

CITATION: Jackman v. Doyle, 2020, ONSC 1928
COURT FILE NO.: FS-20-16266
DATE: 20200327

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:)
)
CANDIDA OLIVIA (TRINITY) JACKMAN) *Harold Niman, Christopher A. Mamo and*
) *Rachel Hill* lawyers for the applicant
Applicant)
)
- and -)
)
MARCUS DOYLE) Self-represented and acting in person
Respondent)
)
)

HEARD: March 27, 2020

ENDORSEMENT

DIAMOND J.:

[1] By Endorsement dated March 20, 2020, I granted interim relief requested by the applicant and set a timetable for the delivery of responding and reply materials so that the applicant’s motion could be argued on a full record this morning.

[2] The respondent was ordered to serve and file his responding materials by 4:00 pm on March 24, 2020. This date was canvassed with and agreed to by the respondent during the initial telephone conference held on March 20, 2020.

[3] At 1:26 pm on March 24, 2020, the respondent emailed the Family Scheduling Office (copying counsel for the applicant) to advise that he would not be able to finalize his responding materials until “later that night”. After initially opposing any extension, counsel for the applicant confirmed at 1:34 pm that the applicant was not opposed to the respondent filing sworn affidavits the following day so long as unsworn copies were delivered by the deadline I had imposed.

[4] The respondent did not deliver any responding materials, sworn or unsworn, by the 4:00 pm deadline or the following day. The applicant delivered supplementary materials in the afternoon of March 26, 2020 which was permitted as per the terms of my Endorsement dated March 20, 2020.

[5] At 8:57 am this morning, the respondent submitted various paragraphs excerpted from his “draft affidavit” along with a request that the applicant’s motion be adjourned for one week so that his newly retained counsel (who had in fact been acting for the respondent in this matter until the respondent terminated his services on or about March 14, 2020) could finalize all responding materials and argue the motion.

[6] The applicant opposed the respondent’s request for an adjournment, arguing that since the children have now been returned to her, the urgency (and in fact the crux) of her motion is now moot and the motion is no longer necessary.

[7] While I understand the applicant’s frustrations with the respondent failing to comply with the timetable, I do not entirely agree with her position. Though responsibility for further delay does lay at the feet of the respondent, I have yet to receive his sworn evidence offering his side of the story. Before the events of earlier this month giving rise to the applicant’s motion, there was no fixed access schedule although it appears that the parties would typically agree upon when and how the respondent would exercise access to the children. The respondent takes the position that given the terms of my Endorsement dated March 20, 2020, and with the children now under the applicant’s primary care, his access has been rendered very limited and he seeks the opportunity to address this issue on an urgent basis.

[8] Since I have yet to receive or review any responding materials, I am not in a position to assess whether the respondent’s request for access terms (whatever those may be) fit the “urgency requirement” as set out in the Chief Justice’s Notice to the Profession dated March 15, 2020 (“the Notice”). In my view, and consistent with the directives in the Notice, I am not prepared to foreclose the respondent’s request for access terms without first reviewing his responding materials. If those responding materials satisfy the “urgency requirement”, then the motion shall be scheduled to be argued before me as the designated judge.

[9] I understand that counsel for both parties will be discussing this matter further on Monday March 30, 2020. Absent any agreement between the parties, there shall be a further telephone conference before me at 10:00 am on Friday April 3, 2020 at which time the parties will address the issue of whether the respondent’s request for access terms is sufficiently urgent to warrant the motion being argued.

[10] I trust that counsel for both parties can arrive at a mutually convenient timetable for the exchange and filing of any further materials they may wish me to consider during the next telephone conference.

[11] In the interim, on the record before me (including the applicant’s supplementary materials), I agree with the applicant that given the apparent volatility of the parties’ relationship, and the fact that they are both now represented by counsel, the parties shall only communicate through Our Family Wizard with communication limited to matters dealing with the children.

[12] In summary, I make the following interim Order:

- a) The applicant shall continue to have primary care of the children, and the respondent shall have reasonable weekly parenting time as the parties may agree pending further court Order.
- b) The parties shall only communicate through Our Family Wizard with communication limited to matters dealing with the children.
- c) The applicant's motion is further adjourned to a telephone hearing before me on April 3, 2020 to address the issue of whether the respondent's request for access terms is sufficiently urgent to warrant the applicant's motion being argued. The Family Scheduling Office will provide the parties with the call-in particulars.
- d) This Endorsement is an Order of the Court enforceable by law from the moment it is released.
- e) Costs of today are reserved to me as the presiding judge on April 3, 2020.

A handwritten signature in black ink, appearing to read 'Diamond J.', written in a cursive style.

Diamond J.

Released: March 27, 2020

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