.N. v. J.S.***, 2018 NSSC 146, Justice Beaton said on shared parenting: "*Central to the question of whether shared parenting will be ordered is a consideration of the parties' ability to communicate in a timely, meaningful and respectful way …* " and "*Courts are not looking for shared arrangements of perfection …however parents do need to satisfy the Court that it is realistic to*

expect they can put the children's needs first and foremost in their communication and decision-making (para. 9)."

Findings and Decision

[59] I am satisfied that a shared parenting arrangement as suggested by TS is not feasible in this circumstance. TS has mental health issues that prevent him from conversing or cooperating with BR on any level, let alone in a "timely, meaningful or respectful way."

[60] Having found that TS continues to pose a significant protection concern in relation to S, I find that it is her best interest to be placed in the primary care of BR. A child's physical, emotional, social and educational needs, including the child's need for stability and safety, as contemplated in s. 18(6)(a) of the *PSA* are fundamental needs. No other best interest factor can supplant these basic needs. TS is unable to meet S's need for safety and security.

[61] Effectively immediately, S will be placed in the primary care of BR who will have final decision-making authority for S.

Issue Four: Should TS's parenting time with S be supervised?

The Law

[62] Supervised access is an appropriate solution in certain circumstances including the following:

- *Where the child requires protection from physical, sexual, or emotional abuse.*
- *Where the child is being introduced/reintroduced after a significant absence.*
- *Where there are substance abuse issues.*
- *Where there are clinical issues involving the access parent.*

Slawter v. Bellefontaine, 2012 NSCA 20

Findings and Decision

[63] I have found that TS has mental health issues that pose a significant risk of physical and emotional harm to S. These clinical issues necessitate that TS's

parenting time with S be supervised. TS's parenting time will be arranged at BR's discretion.

Conclusion

[64] TS continues to pose a significant risk of physical and mental harm to S because of his mental health issues. BR has reduced protection concerns such that it is in the best interests of S to returned to BR. Pursuant to the *PSA*, S will be placed in the primary care of BR who will have final decision-making authority for S. TS will have supervised parenting time with S. TS's supervised parenting time with S will be arranged at BR's discretion. Upon this *PSA* Order being issued, the Minster's motion to terminated will be granted.

[65] Counsel for BR will draft the *PSA* Order. Counsel for the Minister will draft the Termination Order under the *CFSA.*

Marche, J.