

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

**Citation:** *Davis v. Davis*, 2026 NSSC 122

**Date:** 20260422

**Docket:** SFBWPSA-136932

**Registry:** Bridgewater

**Between:**

Joseph M. Davis

Applicant

v.

Victoria L. Davis

Respondent

**Judge:** The Honourable Justice Aleta C. Cromwell

**Heard:** February 9, 2026, in Bridgewater, Nova Scotia

**Written Release:** April 22, 2026

**Counsel:** Joseph M. Davis, self-represented

Mitchell Broughton for the Respondent

**By the Court:**

**Introduction**

[1] Victoria Davis and Joseph Davis are the separated spouses and parents of one child, I, three years of age.

[2] Both Ms. Davis and the child are American citizens. After the parties separated in March 2025, Ms. Davis and the child returned to Texas to visit extended family. Neither has returned to Nova Scotia.

[3] A Notice of Application pursuant to the *Parenting and Support Act*, R.S.N.S. 1989, c. 160 (the “PSA application”) was filed by Mr. Davis in March 2025 to address parenting issues.

[4] A Temporary *Ex-Parte* Protective Order was granted against Mr. Davis in March 2025 by the presiding judge in Travis County, Texas based on an application brought by Ms. Davis alleging family violence.

[5] Following a hearing held on April 17, 2025, a Protective Order was granted against Mr. Davis by the presiding judge in Travis County, Texas for a period of two years.

[6] Ms. Davis filed a Petition for Divorce with the District Court, Travis County, Texas to address divorce, custody, conservatorship, possession and access, support and division of community property in May 2025.

[7] Ms. Davis seeks a stay of the proceeding in Nova Scotia and transfer of the proceeding to the District Court in Travis County, Texas pursuant to the provisions of the *Court Jurisdiction and Proceedings Transfer Act*, S.N.S. 2003 (2<sup>nd</sup> Sess.), c. 2, s. 1 (the “*CJPTA*”).

[8] Mr. Davis opposes the motion and asks the Nova Scotia Supreme Court, Family Division to retain jurisdiction over the parenting issues under the *PSA* application.

[9] Despite the submissions of Mr. Davis, an application under the *Hague Convention on the Civil Aspects of International Child Abduction*, (the “*Hague Convention*”) for the return of the child to Nova Scotia has not been filed.

## **Issues**

[10] In this decision, I will address the following issues:

- Does the Nova Scotia Supreme Court, Family Division have territorial competence/jurisdiction? Put another way, can I assume jurisdiction?

- If the Nova Scotia Supreme Court, Family Division has territorial competence/jurisdiction, should I decline jurisdiction in favour of the District Court in Travis County, Texas?

### **Background and Procedural History**

[11] The parties met online in May 2021 and began to reside together in September 2021 in San Marcos, Texas. They were married in Fredericksburg, Texas on October 19, 2021.

[12] The child was born in San Marcos, Texas in July 2022.

[13] The family travelled from Texas to Nova Scotia in February 2024.

[14] Between February 2024 and March 2025, the family resided in Nova Scotia.

[15] The parties separated on March 2, 2025, following a verbal altercation. The police were called and brought Ms. Davis and the child to a women's shelter.

[16] Ms. Davis and the child travelled by plane to Texas on March 12, 2025, to visit extended family with a plane ticket to return to Nova Scotia on April 29, 2025.

[17] Ms. Davis and the child have not returned to the Province of Nova Scotia and remain in Texas.

[18] On March 14, 2025, Mr. Davis filed a Notice of Application in Nova Scotia seeking shared parenting pursuant to the *Parenting and Support Act* which was heard on an emergency *ex parte* basis the same day.

[19] The Interim Non-Prejudicial *Ex Parte* Order (Family Proceeding) granted on March 14, 2025, prohibited Ms. Davis from leaving Nova Scotia with the child. Ms. Davis was to be served via email and Facebook Messenger with the order and next court date to be held via telephone.

[20] Ms. Davis did not participate in the Conference on March 17, 2025. An Interim Without Prejudice Order was granted in her absence based on the evidence provided by Mr. Davis. The order provided Ms. Davis with interim primary care of the child with parenting time every weekend for Mr. Davis. The parties were also provided with joint decision-making, and Mr. Davis was permitted to maintain in his possession the child's identification. Ms. Davis remained prohibited from leaving the Province of Nova Scotia with the child without the consent of Mr. Davis or a court order.

[21] On March 25, 2025, Ms. Davis filed for a Protective Order against Mr. Davis with the District Court in Travis County, Texas pursuant to the Texas Family Code.

[22] A Temporary *Ex Parte* Order was granted against Mr. Davis by the presiding judge in Travis County, Texas.

[23] On or about April 4, 2025, the parties agreed to the extension of the Protective Order and the Hearing was scheduled to continue April 17, 2025.

[24] On April 17, 2025, a Protective Order was granted against Mr. Davis by the presiding judge in Travis County, Texas. Mr. Davis participated in the Hearing remotely. The Protective Order which expires on April 17, 2027, provides in part, as follows:

- Family violence occurred.
- To prevent or reduce the likelihood of family violence or future harm, Mr. Davis must:
  - o NOT commit further acts of family violence against Ms. Davis, the child or any member of the family or household.

- o NOT communicate in a threatening or harassing manner, directly or indirectly with Ms. Davis or the child.
- o NOT communicate a threat through any person to Ms. Davis or the child.
- o NOT go within 200 yards of Ms. Davis, the child or a member of the family or household.
- o NOT go within 200 yards of the residence or place of employment of Ms. Davis, the child or a member of the family or household.
- o NOT go within 200 yards of the child-care facility or school of the child.
- o NOT engage in conduct that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass when that conduct is directed specifically toward Ms. Davis, the child or a member of the family or household.
- o NOT transfer, encumber, or otherwise dispose of property mutually owned or leased by the parties.

- o NOT track or monitor the personal property or a motor vehicle in the possession of Ms. Davis or a member of the family or household.
- o NOT own, possess, buy or attempt to buy, receive or attempt to receive, or in any way obtain possession, ownership, or control of a firearm.
- o NOT attempt to prevent or dissuade Ms. Davis from attending a hearing, testifying, or making a report to any law enforcement agency.
- o Mr. Davis shall not communicate with Ms. Davis except in writing, unless the parties agree otherwise in writing.
- o Mr. Davis shall have no possession and access to the child except as agreed by the parties in writing or as otherwise ordered by subsequent order by this court or another court with jurisdiction to make custody, conservatorship, or possession and access orders regarding the child.

[25] When the matter next returned to court in Nova Scotia on April 24, 2025, Ms. Davis was represented by counsel, but no documents had been filed by her

except for a Pre-Conference Summary. Mr. Davis requested a further opportunity to seek legal counsel.

[26] On April 25, 2025, Ms. Davis filed a Notice of Motion with her Affidavit seeking a stay of proceedings and transfer of the proceeding to Travis County, Texas pursuant to sections 4 and 12 of the *CJPTA*.

[27] On May 5, 2025, Ms. Davis filed a Petition for Divorce with the District Court, Travis County, Texas to address divorce, custody, conservatorship, possession and access, support and division of community property.

[28] On June 6, 2025, Mr. Davis retained legal counsel. The Conference scheduled for June 18, 2025, in Nova Scotia, was rescheduled at the request of counsel.

[29] A Consent Production Order for the files of the Royal Canadian Mounted Police in relation to Mr. Davis was issued June 10, 2025.

[30] On October 22, 2025, both parties were represented by counsel, and the motion was scheduled to be heard on December 16, 2025, for the full day with filing deadlines provided by the court.

[31] On November 17, 2025, the matter returned to the docket in Nova Scotia to address Mr. Davis withholding his address for service by Ms. Davis of the Petition for Divorce issued by the District Court in Travis County, Texas. Counsel for Mr. Davis indicated he would be filing a motion to withdraw as counsel for Mr. Davis. Mr. Davis had not filed his documents in reply to the motion to stay the proceeding and transfer the proceeding to Texas, nor did he participate in the Conference on that date. The Motion Hearing was adjourned with a half hour Conference remaining scheduled for December 16, 2025.

[32] On December 5, 2025, Mr. Davis filed a Notice of Intention to Act on One's Own.

[33] On December 16, 2025, Mr. Davis again did not participate in the Conference, and the Motion Hearing was rescheduled for a half-day, with filing deadlines and a Post-Conference Memorandum sent to Mr. Davis.

[34] On February 9, 2026, the Motion Hearing was held with each of the parties' testifying by way of affidavit and each was cross-examined. Ms. Davis appeared by video link from Texas while Mr. Davis appeared in person.

[35] Just prior to the Motion Hearing, Mr. Davis was personally served with the Petition for Divorce issued by the District Court, Travis County, Texas.

[36] Pre-trial briefs were filed by both parties. As a self-represented litigant, Mr. Davis's pre-trial brief contained evidence not previously filed in his Affidavit.

[37] Counsel for Ms. Davis filed pre-trial submissions in advance of the Motion Hearing to address striking those portions of the pre-trial brief. After hearing from counsel and Mr. Davis at the commencement of the Motion Hearing, paragraphs 10, 11 and 15 of the pre-trial brief and Exhibit 1 attached to the Pre-Trial Brief were struck as inadmissible argument as those paragraphs and the attached Exhibit contained evidence not properly before the court.

[38] After hearing the evidence and post-trial submissions from the parties, I reserved my decision.

### **Position of the Parties**

#### *Position of Ms. Davis*

[39] Ms. Davis says the Nova Scotia Supreme Court, Family Division lacks territorial competence as defined by the *CJPTA*, and the Interim Without Prejudice Order is either void or should be stayed in favour of the proceedings before the District Court in Travis County, Texas.

[40] Ms. Davis says the Nova Scotia Court cannot assume jurisdiction as she was not ordinarily resident in Nova Scotia at the time of the commencement of the proceeding and there is insufficient evidence to support a conclusion of a real and substantial connection between Nova Scotia and the facts on which the proceeding against her is based.

[41] Ms. Davis says, if I conclude that this Court has territorial competence, I should decline to exercise jurisdiction for the following reasons:

- The interests and safety of both her and the child favour the matter proceeding in their home country.
- Both she and the child reside in Texas, and it would be difficult for her to litigate the matter from abroad.
- Declining jurisdiction would avoid a multiplicity of proceedings.
- Declining jurisdiction would also avoid further conflicting decisions.
- The eventual enforcement of a judgement could be achieved through international treaties such as the *Hague Convention* and reciprocal agreements regarding enforcement of support obligations.

- Mr. Davis has not been diligent in litigating the matter as he has failed to file documents as directed and failed to attend court appearances resulting in delay, wasted court time and increasing legal costs.

[42] Ms. Davis's evidence, includes the following:

- She and the child are American citizens who have resided most of their lives in Texas – Ms. Davis, since 2007 and the child since birth in July 2022.
- When in Texas, she worked while Mr. Davis traded stocks/crypto and used his savings to help support them.
- The relationship with Mr. Davis was abusive – sexually, physically and verbally since the birth of their daughter in July 2022.
- The abuse escalated when the parties arrived in Nova Scotia in February 2024.
- On March 2, 2025, she and the child were escorted by the police to a women's shelter in Nova Scotia following a verbal altercation with Mr. Davis when he withheld the car keys preventing her from leaving

the home. He also denied her access to finances following the separation and locked the credit card she had previously used for necessities.

- Since separation, Mr. Davis has provided very little financial support.
- On March 12, 2025, prior to the commencement of this proceeding, she and the child left Nova Scotia to visit extended family in Texas.
- Near the latter part of March/early April 2025 she reported the alleged abuse by Mr. Davis to the police. After the RCMP failed to follow up on her complaint, she made application for a Protective Order from Texas at the end of March 2025.
- Following a hearing on April 17, 2025, the District Court in Travis County, Texas granted the Protective Order against Mr. Davis for a period of two years after finding that family violence had occurred. The Protective Order provides that Mr. Davis not have possession or access with the child unless agreed to in writing or further court order.

- In May 2025 she filed the Petition for Divorce with the District Court in Travis County, Texas. Mr. Davis has since been served with the Petition for Divorce.
- In September 2025, her visitor status in Canada expired. She is unable to work in Canada and has no supports in Nova Scotia.
- In Texas, where she and the child now reside, she has obtained employment, a residence and has the support of extended family.

[43] Counsel on behalf of Ms. Davis filed case law including:

- *Bearisto v. Cook*, 2018 NSCA 90, which is a *Hague Convention* case, where Justice Duncan R. Beveridge provides an analysis of the term “habitual residence”. Counsel for Ms. Davis suggests the analysis be used when interpreting the meaning of “ordinarily resident” under the *CJPTA*.
- *S.M. v. D.D.*, 2018 NSFC 10, which is a case from Judge Timothy G. Daley under the *CJPTA*, that discusses “ordinarily resident”. Judge Daley adopts the reasoning of the Nova Scotia Court of Appeal in *Quigley v. Willmore*, 2008 NSCA 33 at paragraph 17 to 21.

- *Detcheverry v. Herritt*, 2013 NSSC 315, is a decision from Associate Chief Justice Lawrence I. O’Neil (as he then was), where he canvasses the case law to establish a “real and substantial connection” at paragraphs 56 and 57. ACJ O’Neil makes reference to *Bouch v. Penny*, 2009 NSCA 80, a decision of the Nova Scotia Court of Appeal summarizing at paragraphs 51 to 54, the considerations at common law and providing a list of eight factors to be weighed by the court when deciding whether there is a “real and substantial connection”. ACJ O’Neil also refers to *Abbott v. Algarvio*, 2012 NSSC 312, decided by Justice Elizabeth Jollimore as a helpful discussion of the principles and test under the *CJPTA* and the common law at paragraphs 6-12.

*Position of Mr. Davis*

[44] Mr. Davis says Nova Scotia has jurisdiction over parenting matters and should retain jurisdiction and deny the motion to transfer jurisdiction to Texas.

[45] He says the child was wrongfully removed from Nova Scotia and he seeks her return to Nova Scotia pursuant to the *Hague Convention*.

[46] As previously noted, despite the submissions of Mr. Davis, an application under the *Hague Convention*, has not been filed.

[47] Mr. Davis's evidence, includes the following:

- He was unable to legally work in Texas.
- The family moved to Nova Scotia in February 2024 to be closer to extended family and to provide better employment opportunities for him. They also had access to housing in Nova Scotia.
- He generally denies the allegations of abuse made by Ms. Davis but admits:
  - He lost their dog and the child in May 2024 for a short period of time while outside of their home.
  - He has become upset, raised his voice and swore at Ms. Davis on a couple of occasions.
  - He withheld the car keys from Ms. Davis on March 2, 2025, when they were arguing to “prove a point”.

- Although he acknowledges that Ms. Davis was previously interested in returning to Texas to visit extended family, he denies providing permission for her and the child to travel to Texas in March 2025.
- He seeks the return of the child to Nova Scotia so that he can exercise parenting time.
- He has had no in person parenting time with the child since March 2, 2025, but has had some videocalls with her.

## **The Law**

[48] The *CJPTA* governs jurisdictional disputes and addresses the territorial competence of courts in Nova Scotia in Part I of the legislation and transfer of a proceeding in Part II of the legislation.

[49] The *CJPTA*, defines certain terms including person, proceeding, and territorial competence: section 2 (a) to (h) of the *CJPTA*.

[50] In *Bouch, supra*, the Nova Scotia Court of Appeal adopted the analytical framework provided by Justice Robert W. Wright, in the lower court, when affirming the decision.

[51] When determining matters of jurisdiction, the analytical framework to be used under the *CJPTA* is a two-step analysis reproduced by the Nova Scotia Court of Appeal as follows at paragraph 29:

[20] The Act clearly recognizes and affirms the two step analysis required to be engaged in whenever there is an issue over assumed jurisdiction, which arises where a non-resident defendant is served with an originating court process out of the territorial jurisdiction of the court pursuant to its Civil Procedure Rules. That is to say, **in order to assume jurisdiction, the court must first determine whether it can assume jurisdiction, given the relationship among the subject matter of the case, the parties and the forum. If that legal test is met, the court must then consider the discretionary doctrine of *forum non conveniens*, which recognizes that there may be more than one forum capable of assuming jurisdiction.** The court may then decline to exercise its jurisdiction on the ground that there is another more appropriate forum to entertain the action. [Emphasis added]

[52] Under section 4 of the *CJPTA*, there are five enumerated grounds where a Nova Scotia court may have territorial competence.

[53] Ms. Davis is not a plaintiff in another proceeding and subsection (a) of section 4 of the *CJPTA* is not applicable.

[54] Ms. Davis has not attorned to the jurisdiction in Nova Scotia nor is there agreement between the parties that the Nova Scotia Supreme Court, Family Division has jurisdiction in the proceeding filed by Mr. Davis. Therefore, subsection (b) and (c) of section 4 of the *CJPTA* are irrelevant to the Court's consideration in this matter.

[55] However, subsections (d) and (e) of section 4 of the *CJPTA* are relevant considerations and read as follows:

(d) that person is ordinarily resident in the Province at the time of the commencement of the proceeding; or

(e) there is a real and substantial connection between the Province and the facts on which the proceeding against that person is based.

[56] The legislation provides a non-exhaustive list of circumstances where a “real and substantial connection” may be presumed. None of those circumstances exist in this proceeding: Section 11 of the *CJPTA*.

[57] However, in *Bouch, supra*, at paragraph 52, Justice Jamie W.S. Saunders provides eight factors at common law to satisfy the court that Nova Scotia had acquired a “real and substantial connection” to the proceedings. Those factors are:

- (1) The connection between the forum and the plaintiff's claim
- (2) The connection between the forum and the defendant
- (3) Unfairness to the defendant in assuming jurisdiction
- (4) Unfairness to the plaintiff in not assuming jurisdiction
- (5) The involvement of other parties to the suit
- (6) The court’s willingness to recognize and enforce an extra-provincial judgment rendered on the same jurisdictional basis
- (7) Whether the case is interprovincial or international in nature
- (8) Comity and the standards of jurisdiction, recognition and enforcement prevailing elsewhere

[58] The legislation permits a court to decline to exercise its territorial competence where another court is a more appropriate forum to hear the proceeding: Subsection 12(1) of the *CJPTA*.

[59] Guidance is provided to this Court on deciding the question of whether a court outside of the province is the more appropriate forum.

[60] Subsection 12(2) of the *CJPTA*, provides as follows:

(2) A court, in deciding the question of whether it or a court outside the Province is the more appropriate forum in which to hear a proceeding, must consider the circumstances relevant to the proceeding, including

- (a) the comparative convenience and expense for the parties to the proceeding and for their witnesses, in litigating in the court or in any alternative forum;
- (b) the law to be applied to issues in the proceeding;
- (c) the desirability of avoiding multiplicity of legal proceedings;
- (d) the desirability of avoiding conflicting decisions in different courts;
- (e) the enforcement of an eventual judgment; and
- (f) the fair and efficient working of the Canadian legal system as a whole.

[61] I will now turn to a consideration of the evidence and the two-part test to determine whether I can assume jurisdiction and then if I ought to assume jurisdiction.

## **Analysis**

### **Issue # 1 – Can I assume jurisdiction?**

[62] The focus is whether Ms. Davis was ordinarily resident in Nova Scotia on March 14, 2025, when the proceeding commenced or there is a real and substantial connection between Nova Scotia and the facts on which the proceeding is based to allow this court to assume jurisdiction.

*Ordinarily Resident*

[63] When considering if Ms. Davis was ordinarily resident in Nova Scotia at the time the *PSA* application was commenced, I have considered all the relevant circumstances including but not limited to:

- An extended family member of Mr. Davis reached out and offered the family housing in Nova Scotia.
- She moved from Texas to Nova Scotia in mid February 2024 with Mr. Davis and the child.
- Prior to the move to Nova Scotia, she had resided in Texas since 2007 while the child was born in Texas in July 2022.
- The family spent over a year in Nova Scotia until the parties separation on March 2, 2025.

- During the year in Nova Scotia, she did not acquire a work visa or permanent residency. She stayed at home to care for their child while Mr. Davis found employment to support the family.
- The parties separated on March 2, 2025, after she called 911 following a verbal altercation with Mr. Davis.
- The police escorted her and the child to a women's shelter after Mr. Davis refused to provide money for them to stay temporarily in a hotel or an Airbnb.
- On March 12, 2025, the same day she and the child travelled to Texas, she advised Mr. Davis they "...would be returning to the US soon to visit some of my family & friends for a few weeks. My mom booked a roundtrip ticket so we plan to be back on April 29...this trip is something I have been trying to plan for a while..."
- Mr. Davis objected to her taking the child out of the country and two days later, on March 14, 2025, filed the Notice of Application seeking shared parenting pursuant to the *PSA* which was heard on an emergency *ex parte* basis the same day.

- Although the evidence was unclear as to a specific date, sometime after arriving in Texas on March 12, 2025, she made the decision to remain in Texas and not return to Nova Scotia due to fear for her safety and the safety of the child.

[64] After considering the entirety of the circumstances, the caselaw, specifically the reasoning from the Nova Scotia Court of Appeal in *Quigley, supra* and the position of the parties, I have concluded that Ms. Davis was ordinarily resident in Nova Scotia at the time the *PSA* application was filed by Mr. Davis for the following reasons:

- In Texas, Mr. Davis was unable to work while Ms. Davis did work sporadically but was also primarily responsible for the care of the child.
- There is no evidence to suggest the parties maintained a home in Texas after leaving in February 2024. Over a nine-day period, they traveled by car from Texas to Nova Scotia leaving behind belongings which they intended on replacing when arriving in Nova Scotia.

- The family travelled to Nova Scotia in February 2024 for housing, to be closer to paternal family supports, and for Mr. Davis to obtain employment to financially support the family.
- After arriving in Nova Scotia, Mr. Davis obtained employment while the family resided temporarily with extended family before obtaining their own rental home.
- Shortly after separation, Ms. Davis and the child travelled to Texas two days prior to the filing of the *PSA* application by Mr. Davis with the intention of returning on April 29, 2025.

*Real and Substantial Connection*

[65] When considering if there is a real and substantial connection between Nova Scotia and the facts on which the *PSA* application is based, I have considered the eight factors outlined in *Bouch, supra*. Below I will consider those factors.

*1) The connection between Nova Scotia and Mr. Davis's claim*

[66] Mr. Davis has filed a *PSA* application in Nova Scotia to address parenting issues. At the time he filed his application, the child was residing in Nova Scotia, although she and Ms. Davis had temporarily travelled to Texas to visit extended

family. Therefore, the connection between Mr. Davis's claim for parenting and Nova Scotia is strong.

*2) The connection between Nova Scotia and Ms. Davis*

[67] Ms. Davis resided here for a little over a year with her spouse and child. She and the child are American citizens. She was unable to work in Nova Scotia due to her visitor status which has since expired. The family moved in February 2024 and began to establish their lives here in Nova Scotia. As a result, this factor favours Nova Scotia acquiring a real and substantial connection to the proceeding despite Ms. Davis and the child now residing in Texas.

*3) Unfairness to Ms. Davis in assuming jurisdiction*

[68] Almost all the history of the parties during their relationship is from Texas. They met and married in Texas; the child was born in Texas; and she has lived most of her life in Texas. Further, Ms. Davis has alleged issues of family violence by Mr. Davis against her and the child, resulting in fears for her safety and the safety of the child. Mr. Davis interest in actively pursuing the *PSA* application has been inconsistent as he has failed to attend some of the scheduled appearances, failed to file necessary documents and avoided service of the Divorce Petition from Texas.

[69] Although Ms. Davis is now working in Texas and has her own residence with the child, when she initially returned to Texas, she was unemployed and resided with extended family. Mr. Davis has paid little support to her and the child since separation.

[70] In these circumstances, it would be unfair to Ms. Davis to assume jurisdiction as she would be required to present evidence and witnesses in Nova Scotia, be present herself in Nova Scotia in the face of her fears and safety issues and increasing her costs and inconvenience. This factor favours Ms. Davis and a finding that Nova Scotia has not acquired a real and substantial connection to the proceeding.

*4) Unfairness to Mr. Davis in not assuming jurisdiction*

[71] Mr. Davis now resides in Nova Scotia and returned to the province to obtain employment/start a business and to be closer to family supports.

[72] It would be unfair to Mr. Davis if I were to decline jurisdiction as he would be required to bring a parenting proceeding in Texas forcing him to bring evidence and witnesses to Texas, increasing his costs and inconvenience. However, any unfairness to Mr. Davis is lessened as he can litigate parenting issues under the Texas Divorce proceeding already commenced. Mr. Davis has already participated

in a proceeding before the Texas Court when the Protective Order was granted following a Hearing.

[73] This factor favours Mr. Davis and a finding that Nova Scotia has acquired a real and substantial connection to the proceeding.

5) *The involvement of other parties to the suit*

[74] I do not find this to be a relevant consideration as there is no evidence there are other parties involved in the *PSA* application commenced in Nova Scotia.

6) *The court's willingness to recognize and enforce an extra-provincial judgment rendered on the same jurisdictional basis*

[75] In Nova Scotia, the *Reciprocal Enforcement of Custody Orders Act*, R.S.N.S. 1989, c. 387 grants discretion to this court to make orders as necessary to give effect to a custody order made by a court in a reciprocating state. Texas is not a reciprocating state under the regulations.

[76] The *Child Abduction Act*, R.S.N.S. 1989, c. 67 would apply to give effect to the *Hague Convention*, to address circumstances where a child has been wrongfully removed or retained. Both Canada and the United States of America are signatories to the *Hague Convention*. Although an application under the *Hague*

*Convention* is not before the Court, Nova Scotia would have jurisdiction to intervene should an application be made.

[77] The *Interjurisdictional Support Orders Act*, S.N.S. 2002 c. 9 facilitates the recognition, enforcement, and variation of support orders across different jurisdictions even when parties live in separate provinces or countries. The United States of America, including the 50 states, is a reciprocating jurisdiction.

[78] The Nova Scotia court is willing to recognize and enforce both a support order and any order through an appropriate application under the *Hague Convention* for the wrongful removal or retention of a child but will not give effect to a custody order made by Texas. This factor favours Nova Scotia acquiring a real and substantial connection to the proceeding.

7) *Whether the case is interprovincial or international in nature*

[79] The case is not interprovincial but international in nature. Therefore, assuming jurisdiction is more difficult to justify in these circumstances and favours Nova Scotia not acquiring a real and substantial connection to the proceeding.

8) *Comity and the standards of jurisdiction, recognition and enforcement prevailing elsewhere*

[80] I have little evidence to conclude that Texas will or will not recognize the laws and judicial decisions made in Nova Scotia.

[81] The very limited evidence that I have regarding the Texas proceedings may be found in the documents filed regarding the application for a Protective Order sought by Ms. Davis and the issuance of the Divorce Petition. From those limited materials, Mr. Davis was provided with reasonable notice of the Protection Hearing, he was granted an adjournment of the hearing and was provided an opportunity to be heard through his participation remotely.

[82] Upon a review of the Petition for Divorce, the District Court in Travis County, Texas appears to have jurisdiction to address similar issues as Canada including the granting of a divorce and orders relating to findings of family violence, custody and parenting arrangement, support issues, and division of property.

[83] This factor favours Ms. Davis and a finding that Nova Scotia has not acquired a real and substantial connection to the proceeding.

[84] After considering the entirety of the circumstances, the evidence, the caselaw and the position of the parties, I have concluded that Nova Scotia has

acquired a real and substantial connection to the *PSA* proceeding and I can assume jurisdiction for the following reasons:

- The claim by Mr. Davis is made under the provisions of the *Parenting and Support Act* to address parenting time. At the commencement of the proceeding, the family resided in Nova Scotia for over a year. The connection between Nova Scotia and the proceeding is strong.
- In either jurisdiction, one of the parties will be put to a greater expense than the other to present their evidence and witnesses. I have insufficient evidence of the financial circumstances of either party to draw a conclusion as to which party would experience greater unfairness should this Court assume jurisdiction or not assume jurisdiction.
- Nova Scotia is willing to recognize and enforce both a support order and any order through an appropriate application under the *Hague Convention* for the wrongful removal or retention of a child but will not give effect to a custody order made by Texas.

[85] Having determined I can assume jurisdiction; I will consider the second part of the test whether I ought to assume jurisdiction and the discretionary doctrine of *forum conveniens*.

**Issue # 2 – Ought I assume jurisdiction?**

[86] The *CJPTA*, provides six factors for consideration by the Court, in deciding whether it or a Court outside of the province is the more appropriate forum. I now turn to a consideration of each of those factors.

a) *The comparative convenience and expense for the parties to the proceeding and for their witnesses, in litigating in the court or in any alternative forum.*

[87] The parties are married. Ms. Davis is seeking to address not only the parenting related issues but the support, matrimonial property and divorce related issues.

[88] Mr. Davis only filed his application regarding the parenting related issues and has not pursued a divorce, support or a division of matrimonial property.

[89] Both the Texas District Court and this Court have demonstrated a willingness to allow a witness residing in another jurisdiction to testify remotely lessening the costs and inconvenience to the party outside of the jurisdiction. However, depending on which court assumes jurisdiction, and given the distance

between the jurisdictions one party will bear most of the expense and inconvenience.

[90] The child is three years of age and will be four in a few months. She has spent most of her life in Texas except for a period of one year when she resided in Nova Scotia. Most of the witnesses familiar with the child, the alleged family violence and circumstances of the family during their relationship reside in Texas.

[91] Although it can be assumed that Mr. Davis will also have witnesses from Nova Scotia who may wish to testify on his behalf regarding circumstances when Ms. Davis and the child resided in Nova Scotia, overall, this factor favours Nova Scotia declining jurisdiction.

*b) The law to be applied to issues in the proceeding.*

[92] The only application before this Court is the *PSA* Application filed by Mr. Davis on March 14, 2025, seeking to address parenting issues. The applicable law in Nova Scotia is found in the *Parenting and Support Act*.

[93] I have limited evidence of the applicable law applied by the District Court in Travis County, Texas outside of the Protective Order and the Petition for Divorce that refers to the Texas Family Code. Although best interest of the child appears to

be a guiding principle when determining parenting, the terminology is different in Texas from the terminology used in Nova Scotia and Canada. For example, in Texas the term “possession and access” appears to be used when describing parenting arrangements and parenting time while “conservatorship” appears to be used in the place of decision-making responsibility.

[94] Without additional evidence, I am unable to conclude that Texas does not have similar laws as Nova Scotia and Canada to address the issues between the parties upon the breakdown of their relationship.

*c) The desirability of avoiding multiplicity of legal proceedings.*

[95] Multiple proceedings have already been filed between these parties to address the breakdown of their relationship, divorce, custody and parenting arrangements, support and division of matrimonial property.

[96] Mr. Davis filed his *PSA* application for parenting time in Nova Scotia on March 14, 2025.

[97] Ms. Davis filed an application for a Protective Order with the District Court in Travis County, Texas on March 25, 2025, while also filing a Petition for

Divorce issued by the District Court in Travis County, Texas on May 5, 2025. Mr. Davis has since been served with the Petition for Divorce.

[98] This factor favours Nova Scotia declining jurisdiction as the proceedings she has filed in Texas address the issues between the parties upon the breakdown of the relationship and does not simply address parenting issues.

*d) The desirability of avoiding conflicting decisions in different courts.*

[99] There are already conflicting decisions in different courts because of the *PSA* application filed in Nova Scotia and the Application for a Protective Order filed in Texas.

[100] In Nova Scotia, Mr. Davis is provided with parenting time pursuant to an Interim Without Prejudice Order under the *Parenting and Support Act* granted March 17, 2025, in the absence of Ms. Davis.

[101] In Texas, Mr. Davis is prohibited from contact with either Ms. Davis or the child pursuant to a Protective Order granted April 18, 2025, after reasonable notice of the Hearing was provided to Mr. Davis and he had the opportunity to be heard. Therefore, this factor favours Nova Scotia declining jurisdiction.

*e) The enforcement of an eventual judgement.*

[102] As previously discussed, although Texas is not a signatory to the *Reciprocal Enforcement of Custody Orders*, both Canada and the United States of America are signatories to the *Hague Convention* to address circumstances where a child has been wrongfully removed or retained in another country.

[103] Furthermore, the *Interjurisdictional Support Orders Act*, facilitates the recognition, enforcement, and variation of support orders across different jurisdictions. The United States of America, including Texas, is a reciprocating jurisdiction which eases any concerns related to enforcement of a judgment related to support. This factor favours Nova Scotia declining jurisdiction.

i) *The fair and efficient working of the Canadian legal system as a whole.*

[104] Mr. Davis has not been diligent in pursuing the *PSA* application since filing in March 2025. He has missed court appearances and failed to file necessary documents resulting in adjournments and delays in addressing the substantive issues between the parties and increasing Ms. Davis's legal costs. This factor favours Nova Scotia declining jurisdiction.

[105] I recognize the Court's jurisdiction to stay proceedings should be used sparingly, however, after carefully considering the legislative requirements and circumstances relevant to this proceeding, the common law and the evidence

before this Court, I conclude that Texas is a more appropriate forum than Nova Scotia and the *PSA* application is stayed for the following reasons:

- Ms. Davis has filed a Divorce Petition in Texas encompassing all the issues between the parties upon their separation and divorce and where most of the witnesses are likely to be available.
- Avoiding a multiplicity of proceedings and avoiding continued conflicting decisions would be achieved by staying the parenting proceeding in Nova Scotia in favour of the Petition for Divorce in Texas that has already been served on Mr. Davis.
- Mr. Davis has not been diligent in pursuing the *PSA* application in Nova Scotia while Ms. Davis has been diligent in pursuing the Protection Order and the Petition for Divorce in Texas.

## **Conclusion**

[106] Although I can assume jurisdiction, after considering the interests of the parties and the ends of justice as required by the *CJPTA* and the caselaw, I decline to exercise jurisdiction on the ground that another jurisdiction, the 455<sup>th</sup> District Court in Travis County, Texas, is a more appropriate forum in which to hear the proceeding.

[107] The proceeding in Nova Scotia is therefore stayed.

[108] Counsel for Ms. Davis is asked to draft the necessary order.

Cromwell, J.