COURT OF APPEAL FOR THE YUKON TERRITORY

Citation: *D.M.M. v. T.B.M.*,
2011 YKCA 8

Date: 20111006
Docket: YU0668

Between:

D.M.M.

Appellant
(Petitioner)

And

T.B.M.

Respondent
(Respondent)

Pursuant to subsection 75(2) of the *Child and Family Services Act,* there is a ban on disclosing the name of any person involved in the proceedings as a party or a witness or any information likely to identify any such person.

Before: The Honourable Madam Justice Rowles
The Honourable Mr. Justice Frankel
The Honourable Madam Justice Bennett

On appeal from: Supreme Court of the Yukon Territory, November 5, 2010,
(*D.M.M. v. T.B.M.*, 2010 YKSC 68, Whitehorse Docket 02-D3464)

The Appellant appeared on her own behalf

The Respondent appeared on his own behalf

Child Advocate: L. Cabott

Place and Date of Hearing: Whitehorse, Yukon Territory
May 17, 2011

Place and Date of Judgment: Vancouver, British Columbia
October 6, 2011

Written Reasons by:
The Honourable Madam Justice Rowles

Concurred in by:
The Honourable Mr. Justice Frankel
The Honourable Madam Justice Bennett

Reasons for Judgment of the Honourable Madam Justice Rowles:

[1] This is an appeal from an order dismissing an application to have the judge, who seized himself of the matrimonial proceedings between the parties in 2003, disqualify himself from hearing any further proceedings in the litigation. The appellant also appeals from the order requiring her to "pay to the Respondent $750.00 in costs, payable by 4 p.m. on December 17, 2010". The judge's reasons for dismissing the application and ordering costs against the appellant are indexed as 2010 YKSC 68.

[2] For reasons to which I will briefly allude later, it may be arguable that this Court does not have jurisdiction to entertain an appeal from the judge's refusal to disqualify himself. Assuming, without deciding, that the "order" dismissing the recusal application may properly be appealed, I am not persuaded that the appeal ought to be allowed. I would allow the appeal of the order for costs. My reasons for reaching these conclusions follow.

Background

[3] Divorce proceedings were commenced by the appellant in 2002. In November 2003, an *ex parte* order was made granting the respondent sole interim custody of the parties' child, R., with supervised access to the appellant: *D.M.M. v. T.B.M.*, 2003 YKSC 71. In December 2003, Justice Gower seized himself of the proceedings. In doing so, he stated that he intended to remain seized of the case "because it is complex and there is a history here". On 25 January 2011, in giving a case management order, the judge said "it is the practice in the Yukon for a judge to become seized of proceedings in a matrimonial case".

[4] It may be helpful to observe at the outset that it is not unusual for a judge to become seized of proceedings in parental alienation or other high conflict family law cases. Such a practice was commented upon by Martinson J. in *A.A. v. S.N.A.,* 2009 BCSC 387 at para. 81. In "One Case–One Specialized Judge: Why courts have an obligation to manage alienation and other high-conflict cases", (2010) 48

Family Court Review 180, she elaborated on the rationalization for adopting such a practice.

[5] This is not a parental alienation case but it is one in which there has been a substantial and on-going conflict over the appellant's exercise of access to the parties' son. A brief history of the proceedings reveals the nature and extent of the conflict.

[6] R. lives with the respondent in Whitehorse. The appellant formerly lived in Whitehorse but moved to Edmonton in September 2006, where she continues to reside. Since 2007, her right of access has been exercisable in Whitehorse, but not in Edmonton.

[7] In January 2004, Justice Gower made an order that R. have no direct or indirect contact with T.M., the person with whom the appellant was then living in Whitehorse: *D.M.M. v. T.B.M.,* 2004 YKSC 71. The underpinning for that order was the violence T.M. had directed toward the appellant and R., which had earlier prompted the appellant to apply for an emergency intervention order under the *Family Violence Prevention Act*, R.S.Y. 2002, c. 84.

[8] Except for her relationship with T.M. and its implications in relation to her ability to provide care for R., there has never been any suggestion that the appellant's skills as a parent were inadequate. In his reasons given in January 2004, Justice Gower observed that R.'s best interests would be served by maximum contact with the appellant; however, issues over access have continued to come before the courts.

[9] A child advocate was appointed. When applications have been brought before the court in this case, the child advocate has provided information about R., including the views he has expressed on various matters. The child advocate has also made suggestions about methods of accommodating the appellant's exercise of access.

[10] In February 2006, the appellant applied for a variation of the interim access order to allow T.M., with whom she was then expecting a child, to have supervised access to R. As well, the appellant sought an order that, when in public places such as churches, soccer games, shops and other events where other people were present, that T.M. have unsupervised access. R. was then 8 years of age. The child advocate supported the application for supervised access on the grounds that the child had recently expressed a desire for access to T.M. and any risk was manageable by supervision. Various reports were put before the court at that time. A report from Dr. Lee Titterington recommended a gradual increase in supervised access by T.M. to R. In his report, the appellant's family doctor expressed the view that T.M. ought to have full access. In a Custody and Access Report Update, Mr. G.S. Powter stated that "for a variety of reasons, [T.M.] still figured prominently in the boy's mind."

[11] In *D.M.M. v. T.B.M.*, 2006 YKSC 9, Justice Gower declined to vary his earlier interim order. In doing so, he noted the case authorities which discourage applications to vary interim orders on the ground that maintaining the *status quo* pending trial is preferable to having contentious issues involving children decided on conflicting affidavit material. As his reasons indicate, the issue that concerned him on that application was the risk of harm T.M. might pose to R. if T.M. had access. Among other things, the judge noted T.M.'s criminal record which consisted of 26 convictions between 1992 and 2004 including sexual assault, assault causing bodily harm, common assault, fraud, attempted fraud and breach of probation.

[12] The appellant subsequently moved from Whitehorse to Edmonton, Alberta. In September 2006, the parties consented to an order that allowed the appellant to exercise access in Edmonton, as well as in British Columbia or the City of Whitehorse.

[13] On 22 February 2007, on application of the respondent, supported by the child advocate, Justice Gower made an order restricting the appellant's exercise of access to Whitehorse unless the parties agreed otherwise in writing: *D.M.M. v.*

T.B.M., 2007 YKSC 12. The application was prompted by the appellant's having permitted breaches of an order made under s. 810 of the *Criminal Code,* R.S.C. 1985, c. C-46, by allowing T.M. to stay overnight in the same home as R. Later, R. lied to the respondent regarding contact with T.M. in order to protect the appellant. Justice Gower's reasons for placing the restriction on the appellant's exercise of access is stated in para. 22 of his reasons:

> [22] Having read the affidavit material referred to in submissions, as well as taking into account my familiarity with this file since December 2003, I am satisfied that it is in the child's best interests to vary para. 19 of the CRO [corollary relief order], and any other related provisions which may have to be consequentially amended, such that the mother's access to R. shall take place in the City of Whitehorse only, unless otherwise agreed to in writing by the parties. I recognize that this will create significant hardship for the mother, as she has only just recently completed her move from Whitehorse to Edmonton and has taken up relatively lucrative employment there. Indeed, at the time the CRO was agreed to on September 7, 2006, the impending move by the mother was generally understood to be a major factor. On the other hand, the mother is the author of her own inconvenience and misfortune. She has known of this Court's concern, and the concern of the father, about T.M. for several years now. It is therefore beyond my comprehension how she felt she could allow R. and T.M. to be together under the same roof in the family home, without these kinds of consequences befalling her.

[14] In September 2008, the appellant made an application to permit her to exercise access in Alberta. She also sought an order recommending that an updated custody and access report be prepared. That application was dismissed: *D.M.M. v. T.B.M.*, 2008 YKSC 77.

[15] In June 2009, the appellant made a further application to vary the February 2007 order and again sought a recommendation that an updated access and custody report be prepared. R. was then almost 12 years of age. At that time, both the appellant and T.M. were living in Edmonton but, according to the appellant's affidavit material, they were separated. They have two young daughters and, as a result, there was some contact between T.M. and the appellant. According to the material, T.M. had formed a new relationship with another woman with whom he had a child. The child advocate, who reported to Justice Gower that R. had expressed

an interest in reconnecting with his mother, supported the application for an updated report.

[16] The appellant had exercised access to R. in British Columbia, where her parents live, but the purpose of the 2009 application was to enable R. to come on visits to her home in Edmonton. Edmonton is also the place where R. could become acquainted with his half-siblings.

[17] Justice Gower dismissed the appellant's application to vary the prior order on the ground that no material change in circumstances had been shown: *D.M.M. v. T.B.M.*, 2009 YKSC 50. The appellant appealed that order.

[18] The appeal was heard by this Court on 19 May 2010 and judgment was reserved. After the appeal was argued, but before judgment was rendered, the parties consented before another judge to an order dated 4 June 2010 which recommended "that a comprehensive and thorough Custody and Access Report be prepared ...".

[19] On 22 July 2010, reasons for judgment on the appeal were issued: 2010 YKCA 6. The question of whether a change in circumstances had been shown was considered. The judgment of the majority effectively reversed the dismissal of the appellant's application to vary. The court recommended to the Director that an updated custody and access report be prepared and ordered that the question of access be remitted to the trial court for reconsideration following receipt of the updated report. In her reasons, Garson J.A. summarized the majority's conclusions as follows:

> [31] I turn now to the question of the evidence before the chambers judge of a material change in circumstances, necessary to ground either of the applications before him.
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> [32] In summary, in 2007 the mother claimed to have been separated from T.M. for about one year. She had two young children, children of T.M. Both she and T.M. had moved from Whitehorse to Edmonton. There was evidence that the mother had permitted contact between T.M. and the child in breach of a court order.

> [33] By June 2009, the time of the order under appeal, the child was now 12, and continued to communicate a desire to see his mother. T.M. had formed a new relationship and had a child with the new partner. Almost seven years had elapsed since the assault on the child.
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> [34] In my view this lapse of time and these changes in circumstances were sufficient to merit consideration by the chambers judge in the context of considering the mother's application for a custody and access report.
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> [35] While I recognize that the decision to order such a report is a discretionary one, that discretion must be exercised on a principled basis. In my view the chambers judge gave insufficient regard to the importance of the child's best interests in being afforded an opportunity to have some relationship with his mother. T.M.'s history of violence towards the mother and child is significant and justified the chambers judge's reluctance to reinstate unsupervised access in Edmonton without assurances gleaned from a further investigation. However, the mother's alternative application addressed a desire for further investigation to provide independent evidence to the court, and was also based on a change of circumstances including the length of time she claimed to have been separated from T.M. (about 3 years).
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> [36] As described above, the chambers judge gave brief reasons for his refusal to order a new or updated custody and access report. He ignored the evidence that regardless of whether the mother and T.M.'s lives were "comingled", they were separated. Importantly, he did not address the best interests of the child, and the statutory requirement to foster a relationship between the mother and the child. The apparent change in the circumstances of the mother as well as the age of the child required that he address the question of whether a new custody and access report might reveal a means to afford some safe access between the mother and the child. He erred in considering the application only on the basis of the mother's submission "that there would be no harm" in ordering such a report. The refusal to order such a report essentially leaves the mother and child in a hopeless position of not being able to see each other except rarely and away from a natural home setting, and then, in the absence of meaningful access, in not being able to satisfy the court that it may be in the child's best interest to be afforded access.

[20] As a result of this Court's decision, the question of the appellant's access will have to be reconsidered in the trial court after the new report has been received. The appellant's application for Justice Gower to recuse himself was filed on 10 August 2010, less than three weeks after this Court released its decision in the appeal from Justice Gower's order refusing to vary his 2007 order.

[21] The appellant's application sought an order that Justice Gower recuse himself "from further hearings and all matters pertaining to this case based on a perception of a reasonable apprehension of bias". When the application first came before him

on 1 September 2010, Justice Gower indicated to the appellant that her affidavit material might not meet the standard of cogent evidence needed to displace the presumption of impartiality, and told her that it was her responsibility to put evidence before the court that would indicate bias on his part or that would give rise to a reasonable apprehension of bias. The appellant was given a six-week adjournment in order to put evidence before the court.

[22] The hearing of the appellant's recusal application resumed on 18 October 2010. The appellant said she had chosen not to file any further material because of timing, costs, and her concerns about how the material would be received and interpreted.

[23] On 5 November 2010, Justice Gower dismissed the appellant's application for him to recuse himself and ordered that she pay costs to the respondent.

[24] It is convenient to note here that in his decision on the recusal application, Justice Gower expressed support for the recommendation that an updated report be prepared (para. 48):

> ... I once again urge the Director to accept the recommendation of this Court in the order made June 4, 2010, that a second update to the original Custody and Access Report be prepared, as that may well expedite a resolution to this existing problem regarding the petitioner's access which will be in the child's best interests.

[25] I note as well that after the parties and the child advocate had filed their factums on this appeal, the Director, in a letter dated 15 April 2011, agreed to proceed with an updated assessment and report.

[26] The fact that the Director has agreed to proceed with an updated report does not limit or eclipse the appellant's arguments on her appeal from the order dismissing her recusal application. I say that because, regardless of what the updated assessment report may recommend, the report cannot be dispositive of the access issues. In the end, what order is made on the issue of the appellant's exercise of access to R. is a matter for the courts to determine.

[27] The appellant appeared on her own behalf before us, as she had before Justice Gower. The thrust of her submissions on the recusal application at both appearances was that Justice Gower, who had heard the many applications concerning the appellant's exercise of her access to her son, could no longer be regarded or perceived as impartial in deciding the issues between the parties. Among other things, the appellant submitted that his lack of response to the need for an updated custody and access report in the face of her own changed circumstances and her son's expressed desire to visit with her, demonstrated his lack of impartiality. In support of her application she also argued that Justice Gower had: made findings of fact based on untested affidavit evidence and without proper examination of the evidence; given credence to alarming statements and assumptions without scrutiny; and not followed the law.

[28] The appellant placed considerable emphasis on Justice Gower's comment that "the Court of Appeal decision really hasn't changed things ..." In her submission, the comment was illustrative of the judge's lack of impartiality. The appellant contended that the "hopeless position" of the appellant and R. was essentially the consequence of the judge having remained seized of the case after having lost his objectivity or detachment in relation to the issues.

[29] In his reasons declining to recuse himself, Justice Gower said the following about the comment he had made:

> [16] The fourth argument advanced by the petitioner arises from my statement, at an appearance on July 28, 2010, that the Court of Appeal judgment in this case, cited above, "really hasn't changed things". She further deposed that this alleged statement "alarms" her because she believes the Court of Appeal did give "a direction" which was "not the same" as my previous rulings.
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> [17] I have obtained a transcript of that appearance which confirms I made the statement in the following context:
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> > "The other issue is that the Court of Appeal decision really hasn't changed things other than to make a recommendation, or other than to order that this Court make the appropriate recommendation for an updated custody and access report. That's been done. You tell me, and Ms. Cabott will update me in a minute here, that Family and Children's Services is not prepared to go ahead with an update. But

> what the Court of Appeal decision clearly says is that, and I'm reading from you - reading to you from paragraph 35:
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> > T.M.'s history of violence towards the mother and child is significant and justified the Chambers Judge's reluctance to reinstate unsupervised access in Edmonton without the assurances gleaned from a further investigation.
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> And without assurances gleaned from a further investigation I'm not in a position to make any changes to the consent corollary relief order. I mean, that's what the Court of Appeal is saying. They said yes, in their view, two of the three judges felt that there was a significant change in circumstances to justify an updated custody and access report; yes, they did go that far, but that's as far as they went. Not that unsupervised access was all of a sudden acceptable."

[18] The petitioner failed to provide any particular reference to any passages in the Court of Appeal's judgment to support her interpretation that the Court "gave a direction" which differed from the substance of my earlier decisions.

[19] The appeal was from my decision of June 24, 2009 dismissing the petitioner's application to vary an order I made on February 22, 2007, requiring that her access with R. take place in Whitehorse, unless the parties otherwise agreed in writing. The petitioner also applied at that time for an update to the Custody and Access Report by psychologist, Geoffrey Powter, the original of which was dated January 30, 2004, and which was updated September 15, 2005. The majority of the Court of Appeal only allowed the appeal in respect to the request for the update to the Custody and Access Report. In that regard, the majority appeared to be persuaded that: the petitioner had been separated from T.M. (not the respondent, T.B.M.) since about 2006; that by June 2009, R. was 12 years old and had a desire to see his mother; and almost seven years had elapsed since T.M.'s assault on R (see paras. 12, and 32-34 of the decision). The majority felt that these changes and circumstances were sufficient to merit consideration of the petitioner's request for an update to the Custody and Access Report. (Interestingly, subsequent to the decision appealed from in June 2009, and prior to the hearing of the appeal in May 2010, the parties and the child advocate had already consented to an order made by another judge of this Court for what effectively would be an updated Custody and Access Report.) In the result, the Court of Appeal remitted the petitioner's application to vary access back to this Court for "for reconsideration following receipt of the updated custody and access report" (para. 37). The Court did not disturb my decision denying the petitioner unsupervised access with R. in Edmonton.

[20] Thus, to the extent that the Court of Appeal did not interfere with my Order restricting the petitioner's access to R., then in fact the Court's judgment did not practically change the status quo regarding access. In this context, my statement that the decision "really hasn't changed things" cannot give rise to a reasonable apprehension of bias.

[Footnotes omitted.]

[30] The essence of the appellant's argument on the appeal is that, as a consequence of this Court's reasons, a new perspective must be brought to the case in order to recognize the changed circumstances. For that reason, a new judge is required to hear the proceedings on the issue of access when it is remitted to the trial court. From his reasons, it is apparent that a similar argument was made to Justice Gower for he said, under the heading "New Perspective", the following:

> [21] The fifth argument made by the petitioner was that the Court of Appeal's judgment demonstrates that "a new perspective" is called for in future adjudications on this matter. As I indicated earlier, in her affidavit, the petitioner referred to statements from the Court of Appeal which identify concerns about past decisions I have made on this file. However, she failed to provide any particular references to passages in the judgment to support that interpretation. Further, apart from the majority disagreeing with me on whether there had been a sufficient change in circumstances to justify an update to the Custody and Access Report, there were no comments questioning my impartiality or identifying any concerns about my previous decisions in this action.
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> [22] Consequently, the petitioner's argument on this point amounts to nothing more than her interpretation of what the majority of the Court of Appeal intended by their words.

A Preliminary Question on the Appeal

[31] Although not argued before us, there may be a question about whether an "order" made by a judge on a disqualification application may be appealed as if it were an interlocutory order. The question has been raised in an article by Geoffrey S. Lester, "Disqualifying Judges for Bias and Reasonable Apprehension of Bias: Some Problems of Practice and Procedure", (2001) 24 Advoc. Q. 326. Lester argues that, as a matter of principle, a motion that a judge disqualify him or herself is not cognizable, and an interlocutory appeal from such a decision cannot properly be brought (at 342). Lester explains at 343:

> The decision to continue or to stand down is in no real sense a "judgment" ... [T]here is no exercise of judicial power or adjudication because there is no authoritative and binding decision in a suit between subject and subject or between the sovereign and subject ...
>
> [Footnotes omitted.]

[32] In Lester's view, an "order" that a judge not recuse himself cannot be a "curial order" because it does not require a party to do or refrain from doing something, nor is such a decision enforceable or appealable on an interlocutory basis (at 343-344 n. 87 and 346). Lester acknowledges that the practice is to the contrary but points out that the issue he raises seems never to have been addressed in the common law provinces in Canada. He suggests as an alternative that a party seeking judicial disqualification should bring an application that the matter be adjourned and relisted before another judge on the grounds of reasonable apprehension of bias. An order of this sort, he posits, could be appealed.

[33] I am reluctant to express an opinion on the question of this Court's jurisdiction to hear an appeal from Justice Gower's order without the advantage of hearing argument on the matter. In any event, it seems preferable to consider the merits of the appeal, given the nature of the underlying issues which may well have an impact on the best interests of parties' child.

Analysis

[34] The appellant's application for Justice Gower to disqualify himself from hearing any further proceedings on account of bias or a reasonable apprehension of bias, was filed shortly after this Court released its decision on the appeal from Justice Gower's June 2009 order. In his June 2009 decision, Justice Gower declined to vary his prior access order and declined to recommend that an updated report be prepared. It appears that the appellant, having been largely successful on the appeal, became apprehensive that, if the issue of her exercising access in Edmonton were to go back before the same judge, she would find herself and R., in the words of Garson J.A., in the same "hopeless position of not being able to see each other except rarely and away from a natural home setting" (para. 36). The appellant's apprehension about the same judge again hearing her application appears to have been triggered, at least in part, by Justice Gower's comment that the appeal "really hasn't changed things".

[35] The appellant may well have been apprehensive about the same judge again hearing the application to vary his 2007 order, but the standard that must be applied on a recusal application is an objective one. In *Wewaykum Indian Band v. Canada,* 2003 SCC 45, [2003] 2 S.C.R. 259 at para. 60, the Supreme Court of Canada reiterated the principle to be applied:

> In Canadian law, one standard has now emerged as the criterion for disqualification. The criterion, as expressed by de Grandpré J. in *Committee for Justice and Liberty v. National Energy Board, supra*, at p. 394, is the reasonable apprehension of bias:
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> > ... the apprehension of bias must be a reasonable one, held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information. In the words of the Court of Appeal, that test is "what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly."

[36] There is a strong presumption of judicial impartiality. For that reason, the grounds advanced to support a request for disqualification must be serious and convincing, and the party who is arguing for recusal carries the burden of establishing that circumstances exist that justify a finding that the judge must be disqualified: *Wewaykum Indian Band* at para. 59.

[37] In *R. v. S. (R.D.),* [1997] 3 S.C.R. 484, at para. 112, the Supreme Court of Canada held that Canadian law requires that a real likelihood or probability of bias be demonstrated, stating that a "mere suspicion" is not enough. Additionally, the reasonable person, about whom reference is made in the governing test, must be "informed", that is, a reasonable person must be informed not only of the relevant circumstances of the particular case, but also of the tradition of integrity and impartiality that are the backdrop for our judicial system and which are reflected in and reinforced by the judicial oath.

[38] In *Committee for Justice and Liberty et al. v. National Energy Board et al.,* [1978] 1 S.C.R. 369 at 395, de Grandpré J., dissenting, discussed the reasonable apprehension standard with these reminders:

> … The grounds for this apprehension must, however, be substantial and I entirely agree with the Federal Court of Appeal which refused to accept the suggestion that the test be related to the "very sensitive or scrupulous conscience".
>
> [Emphasis added.]

[39] That an apprehended bias will inexorably flow from a judge's prior involvement in proceedings in which adverse rulings have been made against a litigant is not a defensible proposition. In *R. v. Werner*, 2005 NWTCA 5, 205 C.C.C. (3d) 556, the court stated:

> [18] As many cases have noted, therefore, the mere fact that a judge had previously decided adversely a case involving an accused does not create a reasonable apprehension of bias: see, for example, *R. v. Novak*, [1995] B.C.J. No. 1127 (C.A.); *R. v. Teskey*, [1995] A.J. No. 311 (Q.B); *R. v. James* (2001), 149 C.C.C. (3d) 534 (N.S.C.A.); *R. v. Kochan*, [2001] A.J. No. 555 (Q.B.). The presumption of judicial impartiality prevails in the absence of cogent evidence to the contrary.

[40] In dismissing the appellant's application, Justice Gower referred to the presumption of impartiality and the test for the reasonable apprehension of bias as it was articulated by the Supreme Court of Canada in *Wewaykum Indian Band* at paras. 59-60. He also referred to the observations made by Côté J.A. in *Boardwalk Reit LLP v. Edmonton (City),* 2008 ABCA 176 at paras. 29-30. His summary of the applicable law was correct. Applying the standard stated in *Wewaykum Indian Band* to the material he had before him led the judge to conclude that he ought not to recuse himself. I am unable to say that he erred in law in so declining.

Appeal of the Order as to Costs

[41] The case authorities support the view that the question of whether a judge ought to recuse himself, on an application such as the one brought in this case, can only be decided by that judge: *Kibale v. Canada*, [1991] F.C.J. No. 1014 (T.D.) per Strayer J.

[42] On the application, Justice Gower was not being called upon to make a decision as between the parties and the order he made dismissing the recusal application did not require either party to do, or refrain from doing, anything.

[43] Moreover, the recusal application brought in this case was not one in which allegations of bias or the apprehension of bias were being used as a means of forum shopping, for the purposes of delay, or to thwart the possibility of a decision being reached.

[44] In the circumstances described, I am of the view that this was not a case in which costs ought to have been ordered against the appellant.

[45] Accordingly I would allow the appeal from the order for costs.

[46] There will be no order as to costs on the appeal.

"The Honourable Madam Justice Rowles"

I agree:

"The Honourable Mr. Justice Frankel"

I agree:

"The Honourable Madam Justice Bennett"