SUPREME COURT OF YUKON

Citation: *P.A.B.* v. *B.A.B.*, 2013 YKSC 11

Date: 20121212
Docket: S.C. No. 05-D3821
Registry: Whitehorse

BETWEEN:

P.A.B.

Petitioner

AND:

B.A.B.

Respondent

Before: Mr. Justice J.K. Bracken

Appearances:
Shayne Fairman — Counsel for the Plaintiff
B.A.B. — Counsel for her own Defence (via teleconference)

REASONS FOR JUDGMENT
DELIVERED FROM THE BENCH

[1] BRACKEN J. (Oral): There are two applications before the Court. One made by Ms. B. [now Ms. Q.], who is the mother of T. to transfer the custody of T. from Mr. B., T.'s father, to her and to change joint custody to sole custody. Secondly, to have Mr. B. found in contempt of court upon allegations that he has deliberately denied access to Ms. Q., and further to have Mr. B. found in contempt for violating the terms of her court order, respecting travel with T. to Mexico, and for interference with telephone access of T. and Ms. Q. There is also a cross application by Mr. B. seeking

recommendation that a lawyer be appointed for T. and that Ms. Q.'s access over the Christmas break and all ongoing telephone access be temporarily suspended.

[2] The matter has a fairly long history. The parties were married September 30, 1995. They later separated and were divorced on October 13, 2008. There is one child of their relationship, T., born March 12, 2003. The court history is extensive and by my count there are 17 orders respecting minor or administrative issues, although the two are fundamental and important orders in the sense that they made significant decisions with respect to this matter.

[3] The matter became contentious after Ms. Q. left Whitehorse, where she and Mr. B. were residing, for Edmonton ostensibly to visit relatives. While there, she made a decision that she was not going to return with T. to Whitehorse and, indeed, retained counsel and obtained an *ex parte* order in Edmonton at the Queen's Bench Court for interim sole custody of T. The matter was brought back to Whitehorse on the application of Mr. B. to the Yukon Supreme Court, where an order was made to have T. at least returned to Whitehorse so that matters could be dealt with within this jurisdiction. That order was made by Mr. Justice Veale on March 22, 2006.

[4] Matters then continued between Mr. B. and Ms. B., as she then was, with respect to sorting out the issues involving T. There was an order by Mr. Justice Darichuk, Deputy Judge of the Yukon Supreme Court, on February 10, 2009, which was made by consent and which provided that: there would be an order of joint custody and guardianship with the primary residence of T. to be in Whitehorse with Mr. B.; that Mr. B. would have the right to make day-to-day decisions with respect to T.'s care; and that

he would consult with Ms. Q. with respect to any major decisions. If the parties could not agree on a major decision, there was a provision for court review. Holiday access was to be shared and it was defined, there was to be regular telephone access and such other access as could be agreed between the parties, but to take place in the Yukon Territory.

[5] There was a variation of that order by Mr. Justice Veale on February 23, 2010, to resolve some financial issues and to further define travel. The order of Mr. Justice Darichuk provided that the parties were able to travel beyond Canada to Alaska without consent, based on the part of Mr. B., given the proximity to Alaska, and secondly, the parties could travel to Mexico but with consent that was provided. On February 23, 2010, Mr. Justice Veale varied that to provide for travel outside Canada to Mexico by either Mr. B. or Ms. Q. without the consent of the other. There were some further variations on April 1, 2011, which established specific telephone access and as well as travel rights and some other financial matters.

[6] I will deal first with the applications made by Ms. Q. The first is that she wishes to have a child therapist appointed. She wishes to have a therapist appointed outside the Yukon Territory, I think it is fair to say, and she has enquired and found two therapists, one in Penticton and one in Nanaimo. Both these therapists apparently have extensive experience with children, and in particular children who have become alienated for one reason or another from the access parent. The application is opposed by Mr. B. on the basis that effective therapy cannot be carried out by Skype or some other computer program and it would not be appropriate to have T. travelling to Edmonton or indeed to other parts of British Columbia for the purposes of therapy. It seems to me that to try to

conduct therapy of this nature with a young child, over the computer, would not be appropriate and travel, as Mr. B. says, does seem to make any sense. Ms. Q. also mentions a therapist psychologist by the name of Meredith who has extensive experience with the RCMP and who is in Edmonton and who could, and apparently would, see T. if asked. I am not certain of what qualifications she has other than Ms. Q. certainly vouches for her and says that she is a qualified psychologist. I will come back to the issue of therapy because there is a cross application that in my view touches on that issue and that is the cross application of Mr. B. for the appointment of a lawyer to assist in these matters, but to deal only with advancing T.'s best interests.

[7] The next application is an application to change custody. Ms. Q. applies to have the custody of T. changed from Mr. B., where she has been since 2006 at least, to her custody, residing in Edmonton. Leaving aside the obvious disruption to school and home, the issue is one that is opposed on other grounds by Mr. B. It is emphasized by Mr. B. that the original order, which provided for joint custody and guardianship and the primary residence to be with Mr. B., was by consent and that obviously cannot be ignored. Ms. Q. at that time did not have legal representation and the matter was not made in haste as the order returning T. to Yukon was in 2006 and the order of Mr. Justice Darichuk was not until 2009, I believe. In any event, it is my impression from my review of the file and from listening to Ms. Q. today that she had never been completely comfortable with the arrangement that was set up with respect to T.'s custody.

[8] A custody and access report had been prepared by Ms. Sheldon who is a psychologist from Calgary but who is apparently on contract work to the Yukon Territory. That report is dated December 20, 2007. In that report it is recommended that

T. reside primarily with Mr. B. My view of the report is that it seems to be both thorough and fair. The history of each of the parties and their then current circumstances and lifestyle were carefully reviewed. No issues of safety respecting T.'s care by Mr. B. were identified. Ms. Sheldon considered allegations of abusive behaviour towards Ms. Q., her daughter T. from her prior relationship and, indeed, towards T. and they were reviewed and considered by Ms. Sheldon.

[9] Psychological testing was done on both parents as a screening measure. There was a screening measure administered to Mr. B. that had particular concern with the issue of his potential for abusive behaviour. No concerns were ever identified. What Ms. Sheldon did find is out in her report, at para. 11. She stated that Mr. B.'s home was clean and well organized, that there were no safety concerns apparent and that he communicated well with T. in a way that was appropriate to her age, demonstrated affection for her, was responsive to her, and worked to foster her independence. It was said that he avoided negative controls on her behaviour, was consistent in his approach. He seemed comfortable with her and she in turn with him. The conclusion that Ms. Sheldon reached is set out at the end of the report and her conclusion was that the more appropriate residence, for the short term at least, was with Mr. B.

[10] In his submissions today, Mr. Fairman identified a passage of the report at page 30, which deals with what Ms. Sheldon concluded was resistance to any input towards Ms. Q. and a resistance on her part to recognize any contribution that she was making to the difficulties that have now been experienced.

[11] Likewise, Ms. Sheldon concluded in her report that Ms. Q. interacted positively with T. and she identified no concerns with respect to her behaviour or interaction with T., although at page 19 of her report she did indicate that there were some concerns arising from psychological testing of Ms. Q., that Ms. Q. tended to lack insight, that she tended to deny faults, even ones that were commonly acknowledged by individuals, and that she tended to harbour resentments without communicating.

[12] Ms. Q. bases her application, at least in part, upon an allegation that Mr. Justice Veale had a conflict of interest due to her belief that he has a friendly relationship with Mr. B.'s father and indeed the B. family generally. Mr. B., that is P. B., denies any personal relationship and says the only contact that Judge Veale had with Mr. B.'s father was as a result of some home renovations and office work that Mr. B. senior did some 30 years ago. While Judge Veale did make the original order directing that T. be returned to the Yukon in 2006, that was after an unannounced departure of Ms. Q. with T. and an attempt to gain sole custody by means of an *ex parte* order in Alberta. The order of Judge Veale in my view is perhaps a predictable and appropriate response to the circumstances that Mr. B. brought to his attention. However, a critical fact here, is that following the Court proceedings, the matter was not resolved immediately but was resolved by way of an order that Ms. Q., in her own right, consented to. The March 2006 order was not appealed nor was there any appeal of the order of Mr. Justice Darichuk, admittedly by consent, but there has been nothing to challenge that order since the time it was pronounced.

[13] After careful review of all the material, I do not find that there is any merit to part one of Ms. Q.'s application. I will say as well that it is not for a judge of the Court, other

than the judge at issue, to make a decision on that judge's independence. If Ms. Q. feels that there is a conflict of interest as to any further conduct of Mr. Justice Veale with this matter, then that is a motion that must be made to Mr. Justice Veale so that he can consider it and respond to it. If he responds in a way that she considers inappropriate, there is an appellate process. Now, I say all of that with the understanding and knowledge that Ms. Q. is self-represented and does not have easy access to court materials, affidavits, motions, and so on, and as well, that the proceedings are here in the Yukon not in Alberta, as she would prefer them to be. Nevertheless, we have, it appears to me, accommodated her on a number of occasions to make applications and appear by telephone. I see no reason why Justice Veale would refuse to hear her by telephone is she chose to.

[14] In part two of Ms. Q.'s application, she seeks sole custody of T. This would require a change of custody for a young child who is probably not known any other home or certainly not known any other school. The basis for this application is that Mr. B. has, it is alleged, by his conduct, alienated T. from Ms. Q., and that he has not supported the relationship that T. has had with Ms. Q. Ms. Q. refers to which she says is overwhelming evidence of Mr. B.'s conduct resulting in alienation. While I agree, and I doubt that anyone could disagree given the evidence that T. is now completely resistant to access or contact with Ms. Q., I can find no evidence that this has been caused by Mr. B. or his wife, Ms. L.H.-B. While I appreciate that Ms. Q. is of the view that, given that she has turns with Mr. B. and his wife for virtually all of her time outside of access visits, it does not follow nor is it open to me to simply draw the conclusion that Ms. Q.

has drawn and that is that there is something going on in the home to cause this alienation.

[15] Ms. Q. has placed before me a number of case references where such behaviour has apparently been assumed. First among these is a case of *Benson* v. *Butler*, [2009] O.J. NO. 2740. The Court, in the extract that has been placed before me, said at para. 67:

> As we are aware from our review, this issue of alienation relative to the comments of a young child who provides derogatory remarks about a parent or who refuses to visit an access parent, these are not generally the natural views of the child. They are rather positions which are learned….The clear inference to take from such situations is that such learning of a child's rejection to visit an access parent generally comes from the conduct of a custodial parent. To withhold access thus creates a breach of any possible bond that should and would be available otherwise to that access parent. This is particularly true where the children in her care are instilled with fear for their safety against the respondent.

[16] Now those are sweeping generalizations which I am sure were appropriate to the facts of the case at hand, but they are not appropriate to the facts of the case before me. There is nothing here to indicate either in email communications or affidavit evidence or otherwise anything other than an indication that Mr. B. and Ms. H.-B. have tried to facilitate T.'s access by making her available to the telephone, by seeing to it, and paying a portion of the expense that she travels to Edmonton to visit with her mother, and that the relationship be maintained. I agree that there is a problem. Whether that problem comes from Mr. B. and Ms. H.-B. is certainly not evident from any of the evidence that I have seen in my review of the entire file.

[17] There is some evidence presented by Ms. Q. respecting the alleged abusive or inappropriate behaviour of Mr. B. All of it predates the separation of the parties and in many cases is not supported by evidence. For example, there are allegations of violence that was instigated and investigated and found to be unsubstantiated by the police; there were allegations of problems that Mr. B. had in a various work places, in some cases either contradicted or unsupported by the evidence; there are allegations of bullying and demeaning emails that were sent by either Mr. B. or his wife, Ms. H.- B. My review of all the emails that were available from the affidavit material in the file and indeed the applications here today display a firm but respectful tone, display concern for T.'s problems and there are suggestions for trying to find help to resolve them. I would anticipate that if Ms. Q. has what she refers to as abusive or bullying emails authored by Mr. B. that they would be in the evidence somewhere, but they are not.

[18] On the contrary, Ms. Q. has explained this to some degree, there are emails of that tone attached to Ms. H.-B.'s affidavit. These emails tend to be, in my view, disrespectful and carry a tone of abuse. For example, on August 30, 2012, Ms. B. wrote a message with respect to an issue that had taken place and dealing with her frustration at her inability to have access to T. In one paragraph after commenting on the merits of the issue she states, "You are a pathetic liar and really have serious mental and paranoia issues." The message ends, "You are disgusting!" signed by both B. and D.Q. Again, August the 30, there is an indication in a message to L.H.-B:

> Too [sic] alleviate all suspicions of drug use could you explain why your appearance clearly matches that of a crystal meth user? No joke, serious question. Or is your physical appearance the result of too much tofu and not enough protein?

Later in the same message, in fact the next paragraph:

> I guess being a single mom with a [handicapped] child you had to take what you could get for men. As for [P.] dealing with a child with mental disorders you must really have your hands full. I can realize why you rely on T. so much for help. This is what T. expressed to us.

That reference is to a suggestion that T. had complained about dealing with I.K., a brother, who apparently has Asperger's Syndrome.

[19] Again, on August 31:

> Go Fuck yourself because I am done with 19.5 years of your bullshit [P.]. I am sick and I don't need this extra continued stress in my recovery. You are making excuses to keep T. away from me because for a fact you know T. enjoyed her visit. You destroyed any chance of me having a successful relationship in the past and I'm not going to allow you to hurt [D.] [her current husband] or myself.

[20] Ms. Q. has explained when I raised these issues with her this morning that this was a frustrating time in her life and I note that these took places over a period of a day or two, all with respect to a time that she was very frustrated at the reluctance of T. to have any contact with her. Ms. Q. says that period of time ended any contact that she had with T. and she has not either seen T. or had any real contact with her since August of this year. To cancel Christmas access, she raises the issue that it will extend a period of time and perhaps may do more by way of harm.

[21] The issue that she raises with respect to a therapist, as I've already mentioned is one that in my view, does not work well from a therapist's point of view or from a convenience point of view with respect to T. T. is in school, she needs to stay in school,

and in my view, any therapist that she is engaged with must be close to where the custodial parent is, that for now at least is in Whitehorse.

[22] With respect to the issue of joint custody, I appreciate that there are problems between Mr. B. and Ms. Q., I appreciate that there are fears and firm beliefs that I think are probably honestly held, that Ms. Q. believes there some sort of conspiracy that is within the family in Whitehorse and perhaps extends to the courts and to the lawyers available or perhaps even to Ms. Sheldon. Nevertheless, the order as it currently sits allows Mr. B. to make day-to-day decisions which only make sense given that he is the primary custodial parent, and that any major decisions must be discussed with Ms. B. That is obviously a difficulty at the current moment, but I do not see any need to change it for now. If there are major decisions that cannot be agreed to then the matter, by the terms of the consent order, can be referred to the Court.

[23] Further, I do not think it is appropriate to direct that a Deputy Judge of the Yukon Supreme Court be seized with this matter. To put that another way, I think what Ms. Q. is saying is that Justice Veale should not be able to hear any matter involved in this file. He may make that decision himself but the important part of that issue is that it is his decision to make, not the decision of any other judge, certainly not one who is only familiar with this file from a few days of experience. Obviously, Judges who are Deputy Judges, come and go to the Yukon. The schedule of having Judges here is unpredictable. Each Judge, speaking for myself, has his own schedule or her own schedule to contend with, and in my view, would not be appropriate to seize any particular judge. It may be, as a matter of a convenience, appropriate to try and follow

through or to continue some scheduling with the same Judge but that is an issue for another time.

[24] With respect then to that portion of the application, I would dismiss the application to have a therapist appointed outside the Yukon; I would dismiss an application to have a Deputy Judge seized; I would dismiss the application to change custody or to terminate joint custody given my conclusion on changing custody. Obviously, it is to Ms. Q.'s advantage to maintain at least joint custody. If there is an issue with respect to Mr. Justice Veale, then Ms. Q. should make that motion and let Judge Veale deal with it.

[25] With respect to change in custody, I will just follow up that it is not something that is appropriate at this stage. The evidence such as it is, is conflicting. Any issues that emerge where evidence is conflicting on affidavits need to be resolved with evidence in person, at a trial. Hopefully it won't come to that, but as it sits now there is no evidence of any purposeful conduct on the part of Mr. B. or Ms. H.-B. that is intended to cause or has caused alienation. No doubt, there is a serious issue and alienation exist but its cause, at this point, is not clear.

[26] I accept that Ms. Q. says that when T. arrives in Edmonton all of these issues disappear, that they enjoy their time together. Certainly the photos that were presented as part of her affidavit suggest that. She says there is no problem with that access and there is nothing to suggest that there is other than what is happening with T.

[27] I expect, without commenting further on it, that the issue of her religious belief, such as it is and the family's religious belief is somewhat lurking in the background of

this matter. Mr. B. and presumably Ms. H.-B. are Jehovah's Witnesses. T. has been attending church with them. On my understanding of the evidence, Mr. B. has not actually committed to the church other than by attending but it is clear that is the faith he is following. I accept, as well, that this does not appear to be a faith that Ms. Q. or Mr. Q. have any interest in, and given the difference in beliefs with respect to celebrations or particular religious holidays or otherwise, that obviously is a cause for potential conflict.

[28] The application next is for a finding that Mr. B. was in contempt. As already noted, there is nothing to suggest in the evidence that Mr. B. has done anything purposefully or otherwise that would cause T. to be alienated. I understand, again, I will emphasize this, that Ms. Q.'s view, being an outsider, is that something must be happening in Whitehorse and in the family to cause this, but it is also a possibility that there is something happening in her relationship with T. that goes beyond anything that Mr. B. or Ms. H.-B. have done. The best I can do for now is simply say that there is no evidence which supports a finding of contempt with respect to parental alienation.

[29] With respect to interfering with access, again, the evidence establishes that Mr. B. has made T. available, encouraged telephone calls. The fact that T. is absolutely resistant at this point is evident, but I cannot say that this is something Mr. B. should be held accountable for.

[30] Finally, the contempt application with respect to the spring break travel. The issue there was that Mr. B. apparently traveled to Mexico ahead of Ms. H.-B. and T. This, Mr. B. says, was as a result of T. spending her access spring break visit in

Edmonton and the timing was such as a matter of convenience she travelled with Ms. H.-B. and not with him. There was a notarized authorization attached to the evidence that indicates that he authorized Ms. H.-B. to travel with her. The strict wording of the variation in the order of April 1, clearly allows both petitioner, that is Mr. B., and Ms. Q. to travel without consent of the other in so far as Alaska or Mexico. To read that order narrowly and strictly, technically, it seems to me, that T. should have been traveling with Mr. B. and not with Ms. H.-B. There is no objection to them all traveling together, but a strict reading or perhaps an overly narrow reading would support Ms. Q.'s position that Mr. B. should have been the one to travel. I am not sure it is necessary to actually read it that way, but even if it was I would not be prepared to make a finding of contempt on the circumstances of that situation. Contempt should be used sparingly, it is not a power of the Court that should be used for anything as a minor violation, if indeed there was a violation, for where no harm has simply resulted. I appreciate the respect that is needed. It would be sensible in my view to perhaps to adopt a narrow reading for any future travel, but I will leave that for another time.

[31] I turn now to Mr. B.'s application that an advocate for the child be appointed. Ms. Q. says it is not appropriate and she relies on the case of *Huggett v. Huggett*, [1999] B.C.J. NO. 542, Madam Justice Dorgan, and one of my decisions, *M.M. v. R.L.K*., 2008 BCSC 1042. Both of those cases stand for the principle that the child should not be put into the middle of a conflict between the parents with pressure to give directions to a child advocate, one way or the other. That is a principle, of course, I accept. If my only option was to set up a views of the child reporting system through a lawyer for T., I would not do so. But it is my view that there should be a

recommendation and that a lawyer, who is charged with the responsibility of advancing the interests in T.'s therapy and counseling, be appointed with the purpose of doing what is necessary to secure appointments and counsellors, and to investigate and resolve the alienation issue. I would recommend further that this lawyer, if the recommendation is accepted, be one who has experience with young children and perhaps with a social work background, if that is available. I appreciate, again, Ms. Q.'s view as an outsider from the Yukon, that there is no doubt a suspicion that in a small group of lawyers that operate in Whitehorse, that all of the local lawyers will know each other and perhaps have a friendly familiarity that she does not share. Once again, the independence of the lawyer is one that I have confidence in and I do not think I need to say more about the issue. The sole object, in my view, of appointing a child advocate, if such a recommendation can be fulfilled would be to resolve issues of parental alienation as soon as possible.

[32] The last issue is perhaps the most difficult. It is the issue of Christmas access. Mr. B., through Mr. Fairman, makes a submission that Christmas access and further telephone access be suspended until such time as some therapy and counseling can take place, in the hopes that the reluctance of T. to travel to Edmonton, to the exercise of access can be resolved. There is no doubt that Mr. B. and his wife described a considerable anxiety and resistance on the part of T. to any access visit. There are poignant affidavits outlining those difficulties. Ms. Q., for her part, says that upon arrival in Edmonton, none of this is evident. Again, it appears there is no evidence to suggest anything unhappy about the access visits.

[33] There is concern expressed as a result of T.'s report to Mr. B. or Ms. H.-B. that she had found what she believed to be used syringes in a waste basket while on summer access. The suggestion is that these were drug syringes for illegal drugs being used by either Mr. Q. or Ms. Q. or both of them. Needless to say, Ms. Q. has denied any such drug use, as has Mr. Q. There were explanations respecting insulin testing or insulin pen-use or an EpiPen, some of that perhaps is not as convincing as it might be, but the issue is confusing enough that it is not something that I wish to make any finding on or any further comment on, suffice to say that Ms. Q. absolutely denies any illegal drug use. She points to the fact that both she and Mr. Q. are employed in the areas of security, they both have security clearances, and they would not risk those jobs by illegal drug use.

[34] The other evidence which is of deep concern is a drawing that is attributed to T. It is attached to Exhibit B to Ms. H.-B.'s affidavit. Both Ms. Q. and Mr. B. and his wife are seriously concerned with the emotion and sentiment depicted by that drawing. It depicts anger and indeed hatred by T. towards Ms. Q. and her husband; it shows a truck bearing down on two individuals attributed to be Ms. Q. and her husband, addressed as apparently she does as B. and D.Q., and with the suggestion that they be run over and harmed, if not killed. There is obviously a serious concern reflected by this and, again, given the exclusion if I can put it that way, of Ms. Q. from the day-to-day life of T., she has some suspicions as to how this came to be and undoubtedly attributes some of the responsibility to Mr. B. There is obviously, no matter how you put it or whose side you take, a serious emotional insensitivity of T. around the issue of access. That is at the moment. That is without regard to accepting that the access that has been exercised

over the summer, and previously has been happy and without difficulty. Nevertheless, whatever the problem is, it is a clear and significant problem of the current moment. No doubt, there is a tremendous sensitivity around this issue and particularly given the differences and divergence in religious beliefs. Nevertheless, the high trauma, in my view that T. has displayed and the sentiments that she has displayed, whether founded or unfounded, must be settled and dealt with before the child is forced into any further travel. It may be she would be more comfortable, and indeed I would be more comfortable, if access could be exercised in some fashion here in Whitehorse. I canvassed that with Ms. Q. Her view is that that is simply not possible this year and in the past she has not come to Whitehorse or wishes to come to Whitehorse to exercise access.

[35] Once again, these are not easy decisions. These are the decisions which the Court makes from time to time, often at this time of year, with a great deal of hesitation. Nevertheless, it is my view that Christmas access for this year must be cancelled. Telephone access is suspended until such time as counseling and therapy efforts to correct T.'s current problem can be dealt with.

[36] The matter should be brought back to the Court in late January or early February of 2013 for the purpose of determining any progress that has been made, and at least to advise the Court on any changes that have been made.

[37] In summary, with respect to the seizure of a Deputy Judge is dismissed; a conflict of Mr. Justice Veale is for him to decide on any motion that might be made; the application for change of custody is dismissed; and the evidence, both Ms. Q.'s mother

and T.'s aunt, seem to me to be both predated and any separation in many cases consisting of hearsay. I am satisfied that all medical care of T. is in hand and is appropriate as handled by Mr. B. That any conflict with respect to change of custody and evidence must be done in a trial. The contempt applications are dismissed and the recommendation for a child advocate is limited to advancing T.'s need for therapy and counseling with the therapist who may be engaged by Mr. B., provided that any report or information be made available to Ms. Q.

[38] I am not going to make an order of costs at this point in time. I will leave cost to be determined and the matter can be raised again if necessary.

[39] MR. FAIRMAN: Thank you, My Lord. I wonder, there were three other specific prayers for relief sought in the notice of application of Ms. Q., numbered 5, 6, and 7, regarding "The Petitioner's privileges revoked for travel with T. outside of Canada, to "Alaska" or "Mexico"." Number 6 was, "L.H.-B. [be] restrained from traveling alone with T." and number 7 was simply not asking for relief but asking for an endorsement. I wonder if Your Lordship would like to address those three items specifically?

[40] THE COURT: I have, I think, completely addressed them. Obviously, the issues I think have been dealt with. With respect to the travel of Ms. H.-B. alone, I think it is open on a reading of the order to restrict that travel to either Ms. Q. or Mr. B. I'll leave it to you; that may be a reading that you could persuade a Judge is inappropriate and overly narrow. I would certainly recommend that any travel with T. outside of Canada be strictly in accordance with the order, given the circumstances.

With respect to any of the other issues, the privileges will not be revoked. The privileges will be maintained in accordance with prior orders and, as I say, the privileges of both Mr. B. and Ms. Q. will be continued as per the existing orders.

[DISCUSSION RE CONFIRMATION OF DATES]

[41] I will direct that the matter be placed on the list to be spoken to on January 24 or 25, with the precise date to be established as soon as possible in the week and arrangements for Ms. Q. to appear by telephone, I'll authorize that now.

[42] MR. FAIRMAN: Thank you and lastly, My Lord, I understand that you are in town for the remainder of the week. I will endeavor to draft the order which has been made today. I'd ask that the requirement of Ms. Q. to endorse that order be dispensed with, but obviously it would subject to Your Lordship reviewing the order for its correctness. I'll provide her a filed copy of the order.

[43] THE COURT: I will dispense with her signature prior to it being entered on your undertaking to see to it that she gets a copy, electronically, as soon as possible, and a hardcopy as soon as practical.

[44] MR. FAIRMAN: Thank you, My Lord.

[45] THE COURT: Thank you.

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BRACKEN J.