

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Warner v. O’Leary, 2014, NSSC 159

Date: 2014-05-02

Docket: SFSNMCA No. 48400

Registry: Sydney

Between:

Faith Lynette Warner

Applicant

v.

Christopher Brent O’Leary

Respondent

Judge: The Honourable Justice Darryl W. Wilson

Heard: February 24, 2014 and March 3, 2014, in Sydney, Nova Scotia

Counsel: Duncan MacEachern, for the Applicant
Alisha Brown-Fagan, for the Respondent

By the Court:

The Applicant mother, Faith Warner, and the Respondent father, Brent O'Leary, are the parents of C. O'Leary, born November 11, 2003 (age 10). The mother filed an application on February 8, 2013, requesting an order varying the joint custody provisions of a consent variation order issued March 23, 2010, to sole custody and amending the father's access. She also filed a motion for emergency relief alleging the father was taking their son's medication. She subsequently filed an affidavit dated July 9, 2013, in support of her variation application requesting the following relief:

1. Sole custody including the right to make all medical and education decisions with respect to the child;
2. Permission to relocate C. to the Annapolis Valley;
3. Communication on parenting matters through a third party;
4. Child support beginning March, 2013; and
5. A variation of the father's access to reasonable access including one day during long weekends when C. is in the Cape Breton Regional Municipality, half the March Break, some Christmas access (except December 24 and 25), two separate weeks during the summer months, reasonable access in the Annapolis Valley with 2 weeks notice and such other reasonable access as the parties may agree upon.

The application was filed pursuant to the *Maintenance and Custody Act*, R.S.N.S. 1989 c 160, as amended.

The father's response to the application was filed on February 7, 2014, approximately two weeks before the matter was scheduled for hearing. He requested the mother's application for sole custody and relocation be dismissed; the existing joint custody order be continued with the added condition that the mother consult him on all major decisions concerning the child's health, education and welfare; that access set out in the variation consent order be continued and the mother's request for child support be dismissed. The father's post hearing submission requested a parallel parenting arrangement.

Issues:

The following issues are to be determined:

- a) Has there been a material change in the circumstances of the child since the last court order?
- b) What parenting arrangement is in the child's best interest?
- c) Is relocation to the Annapolis Valley in the child's best interest?
- d) What child support, if any, is payable?

Background:

The parties were in a common law relationship from approximately February of 2003 to May of 2006. Both parents had substance abuse issues which required treatment during the relationship. The father entered the methadone program and the mother participated in several rehab programs. Their relationship was mostly conflictual. When it ended, both were facing criminal charges in relation to one another which appeared to be resolved by each party agreeing to a "peace bond".

At the time of separation, C. had a close relationship with both parents and their extended families. He was especially close with his paternal grandmother who provided a home and care since his birth. The parties consented to a joint custody order with approximately 50/50 shared care.

The parties continued to experience conflict in their relationship after their separation and issuance of the consent order. Both had unresolved issues surrounding the separation. It appears as though the father wanted to salvage the relationship. The mother had moved on with her life. Communication between them was highly conflictual. The mother characterized the fathers behaviour and phone calls as harassment.

The mother began a relationship with Aubrey Sampson in 2007 and they were married in July, 2009. They have two children ages five and four.

In 2009 Mr. Sampson's job with Magna was terminated when the company closed operations in Cape Breton. He was offered employment with the company in Ontario.

C., who was six years old, was experiencing behavioural problems in his adjustment to school and peer relationships. The mother filed a variation

application seeking permission to relocate C. to Ontario. A psychological assessment of custody and access was ordered. The assessment was requested in order to help facilitate decisions around custody of C. and a possible move to Ontario by the mother and her partner. The assessment also considered C.'s ability to cope with a move to Ontario given his history of behavioural challenges and the bond between C. and his parents.

The assessment concluded that the move to Ontario would likely be very difficult for C. He was attached to both parents and was nurtured by each of them and their extended families. He was exhibiting difficulties with adapting to his schooling and peer relationships and he had limited psychological resources to cope with a move at that time. He was still grieving the separation of his parents and, in the assessor's opinion, would consider the move to Ontario as a tremendous loss including the loss of his father and paternal grandmother.

The assessment also had the following recommendations for the parties:

- a) individual counselling sessions to work through feelings on their separation and to improve communications;
- b) utilize the services of a mediator when there was a breakdown in communication;
- c) a formal mental health assessment to determine if there are other issues contributing to C.'s behavioural difficulties;
- d) counselling to ensure common strategies were used in both homes for C.'s benefit; and
- e) a comprehensive psycho educational assessment for C. in grade two to better understand his strengths and weaknesses and to make appropriate recommendation to the school for his educational needs.

As a result of the assessment the mother did not pursue relocation of C. to Ontario. The variation order of March 23, 2010, ordered joint custody with the mother having day to day care four days a week (Monday a.m. – Friday a.m.) and the father having day to day care three days a week (Friday a.m. – Monday a.m.). Subsequent to the order being issued the parties changed the weekly arrangement with the father having day to day care from Tuesday after school until Friday after school and the mother having day to day care from Friday after school until Tuesday after school. The order included provisions for holidays and special events. The mother had final decision making authority in the event of a dispute

with respect to day to day care issues. The assessor's recommendations were included as part of the variation order.

Mr. Sampson took a severance package and declined the job opportunity with Magna in Ontario. He returned to school to upgrade his education. Between January, 2010, and June, 2012, Mr. Sampson enrolled in an instrumentation technician's diploma program at Marconi Campus. He was unable to find employment in the local area. In June, 2012, he obtained employment with Michelin in Waterville in the Annapolis Valley. He resides in the Annapolis Valley and returns home three days out of each ten day cycle to be with his wife and two children.

At the time the mother filed her variation application in February, 2013, she also filed a motion for interim relief on an ex parte basis alleging the father had an ongoing drug problem and was taking their son's medication which put the child at risk of harm. A local psychiatrist who had been treating the father had informed child welfare authorities the father admitted taking his son's ADHD medication.

The court granted the motion for interim relief and directed a copy of the motion with supporting affidavit and a copy of the ex parte varied order be served on the father forthwith. The father immediately requested the court review the ex parte order. There was a hearing on February 26, 2013. Both parties were self-represented at the hearing. At the hearing the court heard from the psychiatrist, Dr. Akinsola, and child protection worker, Rene Wilson.

The father testified that he met with Dr. Akinsola regarding anxiety and claustrophobia issues. The doctor accused him of exhibiting drug seeking behaviour. He was offended and angry and stated "the only way you will help me is if I am on welfare, stealing from my employer or taking my kid's medication". Dr. Akinsola disputes the father's version of events and confirmed the father told him he was taking his son's medication.

Child protection authorities investigated the referral and spoke with the child, his father and paternal grandmother. The child reported taking his medication daily but forgot to take it on a few occasions. The father denied taking the son's medication but admitted taking Ritalin without a prescription on a prior occasion. The worker noted the child had a good relationship with the father and his grandmother and the grandmother would be responsible for administering any

medication in the future. The father agreed to a referral to addiction services. Child protection did not open a file.

The court rescinded the ex parte order and varied the consent order issued March 23, 2010, on an interim basis by only rescinding clause 2 of the order by reducing the father's access time to a period from 9:00 a.m. Saturday to 6:00 p.m. Sunday and from after school to 6:00 p.m. on Wednesday. The order provided that the grandmother administer any prescription medication to C. and that the mother have sole responsible for any medical decisions. The father was not to take any medication not prescribed by a doctor while C. was in his care. The matter was referred to intake / conciliation to deal with the mother's variation application.

The conciliation record was filed in September, 2013, and a hearing date was scheduled for February 24, 2014. The father contested the ex parte application and denied taking his son's medication. He accepted the variation of his access schedule in light of Dr. Akinsola's allegations. He did not file a response to the mother's variation application until February, 2014. Both parties were self-represented throughout the pre-hearing process but retained counsel to act on their behalf at the variation hearing.

Legislation and Case Law:

Section 37(1) of the *Maintenance and Custody Act*, supra, provides:

The court, on application, may make an order varying, rescinding or suspending, prospectively or retroactively, a maintenance order or an order respecting custody and access where there has been a change in circumstances since the making of the order or the last variation order.

Section 18(5) of the *Act* states:

In any proceeding under this Act concerning care and custody or access and visiting privileges in relation to a child, the court shall give paramount consideration to the best interests of the child.

Section 18(6) provides:

In determining the best interests of the child, the court shall consider all relevant circumstances, including

- (a) the child's physical, emotional, social and educational needs, including the child's need for stability and safety, taking into account the child's age and stage of development;
- (b) each parent's or guardian's willingness to support the development and maintenance of the child's relationship with the other parent or guardian;
- (c) the history of care for the child, having regard to the child's physical, emotional, social and educational needs;
- (d) the plans proposed for the child's care and upbringing, having regard to the child's physical, emotional, social and educational needs;
- (e) the child's cultural, linguistic, religious and spiritual upbringing and heritage;
- (f) the child's views and preferences, if the court considers it necessary and appropriate to ascertain them given the child's age and stage of development and if the views and preferences can reasonably be ascertained;
- (g) the nature, strength and stability of the relationship between the child and each parent or guardian;
- (h) the nature, strength and stability of the relationship between the child and each sibling, grandparent and other significant person in the child's life;
- (i) the ability of each parent, guardian or other person in respect of whom the order would apply to communicate and co-operate on issues affecting the child; and
- (j) the impact of any family violence, abuse or intimidation, regardless of whether the child has been directly exposed, including any impact on
 - (i) the ability of the person causing the family violence, abuse or intimidation to care for and meet the needs of the child, and
 - (ii) the appropriateness of an arrangement that would require co-operation on issues affecting the child, including whether requiring such co-operation would threaten the safety or security of the child or of any other person.

In cases where mobility issues are a consideration, Justice MacLaughlan as she then was in *Gordon v. Goertz* [1996] 2 S.C.R. 27 stated at paragraphs 49 and 50:

49 The law can be summarized as follows:

1. The parent applying for a change in the custody or access order must meet the threshold requirement of demonstrating a material change in the circumstances affecting the child.

2. If the threshold is met, the judge on the application must embark on a fresh inquiry into what is in the best interests of the child, having regard to all the relevant circumstances relating to the child's needs and the ability of the respective parents to satisfy them.
3. This inquiry is based on the findings of the judge who made the previous order and evidence of the new circumstances.
4. The inquiry does not begin with a legal presumption in favour of the custodial parent, although the custodial parent's views are entitled to great respect.
5. Each case turns on its own unique circumstances. The only issue is the best interest of the child in the particular circumstances of the case.
6. The focus is on the best interests of the child, not the interests and rights of the parents.
7. More particularly the judge should consider, inter alia:
 - (a) the existing custody arrangement and relationship between the child and the custodial parent;
 - (b) the existing access arrangement and the relationship between the child and the access parent;
 - (c) the desirability of maximizing contact between the child and both parents;
 - (d) the views of the child;
 - (e) the custodial parent's reason for moving, only in the exceptional case where it is relevant to that parent's ability to meet the needs of the child;
 - (f) disruption to the child of a change in custody;
 - (g) disruption to the child consequent on removal from family, schools, and the community he or she has come to know.

50 In the end, the importance of the child remaining with the parent to whose custody it has become accustomed in the new location must be weighed against the continuance of full contact with the child's access parent, its extended family and its community. The ultimate question in every case is this: what is in the best interests of the child in all the circumstances, old as well as new?

The Variation Hearing:

C's Circumstances -

C. was referred for a psycho educational assessment at age six because of behavioural challenges in the classroom. Both parents described him as precocious. He enjoyed learning at home, particularly about science, and showed a great ability in reading but difficulty with printing. The assessment suggested C.'s intellect was in the superior range and that he would benefit from enrichment to his existing program to maintain his interest and stimulate his learning. He showed some weakness, although still within the average range, with visual motor skills such as printing which could be a source of frustration for him.

The parties agreed as part of the variation order to have C. receive a more complete psycho educational assessment in grade 2 to better understand his strengths and weaknesses so that appropriate recommendations may be made to the school about his learning. This assessment has not been done.

Since the variation order, C. has been diagnosed with ADHD. He is receiving on-going care from Dr. Habiba, a pediatrician. Part of his treatment included a prescription for Ritalin which was to be taken daily. He has attended a medical appointment with his mother in 2011 and another in 2012 at the I.W.K. as part of the treatment program. The mother had ongoing concerns about the effect on C. of taking medication daily. However, his behaviours began to improve over time. He was re-evaluated by Dr. Habiba. As of July, 2013, he is no longer prescribed medication.

In the fall of 2012, while on Ritalin, C. began complaining of physical symptoms such as chest and stomach pain and headaches while at school. His concentration level at school was erratic and his behaviours were concerning at times. The mother claims these behaviours occurred while C. was staying with his father during the school week. She had concerns that C. wasn't receiving his medication. These symptoms could also be side effects of the medication. She spoke to his pediatrician and reported her concerns to child protection authorities. She was always suspicious of the father and believed his behaviour was influenced by the use of non-prescription drugs. In January, 2013, she was informed that the father

admitted to his psychiatrist that he had been taking C.'s medication. It was then she filed her application to vary the custody order to sole custody.

In September, 2013, the mother enrolled C. in a new school as he was about to enter grade 5. A younger child was beginning school in the community where they resided and she wanted both children to be in the same school. C. resisted the change in schools and she returned him to his former school which he had attended since grade primary.

The mother reports ongoing difficulties with the father when they speak. She is nervous of him and feels harassed by his behaviour. She claims he uses the phone calls to talk about their past or her present life with her husband or to make inappropriate comments and not to speak about C.

She has a very good relationship with the paternal grandmother who is open and receptive to speaking to her about matters that effect C. She communicates more with her than the father on parenting issues. She did not inform the father that C. was no longer taking his medication when he was re-evaluated by Dr. Habiba.

The mother's circumstances –

As stated earlier, the mother is married to Aubrey Sampson and they have two children. One child began attending school in the fall of 2013 and the other child is expected to begin school in the fall of 2014. They own their own home in Dominion. She has not had any addiction issues for nine years. She has a Bachelor of Science degree and completed two years of a Bachelor of Nursing program. She is not working because she is only able to obtain minimum wage jobs and finds it very difficult to get reliable child care. The cost of child care usually equals or exceeds the income she is able to earn from employment.

Her husband has a full-time secure position with Michelin in the Annapolis Valley earning \$60,000.00 a year. The separation is causing financial hardship to them and the children due to the extra costs for his accommodations in the Valley and travel between the Valley to Cape Breton to be with the family. As a result, all their finances go towards the basics and they have nothing left for children's activities. Their financial difficulties are so severe that they require help from family and may be forced to sell their home.

According to the mother, she wishes to relocate all of her children to the Annapolis Valley so the family can be in one location, her husband can have a closer relationship with their children, including C., and help raise them. They would be able to afford extra-curricular activities for all of the children.

She agrees it was not appropriate to relocate C. to Ontario when he was six because they were just finding out things about his circumstances and it would have been wrong to take him out of his comfortable environment at that time. Since that time, C. has been diagnosed and is receiving treatment. He has matured and his situation has improved.

Relocation would help C. and the entire family since her husband could assist in child care which ultimately could lead to her completing her nursing education or obtaining employment to assist with the cost of raising the family.

The father's circumstances –

The father resides with his 82 year old mother in her home. He is employed on a seasonal basis with the Bayplex in Glace Bay. His employment is dependent on the Bayplex receiving a grant to assist with costs of his labour. He also receives unemployment insurance benefits. He earns \$420.00 per week when employed. He had income of \$15,951.00 in 2010; \$12,404.00 in 2011; and \$21,033.00 in 2012 from T4 earnings, EI benefits, and on occasion social assistance benefits or worker's compensation benefits.

He reports a torn rotator cuff which may require surgery. He suspects he may have ADHD but has never been diagnosed. He experiences chronic pain and was prescribed Tylenol 3 by his doctor. He was taking three tablets a day for a month which was reduced to twenty per month. As a result he took other pills on the side which weren't prescribed.

He acknowledges getting Ritalin off the street on one occasion. It was not his son's medication. He used it for a meeting with the workmen's compensation counsellor to help him focus. He has an ongoing problem with the use of opiates to control pain but denies he has an addiction. He acknowledged to his clinical therapist ongoing use of opiates to control pain up to and including just before the court hearing. He has seen two psychiatrists for mental health issues and is awaiting an appointment with another psychiatrist since he no longer consults with Dr. Akinsola due to a breakdown in their relationship.

He has worked at the Bayplex off and on since 1996. He works a lot on weekends so the revised order impacts on his time with C. Despite the order for joint custody, the mother does not consult him on major decisions concerning C.'s health, education and welfare. She does not provide him with updates on how he is doing in school and he doesn't receive copies of C.'s report card. There have been no concerns with respect to his access in the last year and therefore believes access set out in the prior order should be reinstated.

The father states that it is not in C.'s best interest to relocate to the Valley. C. would lose regular contact with his paternal grandmother and extended family with whom he has a very close relationship. C.'s paternal aunt works for the school board and would ensure C. had access to advanced education programs in the local area. C. would not have as much contact with his maternal grandparents with whom he has a close relationship. C. would not have ongoing contact with his pediatrician, Dr. Habiba, who has played a major role in managing C.'s ADHD. He has observed a noticeable improvement in C.'s behaviour while under the care of Dr. Habiba.

CONCLUSION:

Has there been a material change of circumstance?

The first issue to be addressed is whether the mother has proven a material change in circumstances of the child since the last order. The order she seeks to have varied was a consent order issued in 2010. The mother was contemplating a move to Ontario. A custody and access assessment was ordered to help facilitate decisions around custody and the child's ability to cope with a move to Ontario. The parties accepted the recommendations of the report in arriving at a consent order that did not involve relocation.

The assessment concluded that "Ms. Warner and Mr. O'Leary generally present as two loving, caring parents without any major issues that would affect their ability to develop secure attachments and support with the child C."

At the time, C. was presenting difficulties with his adaption to school and peer relationships and it was determined he had limited psychological resources to cope with a move at that time.

Counsel on behalf of the father submits that a material in circumstances has not been proven since the parties were aware of C.'s behavioural issues and adopted the recommendations of an assessor to address those issues. There has not been any change in the ability of both parents to meet the child's needs. The mother's claim that the father used his son's medication has not been proven. Also, relocation was contemplated at the time of the last order and the parties agreed to a continuation of the shared joint custody parenting arrangement.

The variation order of 2010 provided for shared joint custody which was defined as the father having day to day care three days a week and the mother having day to day care four days a week and the mother having final decision making authority in the event of a dispute. The order did not specifically restrict either parent's mobility.

I am satisfied the mother has met the initial burden of establishing a material change in the child's circumstances and the ability of the father to meet the child's needs since the issuance of the last order. The father acknowledged that he obtains and uses non-prescription medication to deal with chronic pain. He cannot be trusted to administer his son's medication if and when required. This affects his ability to meet his son's needs.

Both parents report improvements in C.'s behaviour with little complaint from the school. This is a result of him being diagnosed and treated for ADHD. He is older. These are material changes in the child's circumstances. However, the court does not have the benefit of a report or evidence to determine whether he possesses or lacks the psychological resources to cope with a move.

The father's parenting time is on the assumption that C. resides in close proximity to both parents. Therefore, a proposed move to the Valley by the mother is a material change in his circumstances as it would significantly decrease the time that he would spend with his father.

What parenting order is in C.'s best interest?

The mother is seeking sole custody and relocation while the father is seeking a parallel parenting arrangement and restitution of the parenting time set out in the last variation order.

Almost seven years after their separation and four years after the last variation order, the parties are unable to communicate with one another without hostility. The father has not demonstrated an ability to communicate and cooperate with the mother on issues affecting the child. I find the mother's evidence on this issue to be credible. In 2010 the father acknowledged to the assessor that he tried to salvage the relationship. The assessor notes his difficulties dealing with stress as a result of his relationship with the mother. He has been in conflict with his psychiatrist. He acknowledges having difficulties dealing with chronic pain. The mother is able to communicate with the paternal grandmother on matters affecting the child without conflict.

C. has been largely unaffected by the inability of his parents to communicate because the paternal grandmother, with whom the father resides, has a good relationship with C.'s mother and they are open to communicate with one another in an appropriate way that benefits C.

C. has a loving, positive relationship with both parents and their families. There has been a history of nurturing by both families since his birth. He is particularly close to his paternal grandmother.

While there has been conflict and disagreement between the parties and an occasional interruption of access, I am satisfied the mother supports and encourages a relationship with C. and his father and his father's family.

In my view, although the last variation order provides for shared joint custody and the father has regular contact with C., it is the mother who has been his primary care provider. She is more engaged in addressing C.'s medical needs. She consults with the local pediatrician and travels with C. to appointments in Halifax. She is responsible for administering his medication when required. I heard no evidence that the father was involved in any of these activities. In fact, the father cannot be trusted to administer medication, if required.

The father has a loving relationship with his son. However, in my view, he has been able to develop this relationship due in large part to the support he receives from his own mother. She provides a home, care and communication with C.'s mother which, in my view, the father would not be able to do on his own. She is 82 years of age, in good health and it is her wish that C. continue to reside in her

home. She does not appear to be aware of her son's current substance abuse issues.

The child's views and preferences were not canvassed.

The mother's plan for C.'s care and upbringing would be to reside with her husband and C.'s two step-siblings in the Annapolis Valley with ongoing regular contact with the father given the realities of the distances between the residences. The father's plan for the child is to continue the existing arrangement with the mother residing with C. in Glace Bay and each of them exercising custodial rights when the child is in their day to day care. He did not indicate that he was seeking sole custody or primary care of C. should the mother relocate to the Annapolis Valley with her two other children.

I would have concerns for C.'s need for safety if he was placed in the sole care of the father given his acknowledgement of past addiction issues and his current habit of taking non-prescribed medication to deal with chronic pain.

Having reviewed all the relevant circumstances, I find it is in C.'s best interest that his mother be granted sole custody. The father's inability to communicate with the mother on matters affecting the child mitigates against the joint custody order. The father's current substance abuse issues significantly limit his ability to meet C.'s needs without the assistance of his own mother. A parallel parenting arrangement as requested by the father is not in C.'s best interest.

Is relocation to the Annapolis Valley in the child's best interest?

According to *Gordon* (supra), in proceedings involving mobility issues, the court's inquiry does not begin with a legal presumption in favour of the custodial parent, although the custodial parent's view are entitled to great respect. The court in *Gordon* (supra), also stated that each case turns on its own unique circumstances and the only issue is the best interest of the child in the particular circumstances of the case. That case identified additional factors to consider which were set out at paragraph 23 of this decision. Relocation to the Annapolis Valley would be a significant disruption to C. He would be removed from family with whom he has a close relationship, his school where he has settled down after experiencing behavioural issues and his pediatrician who is providing ongoing care for his ADHD.

The mother's reason for moving is a consideration where it is relevant to her ability to meet the child's needs. She is in an extremely difficult situation. She is married with two children from that relationship. Her husband has secure employment and is residing in the Annapolis Valley. The distance between their residences is causing a strain in their relationship and financial stress which will affect C.'s need for stability if they are forced to sell their home. In my view, the mother's wish to relocate is not motivated by any desire to restrict contact between C. and his father and his father's family. She is willing to facilitate as much access as is possible given the distances between Cape Breton and the Annapolis Valley.

There would be a greater disruption to C. if custody was changed to his father solely. He would not have the benefit of his mother's daily care and guidance. He would lose regular contact with his step-siblings. His relationship with his step-father has improved during the last four years. I would be concerned for his well-being and safety, if he resided only with his father in Cape Breton.

Having considered all the factors, I am satisfied it is in C.'s best interest that he reside primarily with his mother. She is in a better position to address or meet his needs for consistency and structure than the father. As such, her views are entitled to great respect.

Relocation means C. will spend less time with his father and paternal grandmother than he has in the past. This is not in accordance with the desirability of maximum contact between the child and both parents. It is not maximum contact at any cost but maximum contact that is in the child's best interest which must be considered.

In my opinion, it is in C's best interest that he reside primarily with his mother in her new location rather than maintaining full contact with his father, extended family and community.

Child support:

The mother recognizes the father's limited financial means and the expense associated with exercising access giving the distance between Cape Breton and the Annapolis Valley. She is not seeking a child support order as long as the father exercises consistent access in the Valley or Cape Breton.

Access:

The mother has submitted an access proposal should C. be permitted to move with her. The father has not made a submission on this issue. It is important that C. maintain as much contact with his father that is in his best interest.

I am prepared to order the following minimum access for the father:

1. fifty percent (50%) of the summer school break;
2. one week during the Christmas school break;
3. march break;
4. long weekends in Cape Breton in May and October;
5. one weekend per month in the Annapolis Valley with 2 weeks notice to the mother except for the months of July and August;
6. regular communication by telephone or computer provided it is not abused;
7. the right to access information relating to C. such as school reports, medical reports and any information regarding his recreational activities. That the father may access this information directly and the mother is to provide appropriate consents to allow the father direct access;
8. the mother be required to share any information concerning C.'s health, educational and recreational activities with the father as soon as possible after the information is received; and
9. such other reasonable access as the parties may agree to including access in Cape Breton when the mother is visiting.

Since the father did not make representations on this issue, he has an additional two weeks to make final written representations on the terms of access. The mother has one week after the father's submissions are received to reply. If further representations are not received the above provisions will be ordered.

Wilson, J.