

IN THE SUPREME COURT OF THE YUKON TERRITORY

Citation: *H.L.M. v. J.J.P. et al*, 2004 YKSC 69

Date: 20040930
Docket: S.C. No. 04-B0017
Registry: Whitehorse

Between:

H.L.M.

Plaintiff

And:

**J.J.P. and
B.A.M. and W.J.M.**

Defendants

Publication of the name of the child, the child's parent or identifying information about the child is prohibited by section 173(2) of the *Children's Act*.

Before: Mr. Justice R.S. Veale

Appearances:

James Van Wart
Christina Sutherland
Emily R. Hill

For the Plaintiff
For the Defendants, B.A.M. and W.J.M.
For the Defendant, J.J.P.

**REASONS FOR JUDGMENT
DELIVERED FROM THE BENCH**

[1] VEALE J. (Oral): I am going to give further reasons in writing at a later date but I think it is only fair to indicate now what my decision is so that everybody can govern themselves accordingly. I will be brief but to the point.

[2] The court case of *Dhillon v. Dhillon*, 2003 YKSC 22, is the principle that I am going to follow, and I am not going to go into that but if you have an extra copy, you could pass it on to J.J.P.. Thank you.

[3] J.J.P., where there has been serious family violence between spouses, the general principle is that if it is likely to result in harm to the child, access is prohibited. It is not a lifetime prohibition. I do not want you to go away thinking that you will never see your daughter again, but based on the evidence filed by H.L.M. on her affidavit of September 30, 2004, her Affidavit No. 2, I have serious concerns about the safety of your daughter. So I am going to make an Order at this time that access of J.J.P. to the child is prohibited – I will use the word “suspended” because what I am saying to you, J.J.P. is that you are now in the Domestic Violence Treatment Option process and there will be a certain point in time where you may wish to come back to this Court and make an application to see your child. I will entertain that application at any time that you get counsel together to prepare it and bring it forward to the Court. But on the basis of the evidence before me, I am suspending your access to your child at this time.

[4] Is there anything else I need to say, Ms. Sutherland, in terms of the Order you are seeking?

[5] MS. SUTHERLAND: No, I don't believe so, I don't.

[6] THE COURT: Thank you.

[7] So, J.J.P., please get legal counsel. It may be that you can go back and talk to Ms. Hill and bring forward an application but I appreciate times are difficult for you and --
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[8] J.J.P. Legal counsel for what though, Your Honour? Like, legal counsel to fight for custody and fight for my daughter? Like ---

[9] THE COURT: You want to see your daughter, okay?

[10] J.J.P.: Yes, I want to see my daughter. I don't see how ---

[11] THE COURT: Look, there has to be evidence before me, okay? You have no evidence before me on this whole violence issue. You have to get some evidence before me on this whole violence issue. You have to get some evidence before me so that I have something to determine whether it should be a prohibition or whether there should be supervised access. I mean, ultimately, everyone in this courtroom is probably in favour of you having access to your daughter but the issue is when are we going to be satisfied that it is safe because it is not your right, it is not your wife's rights that we are dealing with here, but the right of your daughter. She is entitled to be treated in a certain fashion and the evidence before me is that she has not been. That is the issue. So you need legal counsel and you need legal counsel to prepare an application on your behalf. Okay?

[12] J.J.P.: Yes.

[13] THE COURT: Thank you. We are adjourned.

VEALE J.