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Date: 20030422
Docket No.: T.C. 01-T0063
Registry: Whitehorse

*Re: Matter of K.M. and C.M.
AND an Application
for a six-month supervision order, 2003 YKTC 31*

IN THE TERRITORIAL COURT OF YUKON
(Before His Honour Judge Faulkner)

IN THE MATTER OF THE *CHILDREN'S ACT*,
R.S.Y. 1986, C. 22, AS AMENDED, AND IN PARTICULAR S.118;

AND IN THE MATTER OF AN APPLICATION FOR A SIX-MONTH SUPERVISION
ORDER CONCERNING C.M., MADE PURSUANT TO S. 126(1)(A)
AND S. 127 OF THE *ACT*;

AND IN THE MATTER OF K.M. AND C.M

Zeb Brown

Appearing for the Director
of Family and Children's Services

Elaine Cairns

Appearing for the mother

DECISION

[1] FAULKNER T.C.J. (Oral): The Director seeks an interim supervision order pending the hearing of the matter, which is now scheduled for the 26th of May of this year. I begin by observing that it is not my role in this application to make definitive findings of fact. The only issue is whether or not it would be prudent to make an interim order until the date set for the trial of the issues.

[2] In a perfect world, the hearing to definitely determine the issues would be held within days of the initial application by the Director. That simply cannot happen given the necessity for the parents to obtain counsel, for counsel on both sides to prepare,

and to find court time for the hearing of the matter.

[3] It is thus sometimes necessary for an interim order to be made based on the affidavits which have been filed and based, as I say, on a situation where definitive and final findings of fact are not yet made.

[4] Having reviewed the affidavits, I find that, despite Ms. M.'s denials, there were a number of observations made by several different people over a considerable period of time, and that, taken together with the history of the Director's involvement with this family, provides a reasonable basis to believe that Ms. M.'s ability to parent is being compromised by alcohol consumption.

[5] There is thus a reasonable basis for the Director's application and, it follows from that, a reasonable basis to make an interim order to safeguard the interests of the child until the full hearing of the matter in May. It should be noted that the terms sought are not particularly onerous or intrusive, and in general are not terms to which any responsible parent would have any particular objection.

[6] Accordingly, the interim order will be extended until the date for the hearing of the matter upon the same terms as the order granted 6th day of March by His Worship J.P. Cameron.

[7] MR. BROWN: Excuse me, Your Honour, that should be, I believe, the 27th of March by Judge Lilles. It is the second order.

[8] MS. CAIRNS: The interim has not yet been filed. The interim order -- there have been more interim orders.

[9] THE COURT: Does it differ in any respects in terms?

[10] MR. BROWN: Yes, it does.

[11] MS. CAIRNS: Yes.

[12] MR. BROWN: It does, Your Honour. I will hand this up, if you like; this is a draft. I am sorry, Your Honour, I did not realize that it had not yet been filed. I think it is still making the rounds.

[13] MS. CAIRNS: I had just received it and I wanted to look at the clerk's notes prior to signing it, so that has not happened yet.

[14] THE COURT: So it is only those two terms that the Director is seeking?

[15] MR. BROWN: That is correct, Your Honour.

[16] THE COURT: Very well then, the order will go with the terms as specified in the yet unfiled order issued by Chief Judge Lilles on the 27th of March.

FAULKNER T.C.J.