

Citation: *A.T. (Re)*, 2026 YKTC 12

Date: 20260305
Docket: 26-T0001
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before His Honour Judge Christie

IN THE MATTER OF THE *CHILD AND FAMILY SERVICES ACT*,
SY 2008, c. 1, and *A.T.*, *E.T.*, and *J.T.*

Publication of the name of a child, the child's parent or identifying information about the child is prohibited by section 173(2) of the *Children's Law Act* or section 162(2) of the *Child and Family Services Act*.

Appearances:
Simon Barry

Counsel for the Director of Family
and Children Services

Lauren Wildgoose
Enoch Anekwe
K.C.

Counsel for B.T.
Counsel for C.S.

Appearing on his own behalf

This decision was delivered from the Bench in the form of Oral Reasons. The Reasons have since been edited without changing the substance.

REASONS FOR JUDGMENT

[1] CHRISTIE T.C.J. (Oral): The Director of Family & Children Services filed an application for a four-month supervision order on January 27, 2026.

[2] A Presentation Hearing was held on March 2, 2026, and today I am giving my oral decision and reasons.

[3] B.T., the mother, was present and represented by counsel.

[4] C.S., the mother's boyfriend, was not present, but he was represented by counsel.

[5] There are three children that are the subject of this application: J.T., age 17; E.T., age 13; and A.T., age 5.

[6] I will remind everyone that under s. 162 of the *Child and Family Services Act*, SY 2008, c. 1 (the “Act”), these proceedings are private and under s. 162(2) a report of a proceeding under this *Act* in which the name of the child or the child’s parents or in which the identity of the child is otherwise indicated must not be published, broadcast, or in any other way made public by any person without the leave of the Court or judge.

[7] I heard submissions and the evidence I considered was as follows:

- Affidavit of Felicia MacDonald, Social Worker, filed January 28, 2026;
- Affidavit of the mother, B.T., filed February 10, 2026; and
- Affidavit of Caitland Reid, Social Worker, filed February 26, 2026.

[8] The children, mother, and boyfriend are all members of the [redacted] First Nation. The children’s father, K.C., is a member of the [redacted] First Nation. He did not participate in this hearing, although he was served.

[9] B.T. provided a thoughtful, well written Affidavit wherein she presented herself and her circumstances with candour, humility, and thoughtfulness.

[10] She admitted to struggles that she and her partner, C.S., have had with alcohol. She not only acknowledges the problems they have experienced but also sets out positive steps that she and C.S. have taken to address them and provides a positive plan going forward.

[11] The Director's concerns are primarily based on alcohol use and allegations of family violence, particularly three incidents that came to the attention of the police and Family and Children's Services ("FCS").

[12] The first incident occurred on May 6, 2025, when a referral reported that B.T. was assaulted by C.S. on April 19, 2025, and that she had significant bruising and injuries to her body.

[13] The children were not present for the assault, and the mother had made a safety plan for the children while she was drinking. However, FCS determined that there was a future risk of harm to the children as a result of the assault and B.T.'s refusal to cooperate with police and proceed with charges.

[14] A safety plan was agreed to.

[15] A second incident took place in Vancouver on August 12, 2025, where a bystander called the Vancouver police to report that B.T. and C.S. were intoxicated and arguing. The children were not present, being in a hotel room, with the oldest child caring for the younger two. C.S. was arrested for unrelated matters and being in breach of the conditions of a Yukon Release Order.

[16] The safety plan was updated again with input from [redacted] First Nation and FCS.

[17] The third referral to FCS occurred on December 10, 2025, and that was based on allegations of alcohol abuse and intimate family violence. Specifically, there were allegations that C.S. was intoxicated and had assaulted B.T. and her sister in the family

home, while A.T., the youngest child, was present. C.S. was remanded in custody at Whitehorse Correctional Centre (“WCC”) for the alleged assaults and breaches until the assault charges were dropped and he was released from custody on January 22, 2026.

[18] Currently, the older children are residing with extended family in [redacted] and will attend school there for the remainder of the school year. They will visit with A.T., B.T., and C.S. in [redacted] and elsewhere in the Yukon.

[19] B.T. and C.S. plan to reside together in [redacted] with A.T. and eventually have the two older children return full time.

[20] B.T. presents with a detailed safety plan intended to address the child protection concerns. This plan is impressive because it includes extensive community and family supports. There is accountability built in.

[21] I am impressed by the humble insight shown by B.T. and, by extension, her partner, C.S. I am also impressed by all the positive work done, as shown by the filed certificates, confirmation of counselling, workshops, letters of support, and treatment plan.

[22] B.T. has been cooperative and open with FCS and [redacted] First Nation.

[23] The newest Affidavit of Social Worker, Caitland Reid, confirms the extensive community supports. While expressing concern about risk of harm to the children, I find that the social worker is being fair, especially by pointing out all the positive work and safety planning being done.

[24] Of note, there was a new referral on February 16, 2026, about B.T. consuming alcohol and a concern about A.T. being in her care while she was intoxicated. To her credit, B.T. was forthright, candid, and cooperative about this with the social worker.

[25] The safety plan was updated again, in a constructive manner, with community and family supports.

Law

Child and Family Services Act

[26] The first issue I want to address is timing.

[27] Pursuant to s. 46 of the *Act*, if a child is taken into care, a Presentation Hearing should occur within seven or 15 days after an apprehension, depending on if there was a warrant.

[28] Section 46(3) of the *Act* states:

In an application under section 35 for a supervision order, the director must attend before a judge for a presentation hearing no later than 15 days after applying for the order under that section.

[29] Section 53 of the *Act* states:

(1) At the conclusion of a presentation hearing, a judge must set the earliest possible date for a protective intervention hearing to determine if the child is in need of protective intervention, unless at the conclusion of the presentation hearing the judge dismissed the application under subsection 52(1).

(2) The date set for the commencement of the protective intervention hearing must not be more than 45 days from the day on which the presentation hearing concludes.

(3) The protective intervention hearing, once commenced, must be concluded as soon as possible.

[30] Sections 54, 61, and 79 of the *Act*, allow for adjournments and extensions of the time limits, if that is in the child's best interests. The child's sense of time must also be considered.

[31] This matter proceeded to the Presentation Hearing about one month after the application was filed on January 27, 2026, and the mother had been served on January 28, 2026.

[32] [Redacted] First Nation was served on January 28, 2026, and that they have been involved.

[33] I note that this amount of delay between the date of application and hearing is not unusual, given that delays occur with service, parties needing to retain lawyers privately or via legal aid, and scheduling issues. Often there are settlement discussions, family case planning, gathering of community supports, and other good things happening with the file that justify an adjournment.

[34] An interim supervision order has been in place, pursuant to s. 79(3)(a) of the *Act*.

[35] Pursuant to s. 50 of the *Act*:

A presentation hearing is a summary hearing and once commenced, must be concluded as soon as possible.

[36] Further, as set out in s. 52 of the *Act*, it states:

(1) At the end of a presentation hearing if the judge is not satisfied there is a *prima facie* case that the child is in need of protective intervention the judge must order that the application is dismissed and, if the child has been brought into a director's care, that the child be returned to a parent with custody.

(2) At the end of a presentation hearing if the judge is satisfied there is a *prima facie* case that the child is in need of protective intervention the judge must make one of the following orders:

- (a) that the child be returned to or remain with a parent with custody under the supervision of the director on an interim basis until the conclusion of the protective intervention hearing or such other time as the judge may order;
- (b) that the child be placed in the care of an individual other than a parent, with the consent of that individual and under the director's supervision, on an interim basis until the conclusion of the protective intervention hearing or such other time as the judge may order; or
- (c) the child remain in or be placed in the care of the director on an interim basis until the conclusion of the protective intervention hearing or such other time as the judge may order.

(3) The judge may attach terms or conditions to the order that the judge considers appropriate.

[37] I will take a moment to note here that "*prima facie*" means generally that the evidence is "[s]ufficient to establish a fact or raise a presumption unless disproved or rebutted." Black's Law Dictionary 1228 (8th ed. 2004).

[38] In *T.W. (Re)*, 2020 YKTC 24, Cozens J. explained the nature of a presentation hearing as summarized under the British Columbia child protection legislation in the case of *J.P. v. British Columbia (Director, Child, Family and Community Services)*, 2015 BCSC 1216, as follows:

29 The Court stated at para. 384 that on a presentation hearing:

384 ...The Director need only demonstrate a *prima facie* case that the child is at risk of harm. The test is lower than a balance of probabilities.

30 And then at para. 388, the Court stated that:

388 Presentation hearings are summary in nature and are designed to ensure that children are not arbitrarily taken into custody. Credibility assessments are not made at presentation hearings conducted under the *CFCSA*; they are left for the protection hearing. The practice before the Provincial Court at a presentation hearing is to resolve conflicts in the evidence in favour of the Director. Resolution of the conflict is left to the protection hearing unless the facts are manifestly wrong or untrue or unlikely to have occurred. ...The Court must be satisfied that there continues to be objectively reasonable grounds to believe that the child is at risk of harm at the time of the presentation hearing...,

[39] Cozens, J. then sets out the following important principles from the Yukon *CFSA*:

31 Under the Act, it is critical for me to keep in mind portions of the preamble that say:

...every child is entitled to personal safety, health and well-being;

children are dependent on families for their safety and guidance and as a result, the well-being of children is promoted by supporting the integrity of families;

every child's family is unique and has value, integrity and dignity; ...

...

33 Under s. 2:

2 This Act shall be interpreted and administered in accordance with the following principles

- (a) the best interests of the child shall be given paramount consideration in making decisions or taking any action under this Act;
- (b) a child has a right to be protected from harm or threat of harm;
- ...
- (e) family has the primary responsibility for the safety, health and well-being of a child;
- (f) a child flourishes in stable, caring and long-term family environments;
- (g) the family is the primary influence on the growth and development of a child and as such should be supported to provide for the care, nurturance and well-being of a child;
- ...

34 Under s. 3:

- 3 The following principles apply to the provision of services under this Act
 - (a) in making decisions, providing services and taking any other actions under this Act, a child's sense of time and developmental capacity should be respected;
 - (b) families and children should receive the most effective but least disruptive form of support, assistance and protection that is appropriate in the circumstances;
 - ...

35 And then, finally, under s. 4(1):

- 4(1) In determining the best interests of the child all relevant factors shall be considered, including
 - (a) the child's safety, health and well-being;
 - (b) the attachment and emotional ties between the child and significant individuals in the child's life;
 - (c) the views and preferences of the child;

- (d) the child's physical, cognitive and emotional needs and level of development;
- (e) the importance of continuity and the resulting stability to the child, and the effect of any disruption in that continuity;
- ... and
- (g) the importance to the child of an on-going, positive relationship with their parents and with members of their extended family;
- ...

Analysis

[40] I find that the three reported incidents of police involvement raises child protection concerns. Even though charges against C.S. were either dropped or not laid, and even though it was not alleged that the children were present for two of the incidents, there were additional reports involving alcohol use that were directly connected to concerns about the safety and well being of A.T., and it is concerning that there were reports of harm and evidence of physical injuries to B.T., allegedly caused by her partner.

[41] When children are involved, particularly as in the third alleged incident with A.T. present in the family home, there is a *prima facie* risk of harm. Reports that come from community members expressing child protection concerns and reports from police involving allegations of intimate partner violence, are all risk factors of harm. All of that is on the face of it disruptive and potentially harmful to children's emotional and physical well-being.

[42] To their credit, the family has engaged in safety planning. They have been accountable. They have shown insight. All of that is very impressive and I commend them for that.

Decision

[43] First, I will deal with the two older children.

[44] Based upon everything that I have heard and read, and most significantly that these children are older and attending school away from [redacted] in the care of extended family, I am not satisfied that there is a *prima facie* case that the two older children are in need of protection. Pursuant to s. 52(1) of the *Act*:

At the end of a presentation hearing if the judge is not satisfied there is a *prima facie* case that the child is in need of protective intervention the judge must order that the application is dismissed...

[45] Therefore, with respect to E.T. and J.T., the Director's application is dismissed.

[46] Second, I will deal with the youngest child, A.T.

[47] I am satisfied that there is a *prima facie* case that A.T. is in need of protection and that a s. 52(2)(a) supervision order is appropriate.

(a) that the child be returned to or remain with a parent with custody under the supervision of the director on an interim basis until the conclusion of the protective intervention hearing...

[48] I have determined that an interim supervision order at this time is the most effective but least disruptive form of support, assistance, and protection that is appropriate in the circumstances.

[49] As Cozens J. explained in *T.W.*, a finding at this stage is far from finding that they are in need of protective intervention as would be the requirement once a protective intervention hearing takes place. At that time, the evidence that is before the Court is scrutinized in much more detail.

[50] I am satisfied that there is a *prima facie* case that A.T. is in need of protection. However, I am also satisfied that the child protection concerns can be addressed while allowing C.S. and B.T. to reside together with A.T. in their care, in the family home, subject to a supervision order, pursuant to s. 52(2)(a), with the following terms:

1. A.T., born November 27, 2020, shall remain in the care of B.T. under the supervision of the Director on an interim basis until the conclusion of the Protective Intervention Hearing or until further order of the Court;
2. Neither B.T. nor C.S. shall consume or be under the influence of alcohol or non-prescription drugs in the family home while A.T. is in either of their care;
3. B.T. and C.S. must attend counselling and other services recommended by FCS to address the concerns around intimate partner violence, substance use, and emotional and physical harm to the children;
4. B.T. and C.S. will engage in regular case planning with a social worker, particularly concerning exposure to intimate partner violence and substance use;

5. B.T. will participate in regular video, telephone, or in-person check-ins with a representative of [redacted] First Nation and FCS, at least once per week, each;
6. B.T. and C.S. will agree to sign any consents to release information relating to any programming they are engaged in; and
7. This matter is adjourned to Thursday, March 12, 2026, at 9:30 a.m. to determine when a Protective Intervention Hearing and Pre-Trial Conference date should be set.

CHRISTIE T.C.J.