

Citation: Re: Matter of *M.G.D.S.*, 2006 YKTC 114

Date: 20061127
Docket: T.C. 05-T0041
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Honour Judge Barnett

IN THE MATTER OF
THE *CHILDREN'S ACT*, R.S.Y. 2002, c. 31

AND IN THE MATTER OF *M.G.D.S.*,
A CHILD
WITHIN THE MEANING OF THE SAID ACT

Publication of identifying information is prohibited by s. 172 of the *Children's Act*.

Appearances:
Lana Wickstrom

Appearing for the Director of Family
and Children's Services
Appearing for the mother

David Christie

REASONS FOR JUDGMENT

[1] BARNETT T.C.J. (Oral): These are child wardship proceedings. The Director seeks an order that *M.G.D.N.S.* be made a permanent ward -- be in permanent care and custody of the Director. This child, who is now a little more than a year old, is commonly known as M. He was born September 13, 2005, in Pelly Crossing. The circumstances of his birth are most clearly recounted in the warrant of Tracey Rumbolt that was issued, I believe, on the 19th of September 2005, here in

Whitehorse where M. had been taken, following his totally unexpected birth in Pelly Crossing on the 13th of September.

[2] M.'s mother is G.S., and she is 29 years old. She has had an off and on relationship with a man by the name of J.H.. When M. was born, G.S. told persons that J.H. was the baby's birth father. On later occasions, she insisted that J.H. was not M.'s birth father, but she was unwilling to identify the man who she said was M.'s birth father. Today, Mr. Giam tells me that G.S. is, again, saying that J.H. is M.'s father.

[3] I note for the record that in the early stages of these proceedings, J.H. was brought to court from the Correctional Centre. He made two or three appearances. After that, the matter was adjourned at the request of counsel for the Director in order to give Mr. H. an opportunity -- another opportunity, indeed, to instruct counsel, but that was a long time ago. Mr. H. has not participated in these proceeding since then. He seems to have from the various affidavits before me, very little significant connection with M. So the Director has met all obligations, both statutory and moral insofar as M's father is concerned.

[4] G.'s home is in Pelly Crossing. She is a member of the Northern Tutchone Tribal Council of the Selkirk First Nation. The Director, today, seeks an order for the permanent care and custody of M. The Director says that G.'s life has been blighted by alcohol abuse and that she simply cannot care for M. in an acceptable manner.

[5] Along those lines, I particularly note these things. First, G. is the mother of three other children, all of whom were ordered into permanent care on April 21,

2004. Second, G. was assessed as a person afflicted with Fetal Alcohol Syndrome as long ago as 1984. Her ability to manage her own life is very significantly limited. I note that in recent times the Director has wished to have a parenting assessment completed. G. has indicated some considerable reluctance about that, and although she did agree that she would come to Whitehorse so that the parenting assessment could be completed, it has never happened. So the Director really cannot, today, have the best information about the extent of G.'s abilities or limitations, but the Director has tried. It does seem very clear on the affidavit material that G.'s limitations are significant and longstanding.

[6] Next, G. did not receive any pre-natal care while she was carrying M., and after his birth she acknowledged that she had been drinking while she was pregnant, and of course I do not mean just a glass of wine once in a while with dinner. She had been doing some significant drinking. Next, M. apparently is significantly delayed in meeting his developmental milestones. He is too young for a full assessment to be made now. The Director plans to have M. assessed, perhaps particularly for fetal alcohol issues, when he is about four years old.

[7] Next, and this is an important factor, G. has agreed to attend an alcohol abuse treatment centre on numerous occasions, but it has not yet happened. Indeed, Ms. Gleason's affidavit, and Mr. Giam's affidavit sworn today, make it clear that G. left the Yukon about the 18th of November, having had arrangement made for her to attend a well-known and good treatment centre in Kitwanga, British Columbia. She was supposed to be there for five weeks, commencing on the 19th of November 2006. She did reach the treatment centre; however, when she arrived there, she

was drunk and she was refused admission to the program. Today, perhaps some of her family may know or have some idea where G. is. Mr. Giam does not, and neither does Mr. Christie. What is known is that G.S. is not here today, and Mr. Christie finds himself without any recent instructions.

[8] Finally, there is evidence the relationship between G.S. and J.H. is not a safe relationship for G.S., and more to the point, it is a relationship that is simply not safe for children. That of course includes M. Mr. H. is a man with a criminal record wrongdoings against children.

[9] The Director does not say that G. has no real interest in parenting M. Indeed, the Director's social workers have filed affidavits which make it real clear that G.S. has maintained very significant contacts with M. since he was taken into care and placed in a foster home in Pelly Crossing, but these affidavits also recorded many occasions when G.S. failed to follow through with commitments she had made, including commitments to keep her schedule of weekday access with M. I accept the proposition that G.S. really does want to be a good parent for M., but the unhappy reality is that G. simply lacks the ability to be an acceptable parent for a young child and there is no good reason to believe that she might be able to become an acceptable parent any time in the foreseeable future.

[10] As I mentioned earlier, I have read the following affidavits. First, the affidavits of Frank Douglas, a social worker, sworn the 26th of September 2005, and a further affidavit sworn the 3rd of January 2006. Next, the affidavit of Ken Giam, the social worker, and he is currently the social worker involved in M.'s life. He swore an

affidavit the 29th June 2006, and then a further affidavit sworn today. I have also read the affidavit of Roanna Gleason, Mr. Christie's legal assistant, and that affidavit was sworn the 17th of November 2006. The warrant of Tracey Rumbolt, I read that this morning and it is now been placed in the file as an exhibit.

[11] So in these circumstances the order that was made, and it was made with the consent of G.S. back on the 13th of October 2005, that M. be in the temporary care and custody of the Director, the Director seeks to have that order converted to a so-called permanent order. The order has been extended from time to time and it continues still. It is now converted, and M. will hereafter be in the permanent care and custody of the Director.

[12] Ms. Wickstrom, are there any further things that I may have overlooked?

[13] MS. WICKSTROM: One procedural matter, Your Honour, the Court Clerk need to have a recording of child in need of protection finding in order for us to properly draft the order.

[14] THE COURT: I thought that was quite clear from what I have said, but yes, for the record, I make this order because I find that M. continues to be in need of protection.

[15] MS. WICKSTROM: Thank you, Your Honour.

[16] THE COURT: Mr. Christie, is there any comment that you would have?

[17] MR. CHRISTIE:

Nothing else, Your Honour, thank you.

BARNETT T.C.J.