

CITATION: Sneyd v. Tumorogoo, 2020 ONSC 2877
COURT FILE NO.: 1742/19
DATE: 2020-05-07

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Jeffrey Sneyd, Applicant

AND:

Munguntsetseg Tumorogoo, Respondent

BEFORE: The Honourable Mr. Justice A. Pazaratz

COUNSEL: Mr. C. Runco, Counsel, for the Applicant

Ms. K. Junger, Counsel, for the Respondent

HEARD: In Chambers – Triage Endorsement

ENDORSEMENT

- [1] *AS A RESULT OF COVID-19*, the regular operations of the Superior Court of Justice are suspended at this time, as set out in the Notice to the Profession dated March 15, 2020 available at <https://www.ontariocourts.ca/scj/covid-19-suspension-fam/>.
- [2] For the moment, the court is prioritizing “urgent” matters. However, with the passage of time the court has been able to gradually increase the services available during the COVID-19 suspension, as set out in the following documents which are available online:
- a. April 2, 2020 Supplemental Notice to the Profession
 - b. April 7, 2020 Protocol Regarding Family and Child Protection Matters in Central South Region
 - c. April 28, 2020 Notice to the Profession in Central South Region
- [3] This motion was referred to me as Triage Judge for a preliminary determination of urgency and of how this matter should proceed. Determinations of urgency are summary in nature, and wholly without prejudice to both parties on the hearing of the motion itself.
- [4] Electronic materials were filed through the Courthouse email address: Hamilton.Family.Superior.Court@ontario.ca. Upon the resumption of court operations all materials will be duly filed in the physical record at the courthouse.
- [5] I have received and reviewed the following materials on behalf of the Applicant father:

- a. Form 14B Motion Form dated May 6, 2020.
 - b. Applicant's Affidavit dated May 6, 2020.
 - c. Affidavit of Service setting out that the motion documents were served on the Respondent mother's counsel Kathryn Junger by e-mail on May 6, 2020.
- [6] Obviously, the mother must have an opportunity to file responding materials.
- [7] I have considerable familiarity with this file which is primarily a custody/access dispute in relation to two children ages four and three:
- a. In December 2019 I dealt with an *ex parte* motion brought by the father.
 - b. On January 6, 2020 I made a temporary-temporary without prejudice order on consent of the parties. The children were to continue to reside with the mother. The father would have supervised visits. In the absence of any other agreement, supervision would be by Hamilton CAS.
 - c. On April 6, 2020 I issued a lengthy Triage endorsement in relation to a motion the father brought when he was representing himself. I dismissed the motion on a without prejudice basis, because it was inappropriate for the father to attempt to proceed on an *ex parte* basis; and his materials were too long and unfocused.
 - d. In that April 6, 2020 endorsement I noted that the father had identified certain health issues, and I commented: "...the father would be well advised to provide the mother with some medical corroboration as to his health, to allay any concerns on this topic." Ms. Junger has sent an e-mail in response to the father's most recent motion, suggesting that the father should not be entitled to proceed because he has failed to comply with my April 6, 2020 endorsement. But, as stated, I did not specifically order the father to produce anything. I commented that he would be "well advised" to provide medical corroboration.
- [8] The father has now retained counsel and brought a motion seeking expanded access and specified access, not involving CAS.
- a. Even prior to the COVID-19 crisis, CAS had advised the parties that it no longer felt it was necessary for visits to be fully supervised, and the Society no longer wanted to be involved.
 - b. Once the COVID-19 crisis resulted in reduced operations for community agencies, the Society advised that it was no longer able to provide any supervision.
- [9] Accordingly, the father is not having in-person access. This was never the court's intention.

- [10] The January 6, 2020 temporary-temporary order was entirely without prejudice, based on the fact that CAS and Hamilton Police Services were investigating allegations against the father in relation to his interaction with the children.
- a. As stated, the Society no longer supports the same level of restriction it initially proposed in relation to access.
 - b. The police investigation did not result in any charges against the father in relation to the children.
 - c. (I note, however, since January 2020 the father has been charged with historic criminal offences in relation to the mother. Those allegations are denied by the father, and they have yet to be dealt with in criminal court.)
- [11] In the circumstances, I find that the issues raised in the father's most recent materials are *potentially urgent*. This is a preliminary determination, without prejudice to either party on the ultimate hearing of the motion.
- [12] The mother shall be allowed until Tuesday May 12, 2020 at 10:00 a.m. to serve and file any responding materials. Her affidavit materials should not exceed the length of the father's affidavit of May 6, 2020. In total, her materials should not exceed 15 pages.
- [13] The father shall be allowed until Thursday May 14, 2020 at 10:00 a.m. to file a reply affidavit of not more than two pages.
- [14] The father should also immediately attempt to secure an updating letter from Hamilton CAS to confirm their current position. That letter may be attached to his reply affidavit as an extra document.
- [15] Each party shall serve and file documents by e-mail.
- [16] The matter will be scheduled to be dealt with by a Judge on or after May 15, 2020.
- a. The Judge may decide to conduct a hearing by teleconference. In that event, counsel will be advised by the court as to the date and time of the teleconference.
 - b. However, after reviewing the file, the Judge may determine that it is more appropriate to deal with the matter based solely on the written materials, without a teleconference. In that event, the parties will be forwarded a copy of the Judge's written decision.
 - c. The judge dealing with the matter will make a formal determination as to whether the materials filed – *and any responding materials* – raise any issues which meet the threshold of being “urgent”, as required in the Notice to the Profession. If urgency has been established, the Judge will make any necessary orders.



Pazaratz J.

Date: May 7, 2020