

No. N31556
081367815W1

THE PROVINCIAL COURT OF ALBERTA

IN THE MATTER OF

R. [REDACTED] O. [REDACTED] - A. [REDACTED]

A CHILD WITHIN THE MEANING OF THE
CHILD, YOUTH AND FAMILY ENHANCEMENT ACT

P R O C E E D I N G S

Calgary, Alberta
1st December, 2008
11th December, 2008

Transcript Management Services
Suite 1901-N, Calgary Courts Centre
601 - 5th Street SW
Calgary, Alberta T2P 5P7

1 Proceedings taken in the Provincial Court of Alberta,
2 Courthouse, Calgary, Alberta

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4 *December 01, 2008 a.m. Session

5

6 The Honourable The Provincial Court
7 Judge Cook-Stanhope of Alberta

8

9 D. Charlebois, Ms. For the Director of
10 Children's Services

11 C. Lequere, Ms. For the Mother

12 D. Doucette, Esq. For the Father

13 K. Zaradic, Ms. Caseworker

14 M. Caliwag Court Clerk

15 -----

16 THE COURT CLERK: Calling R [REDACTED] O [REDACTED]-A [REDACTED]

17 [REDACTED] and [REDACTED].

18 MS. CHARLEBOIS: D. Charlebois for the
19 Director, Your Honour. Kristina Zaradic is here as
20 the worker. Present is --

21 THE COURT: Just a moment here.

22 MS. CHARLEBOIS: Zaradic. And counsel for both
23 parents present. Ms. Lequere is here for the
24 mother. Mr. Doucette is here for the father. And
25 there is an interpreter.

26 If you could just give your name for the
27 record, please?

1 THE INTERPRETER: John Bruno, B-R-U-N-O.
2 THE COURT: Jean, did you say?
3 THE INTERPRETER: John.
4 MS. CHARLEBOIS: Now, Your Honour, we're saying
5 that both counsels speak French in addition to that
6 so, in terms --
7 THE COURT: Right.
8 MS. CHARLEBOIS: -- of interpretation, might
9 not --
10 THE COURT: Right. That is correct. And
11 the child?
12 MS. CHARLEBOIS: I understand that disclosure
13 was received by Mr. Doucette for the father,
14 however, Ms. Lequere has just come in on the file,
15 has not received disclosure yet so she is requesting
16 a short adjournment to review disclosure.
17 MS. LEQUERE: And my understanding is it
18 shouldn't take long because disclosure has already
19 been prepared and sent. I would ask possibly a
20 week's adjournment to be able to meet with my client
21 and review the disclosure with her.
22 THE COURT: This is an application for a
23 supervision order.
24 MS. CHARLEBOIS: Yes, Your Honour. This was
25 one where we started with a supervision order, there
26 was then an apprehension as the mother had returned
27 to the family home. They have now -- the father has

1 left the family home --

2 THE COURT: She gave a -- did she make an
3 EPO application? Yes. She made an --

4 MS. CHARLEBOIS: I believe she has.

5 THE COURT: -- EPO application.

6 MS. CHARLEBOIS: Yes. An EPO.

7 THE COURT: And on the strength of her
8 doing that and the ex parte interim parenting order,
9 the Director returned.

10 MS. CHARLEBOIS: That's correct.

11 THE COURT: Now, on that order there is an
12 order that the father would have no parenting time.
13 Has the EPO been confirmed?

14 MS. ZARADIC: It -- sorry, Your Honour. It
15 wasn't an EPO it was a parenting order and --

16 THE COURT: I cannot recall, frankly, if
17 it was --

18 MS. ZARADIC: Okay. Yes.

19 THE COURT: -- one or six, one-half a
20 dozen --

21 MS. ZARADIC: Parenting order with no --

22 THE COURT: She needed --

23 MS. ZARADIC: -- parenting time.

24 THE COURT: She needed back into the home
25 and that was a concern.

26 MS. CHARLEBOIS: That was the --

27 MS. LEQUERE: I believe --

1 THE COURT: There was no EPO.

2 MS. CHARLEBOIS: Okay.

3 MS. LEQUERE: Yes. I believe it was an ex
4 parte parenting order.

5 THE COURT: Yes. Yes. So -- okay. So
6 that order is just being continued.
7 One week then, counsel?

8 MS. LEQUERE: Yes.

9 MR. DOUCETTE: Please, Your Honour. Yes.

10 MS. LEQUERE: And is Your Honour sitting any
11 time in the middle of the next week?

12 THE COURT: I just -- I will just look
13 there. Let me just ... I could do the 11th in the
14 afternoon.

15 MR. DOUCETTE: That's fine, Your Honour.
16 Thank you.

17 THE COURT: Okay. 1208, at 2:00 p.m., to
18 be spoken to.

19 MS. CHARLEBOIS: We will continue with 26(2)
20 access the Director?

21 THE COURT: Yes. And there is an order
22 for a French-English interpreter.

23 MS. CHARLEBOIS: Yes. I'm not sure if that is
24 necessary if both counsel are speaking French or if
25 that's the rule of court.

26 THE COURT: It is really --

27 MS. CHARLEBOIS: I'm not sure.

1 THE COURT: It is really up to counsel.

2 What you want to do?

3 MS. LEQUERE: I'm certainly comfortable
4 translating for my client.

5 THE COURT: So we do not need an
6 interpreter unless there is --

7 MS. CHARLEBOIS: How about Mr. Doucette? Same
8 thing?

9 MR. DOUCETTE: I don't need one either,
10 Your Honour.

11 THE COURT: You are okay with that then?
12 Okay. Good.

13 Thank you, Mr. Bruno.

14 THE INTERPRETER: Thank you.

15 THE COURT: If we require you further, we
16 will contact you through witness centre. Thank you
17 so much.

18 THE INTERPRETER: Okay. Thank you.

19 MS. LEQUERE: Thank you, Your Honour.

20 MS. CHARLEBOIS: Thank you, Your Honour.

21 -----

22 PROCEEDINGS ADJOURNED UNTIL 2:00 P.M., DECEMBER 11, 2008

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1 Certificate of Record

2 I, Maria Caliwag, certify that this recording is a
3 record of the oral evidence of proceedings in the
4 Family Youth Court, Calgary, in courtroom 1205, a.m.
5 session on the 1st day of December 2008, and that I
6 was in charge of the sound-recording machine.

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1 *December 11, 2008 a.m. Session

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3 The Honourable

The Provincial Court

4 Judge Cook-Stanhope

of Alberta

5

6 D. Fortune, Esq.

For the Director of

7

Children's Services

8 C. Lequere, Ms.

For the Mother

9 D. Doucette, Esq.

For the Father

10 K. Zaradic, Ms.

Caseworker

11 M. Caliwag

Court Clerk

12

13 THE COURT CLERK:

Calling the matter of ██████

14 O█████-A█████.

15 MR. FORTUNE:

Good afternoon, Your Honour.

16 Don Fortune --

17 THE COURT:

Mr. Fortune.

18 MR. FORTUNE:

-- for the Director. Also

19 present is Ms. Kristina Zaradic for the Director.

20 Ms. Christina Lequere is on for the mother

21 Ms. ██████. And Mr. Doucette is on for the father

22 Mr. O█████-A█████. The application before the Court

23 today is for a supervision order for a duration of

24 six months.

25 MS. LEQUERE:

Mr. Doucette was in the

26 courtroom.

27 MR. FORTUNE:

Well, he was in the courtroom.

1 I apologize. And the application was for a
2 supervision order for a duration of six months with
3 the terms as outlined in the affidavit.

4 THE COURT: Just a second. The father
5 speaks only French.

6 MS. LEQUERE: And the mother only --

7 THE COURT: The mother speaks only -- or
8 speaks less --

9 MS. LEQUERE: And --

10 THE COURT: -- more English, but they
11 still need an interpreter.

12 MS. LEQUERE: Yes.

13 THE COURT: Mr. Bruno was here last time.
14 Is here today?

15 MR. FORTUNE: No. I think it -- the
16 notation that I have that Ms. --

17 THE COURT: Oh, it was -- I know what it
18 was. It was the lawyers were comfortable because
19 they both speak French.

20 MS. LEQUERE: Yes.

21 THE COURT: So we were okay --

22 MR. FORTUNE: Yes.

23 THE COURT: -- without Mr. Bruno.

24 MR. FORTUNE: Yes. And I think --

25 THE COURT: And they are both here?

26 MR. FORTUNE: -- Your Honour speaks French
27 too.

1 THE COURT: I speak --

2 MR. FORTUNE: Yes.

3 THE COURT: -- not as much French as this
4 lawyer --

5 MR. FORTUNE: I don't even speak un petit
6 peu.

7 THE COURT: Well, there you go. There you
8 go.

9 MS. LEQUERE: My client, Ms. [REDACTED], is not
10 present. I was expecting her to be, however, I --
11 she did provide me clear instructions when I did
12 meet with her on Monday.

13 Mr. Doucette's client -- I think that's who
14 he's looking for right now.

15 THE COURT: Mother is going to have the
16 children -- or the child, right?

17 MS. LEQUERE: Yes. The mother has -- yes.

18 THE COURT: Just has the one?

19 MS. LEQUERE: One baby.

20 THE COURT: Is this the one -- is this the
21 one where we apprehended because she moved back into
22 the home?

23 MS. LEQUERE: Because the --

24 THE COURT: That is this one?

25 MS. LEQUERE: -- father had moved back in
26 and now the father is out.

27 THE COURT: He moved back again?

1 MS. LEQUERE: No, no. Originally.

2 That's --

3 THE COURT: Well, he never left. She
4 left, went into the shelter, the shelter found her
5 somewhere to live. Instead of going there she
6 wanted to go to a friend's house, then the friend
7 said you cannot come here during the day so she was
8 wandering the streets with this tiny baby. She went
9 back to the home where the father was, who wouldn't
10 leave. Then we got a parenting order, then he left.
11 So that is how that worked. I recall this very,
12 very well.

13 Well, we will have to stand it down until --

14 MR. FORTUNE: Yes.

15 THE COURT: -- the dad -- the dad is the
16 one of most concern to me in the sense that she has
17 got her order, she is protected and she gave
18 evidence in front of me. My concern was to be
19 satisfied that the father was going to complain.

20 We've got Mr. Stang here, maybe he can tell us.

21 Any word on --

22 MR. STANG: Your Honour, Mr. Doucette is
23 actually outside speaking with Mr. O█████-A█████.

24 THE COURT: Okay. We will stand it down.

25 MS. LEQUERE: Thank you.

26 (OTHER MATTERS SPOKEN TO)

27 THE COURT CLERK: Recalling the O█████-A█████

1 matter.

2 MR. FORTUNE: Good afternoon again,
3 Your Honour.

4 THE COURT: Yes.

5 MR. FORTUNE: Don Fortune for the Director.
6 Ms. Kristina Zaradic is also for the Director.

7 THE COURT: Yes.

8 MR. FORTUNE: Mr. Doucette is on for the
9 father [REDACTED] --

10 THE COURT: Yes.

11 MR. FORTUNE: -- and Ms. Lequere is on for
12 the mother --

13 THE COURT: Right.

14 MR. FORTUNE: --

15 THE COURT: Yes.

16 MR. FORTUNE: Mr. Doucette --

17 THE COURT: Mother is present now.

18 MS. LEQUERE: Yes.

19 MR. FORTUNE: Yes. There was --
20 Mr. Doucette had a chance to speak to the father
21 outside. I informed Mr. Doucette, while he was
22 outside, to indicate that I'd be asking to have an
23 additional term that the father attend for a
24 parenting assessment and also I informed --

25 THE COURT: Is that a parenting
26 psychological assessment?

27 MR. FORTUNE: Parenting psychological

1 assessment, yes.

2 THE COURT: Yes.

3 MR. FORTUNE: And also that we'd be asking
4 that there would be -- if this matter is not
5 consented to at this point in time, we'd ask that
6 there be no access to the father until the order was
7 granted. No access to the children.

8 THE COURT: Okay.

9 MR. FORTUNE: And our intent would be access
10 to the children if an order was granted would be
11 dependant on the father's follow-through with the
12 terms and the --

13 THE COURT: All right.

14 MR. FORTUNE: -- progress with the terms.

15 THE COURT: Okay.

16 Mr. Doucette?

17 MR. DOUCETTE: Thank you, Your Honour. The
18 -- I've had a chance to discuss this with my client
19 and Mr. [REDACTED] wishes to have hearing on the
20 matter.

21 THE COURT: Okay.

22 MR. DOUCETTE: And --

23 THE COURT: Any specific issues?

24 MR. DOUCETTE: The --

25 THE COURT: Or is this a shotgun hearing?

26 MR. DOUCETTE: Well, it appears to be a
27 shotgun-type approach, but --

1 THE COURT: All right. Set a date.

2 MR. DOUCETTE: The other request that I would
3 have Mr. ██████████ is seeking to have a French
4 trial and have the matter heard before a judge who
5 is in a position to preside over our trial and he
6 also --

7 THE COURT: (FOREIGN LANGUAGE SPOKEN).

8 MR. DOUCETTE: Okay.

9 THE COURT: Okay.

10 MR. FORTUNE: Your Honour, I have no idea
11 what you said.

12 THE COURT: I said Judge Tousignant speaks
13 French. I do not know if he would take a French
14 trial.

15 MR. FORTUNE: Well, the problem that we have
16 is that the person -- the caseworker is English, the
17 plan will be done in English, the caseworker --

18 THE COURT: I am sorry. I am sorry there
19 is some --

20 MR. FORTUNE: Is there statute --

21 THE COURT: -- justification for this --
22 for this position.

23 MR. FORTUNE: I understand that.

24 THE COURT: You can tell your -- you can
25 tell your lawyer to address that issue.

26 MR. FORTUNE: And that would be certainly
27 fine.

1 THE COURT: And that is probably what you
2 should do.

3 MR. FORTUNE: And -- but just to let you
4 know that the case will be managed in English.

5 THE COURT: I understand it will be in
6 English, but what I am saying is the caseworker's
7 evidence in English could be translated to French.

8 MR. FORTUNE: Certainly.

9 THE COURT: I am not saying that she has
10 to speak French. Trust me, it has taken me 15 years
11 and I still cannot. So anyway.

12 MR. FORTUNE: Yes.

13 THE COURT: So we have to adjourn this
14 matter for the purpose of getting a judge to
15 undertake this process. How much time will the
16 trial take? You said before if it is going to be in
17 French and translated it is going -- you -- we
18 thought a day, it is probably going to take a day-
19 and-a-half now or more.

20 MR. FORTUNE: We'd still be looking at about
21 three to four witnesses from the Director.

22 THE COURT: And father was one that we are
23 going to now be translating everything so that --

24 MR. FORTUNE: And that --

25 THE COURT: -- adds to the time.

26 MR. FORTUNE: -- would've -- go a little bit
27 longer.

1 THE COURT: So it is going to take at
2 least a day-and-a-half. Would anybody disagree with
3 that?

4 MR. FORTUNE: No. At least a day-and-a-
5 half, Your Honour.

6 THE COURT: Would you agree with that,
7 Mr. Doucette?

8 MR. DOUCETTE: I would.

9 THE COURT: Okay. So get a date. Call up
10 for a date. Actually, no, do not. We'll put this
11 over to be spoken to because we have to make
12 arrangements for a --

13 MR. DOUCETTE: For a judge.

14 THE COURT: -- (FOREIGN LANGUAGE SPOKEN).
15 We have to have a clerk because we cannot let an
16 English -- expect an English clerk to manage the
17 trial process from --

18 MR. DOUCETTE: No. I agree, Your Honour.
19 Logistically, a delay would be okay.

20 THE COURT: Right.

21 MS. LEQUERE: And you do have a French
22 clerk, Vanessa, so. Yes.

23 THE COURT: Ah, yes. Merci. Vanessa.
24 Okay. We have to make sure she is not on Christmas
25 holidays. Because that all has to be done behind
26 the scenes.

27 MR. FORTUNE: I understand.

1 THE COURT: So, if we could put it over
2 until next week sometime, by that time we should be
3 able to go down to -- well, speak to your -- speak
4 to your counsel because they are -- your counsel has
5 taken a position in the past before, like at least
6 10 years ago, about processes in French, whatever,
7 which is contrary to my view of justice, but there
8 has been some litigation since then. A criminal
9 case that comes to mind, but then --

10 MR. FORTUNE: Certainly. I'll let them
11 know.

12 THE COURT: -- there is also a decision
13 out of Judge Wenden in Edmonton with respect to
14 rights to trials in first --

15 MR. FORTUNE: Certainly. And I'll ensure
16 counsel is here for the next time and then they can
17 put --

18 THE COURT: And in case there is --

19 MR. FORTUNE: -- and argument forth --

20 THE COURT: -- any issue with that.

21 MR. FORTUNE: -- if they want to --

22 THE COURT: Yes.

23 MR. FORTUNE: -- at that time.

24 THE COURT: Meanwhile, they can speak to
25 -- counsel can speak to Viola and tell her we have
26 to -- if we are going to go that route, we have to
27 have a French clerk.

1 MR. FORTUNE: Certainly. And so one
2 major --

3 THE COURT: And she probably knows that
4 Vanessa is a French speaker.

5 MR. FORTUNE: I'm not sure.

6 THE COURT: She probably knows that.
7 Probably does. Yes.

8 MR. FORTUNE: So if we could -- if you said
9 adjourn for a week --

10 THE COURT: So that makes it the --

11 MR. FORTUNE: -- could we take this to the
12 next --

13 THE COURT: -- 18th?

14 MR. FORTUNE: -- Friday?

15 THE COURT: Next Friday is the 19th.

16 MR. FORTUNE: Oh. It'll need to be in front
17 of you, Your Honour. Is it -- yes -- what --

18 THE COURT: Well --

19 MR. DOUCETTE: The 18th won't --

20 MR. FORTUNE: Wherever you are is fine. I
21 just wanted to make it -- put it in Child Welfare's
22 day.

23 THE COURT: Okay.

24 MR. FORTUNE: So it didn't load you up on
25 another --

26 THE COURT: Okay. I am in 1208 next
27 Thursday, actually --

- 1 MR. FORTUNE: Okay.
- 2 THE COURT: -- which is a day that I do
3 not really want to be in Child Welfare because it is
4 going to be so busy. Today is --
- 5 MR. FORTUNE: So 1208. Morning or
6 afternoon?
- 7 THE COURT: 1208 in the -- well, let's
8 see. Morning. 9:30, in 1208, on the 18th of
9 December.
- 10 MR. FORTUNE: And, Your Honour, since we're
11 just taking care of logistics and whether or not
12 we'd have an argument in English or not, could I
13 request that our counsel represent our worker so she
14 doesn't have to come in? The mother has consent
15 already --
- 16 THE COURT: Yes.
- 17 MR. FORTUNE: -- in place.
- 18 THE COURT: Yes.
- 19 MS. LEQUERE: And I'd also ask that --
- 20 THE COURT: We are just speaking to the --
21 to the mechanics of the thing.
- 22 MS. LEQUERE: Yes.
- 23 MR. FORTUNE: Yes.
- 24 MR. DOUCETTE: Yes. Mr. [REDACTED] would not
25 -- would be seeking not to be present on that day as
26 well.
- 27 THE COURT: No, it is fine.

- 1 MR. DOUCETTE: Thank you.
- 2 THE COURT: We are talking about the
3 mechanics of setting the date.
- 4 MR. FORTUNE: Thank you.
- 5 THE COURT: If he does not want to be
6 here, as long as his counsel is here, that is just
7 fine.
- 8 MR. FORTUNE: Thank you, Your Honour.
- 9 THE COURT: Okay. I will just, for my
10 point of view (FOREIGN LANGUAGE SPOKEN).
- 11 MR. FORTUNE: And on -- Your Honour, on the
12 26(2) adjournment, could we have the term that the
13 father is not to have access?
- 14 THE COURT: What do we have on it now?
15 There was a 26(2) in place.
- 16 MR. FORTUNE: Yes.
- 17 THE COURT: That was an access and now it
18 has been announced to mother's home. Let's see what
19 else.
- 20 MR. DOUCETTE: I believe there's an ex parte
21 or a parenting --
- 22 THE COURT: No, there was -- yes. The
23 parenting order, we are not talking about that. The
24 interim -- mother had custody, Director had 24/7 and
25 there was no mention of any access to father --
- 26 MR. FORTUNE: Yes. And this time --
- 27 THE COURT: -- and that will continue.

1 MR. FORTUNE: -- we'd like -- since there is
2 a parenting order in place and I think there's
3 another kind of order that's in place.

4 THE COURT: Just let me look here. There
5 is an -- no, there wasn't an EPO.

6 MR. FORTUNE: A peace bond?

7 THE COURT: I do not know about a peace
8 bond.

9 MR. DOUCETTE: There's currently a peace
10 bond --

11 THE COURT: That is new to my information.

12 MR. FORTUNE: Yes. We --

13 MR. DOUCETTE: A criminal peace bond arising
14 from the criminal charges Mr. ██████████ entered
15 into a peace bond. The criminal charges against him
16 were stayed. One of the conditions of the peace
17 bond was that he not have any contact with the child
18 except with the permission of Child Welfare.

19 THE COURT: Yes.

20 MR. DOUCETTE: That was the actual wording.

21 THE COURT: Well, they are not going to
22 give any permission --

23 MR. DOUCETTE: Yes. So --

24 THE COURT: -- at this point.

25 MR. DOUCETTE: -- Mr. ██████████ is aware of
26 that.

27 THE COURT: Actually, I have also given an

1 order there be no parenting time to the father as of
2 the 24th of October.

3 MR. DOUCETTE: Yes.

4 THE COURT: I dismissed the EPO because
5 the domestic --

6 MR. DOUCETTE: Yes.

7 THE COURT: -- violence was distant from
8 the date of the application, but I did not do the
9 same thing with the parenting order, gave the mother
10 the absolute authority. So that order is no
11 addition to what is already in place, but I am
12 making it.

13 MR. FORTUNE: Thank you.

14 THE COURT: Thank you.

15 MR. DOUCETTE: Now, before we -- the case
16 that, Your Honour, you made reference out of
17 Edmonton that was released fairly recently is
18 only --

19 THE COURT: Judge Wenden.

20 MR. DOUCETTE: -- available in French. There
21 are -- they are translating that decision. That was
22 the quarante --

23 THE COURT: It was a criminal decision;
24 right?

25 MR. DOUCETTE: Yes.

26 THE COURT: Was it also *R.v. Beaulac* in
27 the --

1 MR. DOUCETTE: *Beaulac*, yes.

2 THE COURT: -- Supreme Court of Canada --

3 MR. DOUCETTE: Now --

4 THE COURT: -- which is much older.

5 MR. DOUCETTE: -- if there's going to be an
6 argument as to whether or not the court or matter
7 should be dealt with in -- exclusively in English,
8 that case is one of the cases that I will be relying
9 on on Thursday.

10 THE COURT: What I am thinking is that you
11 need to discuss it with your lawyer immediately so
12 that he or she can have that conversation with --

13 MR. FORTUNE: Certainly. Certainly.

14 THE COURT: -- counsel for the parents.

15 MR. FORTUNE: Certainly.

16 MS. LEQUERE: And I would like to state the
17 perspective of my client, she will be remaining
18 silent on the issue.

19 THE COURT: Yes. Fair enough.

20 MS. LEQUERE: She's taking no position
21 because of her consent.

22 THE COURT: Yes. Okay. Thank you.

23 MR. FORTUNE: Thank you, Your Honour.

24 Thank you, madam clerk.

25 THE COURT: Thank you.

26

27

1
2 PROCEEDINGS CONCLUDED
3
4

5 Certificate of Record

6 I, Lisa Paul, certify that this recording is a
7 record of the oral evidence of proceedings in the
8 Provincial Court, held in courtroom 1208, at
9 Calgary, Alberta, on the 12th day of December, 2008,
10 and that I was -- or 11th day of December, 2008, and
11 that I was in charge of the sound-recording machine.
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1 *Certificate of Transcript

2 I, the undersigned, certify that the foregoing pages
3 are a true and faithful transcript of the contents
4 of the record, including the certificate of record
5 given orally by the court official, recorded by
6 means of a sound-recording machine.

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Lori Rosdal

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