

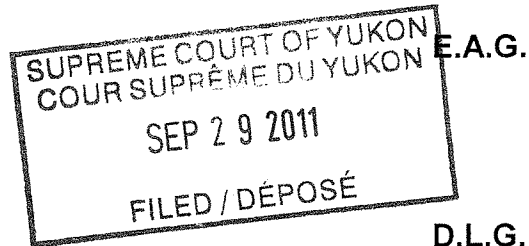
SUPREME COURT OF YUKON

Citation: *E.A.G. v. D.L.G.*, 2011 YKSC 73

Date: 20110624
Docket S.C. No.: 09-D4166
Registry: Whitehorse

BETWEEN:

AND:



E.A.G.

Plaintiff

D.L.G.

Defendant

Before: Mr. Justice R.S. Veale

Appearances:
Debbie Hoffman
Henning Wiebach

Counsel for the Plaintiff
Counsel for the Defendant

RULING ON APPLICATION DELIVERED FROM THE BENCH

[1] VEALE J. (Oral): Let me deal firstly with the application to have a further custody and access report; that is the first application, as I understand it. My view is that I am not going to allow that application because I do not think that is necessary in the circumstances. Dr. Posthuma has given a full and extensive report.

[2] The issue that remains outstanding, of course, is the issue of the allegations of spousal emotional and verbal abuse. I am now turning to the second part of the application, that is, the variation of the custody and access order that I made. There remains before the Court different views in that respect. Dr. Posthuma has given his view. There are also the views of Bill Stewart and Judy Laird. Those views are different,

and I really think the Court has to hear everyone, and this is unfortunate, because most cases get resolved without having trials of this nature, but we will have to hear each of those individuals give their opinions.

[3] Nevertheless, on the variation of custody and access application that has been made, I am going to move cautiously. I appreciate the report of Dr. Posthuma, and I also appreciate the views of the other individuals involved, Bill Stewart and Judy Laird. I am going to order what the parties have agreed to already, which is there is no further requirement for supervised access, but I am going to order increased access this summer for Mr. G., being one week unsupervised in the month of July and one week in August. I am going to ask counsel today to try and resolve when that takes place so there is no further back and forth on that subject.

[4] Mr. Wiebach, you did not make any submissions with respect to L.G., and she initially had one day a week.

[5] MR WIEBACH: She did.

[6] THE COURT: I am prepared to go back to that, if that is appropriate. It is not in your application.

[7] MR. WIEBACH: Yes, I think it -- that would be appropriate. He can see her -- see the children there?

[8] THE COURT: Absolutely.

[9] MR. WIEBACH: So she should -- she should have a day, and if she's

not able to avail herself of it, we'll let you know, because of an illness or something.

[10] THE COURT: So that was Tuesdays. Now, you can talk about whether that is appropriate as well, but I think that that access, unsupervised, of course, should be put in place as well.

[11] MS. HOFFMAN: And that would be, just to clarify, Your Honour, that would be on, given the terms that previously existed, that it would be -- well, there have been a couple of variations, but mid-morning until approximately 5:00 p.m., and then it was, I believe, 9:30 until 5:00.

[12] THE COURT: It is 9:30 to 5:30.

[13] MS. HOFFMAN: Yeah, until 5:00, not 5:30.

[14] THE COURT: Okay, 5:00. In any event, I will give you an opportunity to talk about it so that we can discuss any details when you speak to your respective clients.

[15] I am not prepared to make any change in the financial arrangements on the record that has been presented, and, of course, I reserve the right to give further written reasons.

[16] The one thing that is still outstanding, which I simply do not understand, and I want counsel to address this: On September 24, 2009, I ordered in paragraph 5 that Ms. G. was permitted to attend the family home with either the RCMP or a third party to retrieve her personal belongings and clothing, and toys and clothing for the children. I

addressed it again in my reasons which came down on June 4, 2010. Is that still outstanding?

[17] MS. HOFFMAN: Well, there have been -- I would say yes, as I said to you today, that the documents are in issue. What transpired as a result of the September 24 order was Mr. G. did have counsel, so it was Mr. Horembala at that time. Counsel made provision for Ms. G. and some people to attend at the home to retrieve the belongings. They were already packed, so they were -- and she was not allowed to enter the residence by the time that she got there with her assistant, so there are a large number of things that are still there, personal belongings, personal papers, those types of things. I believe that the barstool is already -- the bar set and stools is already there, but that's not because -- I think that order was subsequent --

[18] THE COURT: Sorry, is already where?

[19] MS. HOFFMAN: Is still there, I should say, at the family home, so. But I don't think we've really pursued that to have that asset delivered back, even though it's been ordered. But there are still things there of a personal nature that are hers. Part of the issue is that she needs to be able to go there to retrieve them because the last time, things were not provided to her.

[20] THE COURT: Would you two address that issue? I will give you a break to do that. What I would propose is that we come back at 4:30 for case management to talk about the resolution of the summer, and --

[21] MR. WIEBACH: I do have a flight out of town.

[22] THE COURT: You are in the Yukon, Mr. Wiebach, and your client can probably drive you up to the airport. At 6:00 you said, I thought?

[23] MR. WIEBACH: Yeah.

[24] THE COURT: No problem.

[25] MR. WIEBACH: As long as they save my seat, that's fine.

[26] THE COURT: Do you have to go back to your hotel?

[27] MR. WIEBACH: No.

[28] THE COURT: You should be okay. As long as you are out of here by 5:00, I think you will be okay on your flight. So, I will come back at 4:30.

[29] MR. WIEBACH: Can I just -- the access at the daycare need no longer be supervised?

[30] THE COURT: Correct. The supervised access is out. I have taken Dr. Posthuma's position on that.

[31] MR. WIEBACH: And I just raise this: we are maintaining the weekend access. If the weekend were to fall on a long weekend, can it be extended to include that?

[32] THE COURT: Certainly.

[33] MS. HOFFMAN: I don't see an issue.

[34] THE COURT: I have no issue there. There is a long weekend in -- are you talking about October? Is that what you are thinking? Or no, there are several long weekends coming up; there is one in August, one in September, one in October. I see no reason that Mr. G., if he has some plans for one of those weekends, can extend, if that is his weekend. Those three weekends should not all be the same parent. Why not talk about that? Is there anything else? Feel free to raise anything, because when we get into moving to case management, I mean there just should not be outstanding issues a year and a half or two years later.

[35] I would like to talk about the trial, because it is a huge problem for everybody, and it would be nice to get that sorted out. Thank you.



VEALE J.