

Ontario Superior Court of Justice Milton Family Court

Thuy Bich Thi Le, Applicant, Self-Represented

Richard Norris, Respondent, Self-Represented

ENDORSEMENT ON MOTION

Note: this proceeding was brought and determined, in writing, during the COVID-19 pandemic. That explains the unusual formatting of this Endorsement.

1. The Respondent father, Richard Norris (“Norris”), has brought a Motion in writing. Previously, this Court determined that it was urgent in some respects and, therefore, ought to be heard in accordance with the recent directive issued by the Chief Justice of the Superior Court of Justice.
2. As per that earlier ruling, there are two issues to be decided: (i) whether the Applicant mother, Thuy Bich Thi Le (“Le”), has breached any existing Court Order for access between Norris and the child, C., and if so what remedy should be granted (including police enforcement of any existing access Order), and (ii) whether Le should be ordered to remain within a certain radius of the home that she currently lives in with C., in Oakville.
3. Wherever the affidavit materials of the parties have not been properly sworn/affirmed and/or commissioned, they have been treated by this Court as having been properly sworn/affirmed and, therefore, have attached to them all of the qualities and consequences of being sworn/affirmed evidence.
4. The child, C., appears to be three years old, born in the Spring of 2017. I say “appears” because neither side filed the December 5,

2019 Order of Justice Kurz that contains the particulars of the child and the precise provisions of the existing custody and access arrangement. In any event, the parties are doing their very best in these trying times, and this Court must do so as well.

5. It is without dispute that (i) the parties both live in separate homes in Oakville, and (ii) the child lives primarily with Le, and (iii) Norris has regular, twice per week Court-ordered access with the child.
6. The second issue described above can be disposed of quickly. Le, at paragraph 12 of her Affidavit, states that she has no intention of moving away from Oakville and, in fact, her mother is moving in with her and the child C. (and Le's other child from a different relationship).
7. Thus, on a temporary basis, this Court orders that Le shall not change C.'s residence to any place outside the City of Oakville.
8. The first issue described above is not much more difficult to decide than the second, even on this imperfect record. When Le responded to the within Motion, she filed not only an Affidavit but also an emailed letter addressed to "Your Honor" [sic]. That letter, when read as a whole, makes it crystal clear that Le is not complying with the existing access Order, for various reasons including (i) Norris allegedly harassing her and stalking her, and (ii) her not having an opportunity to have the Order varied, and (iii) the ongoing COVID-19 crisis, and (iv) her alleged fragile mental health.
9. With respect, none of those reasons, though understandable, is an excuse for non-compliance with a child custody and access order, at least not with further evidence to support the harassment allegation.
10. Put bluntly, Le's inability or failure to bring the matter back to Court to have the December 2019 Order varied is not the problem of Norris.
11. In addition, something direct must be said about Le's worries and anxiety about the COVID-19 health crisis. Those concerns, this Court sympathizes with and understands and can even relate to (notwithstanding my relative privileged existence, far removed from the toils of those working on the front lines to supply and treat me and my neighbours). But, at the same time, those concerns can be

addressed through responsible adherence to the existing Court Order.

12. This Court orders that the December 5, 2019 Order of Kurz J., with regard to access between Norris and the child C., shall be complied with in all respects. This Court orders, further, that the police are hereby authorized to enforce the said Order, and the one made herein.
13. Finally, what do I mean by “responsible adherence to the existing Court Order”? I mean being practical and having some basic common sense. Physical distancing measures must be respected. The parties must do whatever they can to ensure that neither of them nor the child, C., contracts COVID-19. Every precautionary measure recommended by governments and health authorities in Ontario and Canada must be taken by both parties and, with their help, by C. Neither party shall do anything that will expose him/herself or C. to an increased risk of contracting the virus.
14. In the result, with the Temporary Order outlined herein, Norris’ Motion dated March 20, 2020 is granted in part. Most of the relief sought was not entertained at all, and thus, no costs are ordered.
15. This Endorsement shall be forwarded by Court staff to both parties, by email, and incorporated into a formal Temporary Order as soon as possible. I thank the Court staff, who are among those important front-line workers helping to ensure that our society continues to function in these very challenging circumstances.

March 26, 2020

The Honourable Mr. Justice C.J. Conlan