

2007 CarswellAlta 1177, 2007 ABPC 186, [2008] A.W.L.D. 2033, [2008] W.D.F.L. 2495

2007 CarswellAlta 1177, 2007 ABPC 186, [2008] A.W.L.D. 2033, [2008] W.D.F.L. 2495

M. (F.), Re

In the Matter of The Child, Youth, and Family Enhancement Act, R.S.A. (2000) Chap. C-12

And in the Matter of the Family Law Act, Statutes of Alberta, 2003 Chap. F-4.5

And F.M. born 2004, and D.M. born 2005

Alberta Provincial Court

S.E. Lipton Prov. J.

Heard: January 15-July 20, 2007

Judgment: August 28, 2007

Docket: 060902624W101001, 060902624W102001, 060908233F101001, 060908233F102001,  
060703907F101001, 0703907F102001, 060948072F101001, 060948072F102001, 060382587F101001

© Thomson Reuters Canada Limited or its Licensors. All rights reserved.

Counsel: Ms T. Mair for Director under the Child, Youth, and Family Enhancement Act

Ms K. Checkland for Mother, S.M.

Ms E. **Logie** for Children, F.M., D.M.

F. Gordon for L.C., Father of D.M.

S.R.--Father of F.M.

R. Joshi for K.M., Maternal Grandmother and a guardianship applicant for the Children

Ms E.H.--D.M.'s Paternal Grandmother and a guardianship applicant for the Children

W.R., Ms P.R.--F.M.'s Paternal Grandparents and guardianship applicants for the child F.M.

Subject: Family

Family law --- Children in need of protection — Application for return of child — Under permanent order —  
General principles.

**Cases considered by S.E. Lipton Prov. J.:**

*M. (F.), Re* (2007), 2007 ABPC 44, 2007 CarswellAlta 213 (Alta. Prov. Ct.) — referred to

**Statutes considered:**

*Child, Youth and Family Enhancement Act*, R.S.A. 2000, c. C-12

Generally — referred to

s. 2 — referred to

s. 33 — referred to

*Family Law Act*, S.A. 2003, c. F-4.5

Generally — referred to

***S.E. Lipton Prov. J.:***

**Introduction**

1 This is a hearing as to the merits of granting a Director of Child Welfare's (the "Director") request for a permanent guardianship order ("PGO") on each of F.M. born 2004 ("FM") and D.M. born 2005 ("DM")(together, the "Children"). The hearing commenced on January 15<sup>th</sup>, 2007 and final argument was heard on July 18<sup>th</sup>, 2007.

2 On July 20<sup>th</sup>, 2007, I rendered my decision with respect to this matter. I granted the Director's request for a PGO on FM and DM and set out termination visits for family members. I further advised at that time that the reasons for my decision would be released on August 28<sup>th</sup>, 2007.

3 The mother of the Children is S.M. (the "Mother"). The father of FM is S.R. (the "Father of FM"). The father of DM is L.C. (the "Father of DM").

4 On February 20<sup>th</sup>, 2007, I released an interim ruling with respect to the status of four guardianship applications filed pursuant to the *Family Law Act*, Statutes of Alberta, 2003 chap. F-4.5 on the Children. These guardianship applications were filed by the Father of FM, the maternal grandmother, K.M. (the "Maternal Grandmother"), the paternal grandmother of DM, E.H. ("DM's Paternal Grandmother"), and the paternal grandparents of FM, W.R. and P.R. ("FM's Paternal Grandparents"). I held that the four guardianship applications were suspended for so long as the Director has custody of the Children. This ruling may be found at *M. (F.), Re*, 2007 ABPC 44 (Alta. Prov. Ct.).

5 On April 26<sup>th</sup>, 2007, I was advised by FM's Paternal Grandparents that they were withdrawing their guardianship application. I was also advised that the Father of FM had withdrawn his guardianship application at an earlier date. Finally, I was advised by the Director's caseworker, Ms Dana Harkin, that the applications of the Maternal Grandmother and DM's Paternal Grandmother would be rejected as they did not meet the Director's criteria for kinship placement. With respect to the Maternal Grandmother, I was advised by Ms Harkin on April 26<sup>th</sup>, 2007 that the Director had received collateral information which was negative in nature.

6 Due to the time constraints imposed pursuant to *The Child, Youth and Family Enhancement Act*, R.S.A.

(2000) Chap. C-12 (the "*CYFEA*"), the only options available to this Court are: (a) return of the Children to the Mother without the Director's involvement, (b) return of the Children to the Mother pursuant to a supervision order under the *CYFEA*, or (c) a PGO on each of FM and DM pursuant to the *CYFEA*.

7 The Director apprehended the Children on March 24<sup>th</sup>, 2006. They have been in a number of foster placements since this date.

8 Both the Father of FM and the Father of DM have indicated they will consent to a PGO on their child.

9 The Father of FM and the Father of DM did not testify at this hearing.

### **Evidence of the Director**

10 The Director's first witness was Dr. Lesley MacDonald. She was recognized as an expert in clinical psychology.

11 At the Director's request, Dr. MacDonald conducted a parenting capacity assessment on the Mother and prepared a report dated October 16th, 2006.

12 Dr. MacDonald said that the Mother acknowledged a history which included the following: domestic abuse by the Father of FM and the Father of DM, regular marijuana use prior to the apprehension of her Children, the use of cocaine on two occasions, consensual sex at age fifteen with a family member, situational anxiety which she initially treated with the Maternal Grandmother's prescription for Ativan, an alcoholic father, a high school drop out, a number of residences, and a number of jobs with the longest one lasting five months in duration.

13 Dr. MacDonald said that the Mother did not accept the need for the Director's involvement in her life and her insight was limited.

14 Dr. MacDonald said that the Mother did not have any serious physical health concerns and there was no history of psychiatric contacts. There was an issue with respect to anger management and difficulty with interpersonal relationships. The Mother had a peace bond and breach on her criminal record, and is currently facing break and enter and possession of stolen property charges.

15 Dr. MacDonald said that the Mother presented with a bland and flat affect and was not engaging with her Children.

16 Psychometric testing performed on the Mother by Dr. MacDonald indicated that the Mother would require hands-on demonstrations in order to learn new skills. On one personality test, Dr. MacDonald said the Mother faked good in answering questions. On another test, Dr. MacDonald said the results indicated that the Mother had a tendency to be impulsive and excitable. Antisocial features were present which included an excessive pre-occupation with self-centeredness. This self-centeredness, said Dr. MacDonald, implied that the Mother may disregard or give little attention to the rights and needs of others including her Children. Yet another test indicated that the Mother would need intervention with respect to expectations and management for her Children.

17 Dr. MacDonald came to the following conclusions after her assessment of the Mother. The Mother would have to be taught using a hands-on demonstration method. She suffered from low frustration tolerance coupled with physical and verbal aggression which would impact negatively on her Children. She had a poor stimulation level with her Children. Her ability to learn would be made more difficult by virtue of her lack of insight into

her limitations (other than with respect to domestic violence and drug use) and her lack of receptiveness to advice. The Mother would need a more responsible lifestyle including social and occupational stability.

18 When asked about the Mother's stability, Dr. MacDonald noted that the Mother had moved four times in fourteen months. When asked about the Mother's interaction with her Children, Dr. MacDonald noted that the Mother would need to give praise, give clear direction and consistently apply consequences and be more aware of her Children's needs.

19 Dr. MacDonald said that she had talked to the in-home support worker, Maureen Bazant-Gosling. Dr. MacDonald was advised that the Mother had made few changes.

20 Dr. MacDonald agreed with the suggestion that Ms Bazant-Gosling should have adjusted her teaching methods to recognize the Mother's need for hands-on demonstrations. She also recommended that the only other service the Director could consider for the Mother was counseling.

21 Dr. MacDonald stated that even if Ms Bazant-Gosling had earlier adjusted her teaching style with the Mother, the Mother's personality characteristics, her low frustration tolerance, and her interpersonal relations difficulties would interfere with her ability to engage professionals. Dr. MacDonald stated that the Mother lacked insight into her limitations as a parent and was not interested in accepting help. The Mother was of the opinion that the professionals were attacking her.

22 Dr. MacDonald said that the likelihood of change by the Mother was poor and would require a year or more of counseling before she could state that the Mother had internalized the information that had been given to her. (pages 33 and 75, January 15, 2007 transcript)

23 During this one year period, Dr. MacDonald said that the Mother would not be in a position to parent the Children.

24 Dr. MacDonald acknowledged in cross-examination that she had not seen the Mother since October 6<sup>th</sup>, 2006, and therefore would not have been aware of any changes that the Mother may have made since the date of her report. Furthermore, Dr. MacDonald stated that she had not reviewed her report with the Mother to see if the report had included any factual inaccuracies.

25 When advised that the Mother had now been in the same apartment for four months, Dr. MacDonald opined that this was not proof of stability in residency and said that when one has young children, moving any more frequently than once every one to two years could be a problem.

26 Dr. MacDonald said that she was not aware that the Mother had taken courses through AADAC, had taken four parenting courses, or that the Mother had attended the Sheriff King Phase 1 program.

27 Dr. MacDonald was not aware that the Mother had been seeing Dr. Diane Walters, a psychologist, since November 6<sup>th</sup>, 2006.

28 The Director's next witness was Maureen Bazant-Gosling. Ms Bazant-Gosling is an in-home support worker with Harvest Child & Family Services. She prepared a progress report for the period September 1<sup>st</sup>, 2006 through to January 3rd, 2007.

29 Ms Bazant-Gosling said that she got a referral in April of 2006 from the caseworker and began work at that

time with the Mother. The issues that she was told to address with the Mother were stability of housing, assisting the Mother in connecting with community supports, identifying family functioning and providing working recommendations to assist the Mother in achieving family stability.

30 A number of safety issues were identified with respect to the Mother. On one visit, the Children were found on the floor eating cat and dog food. On another visit, Ms Bazant-Gosling observed that the Mother's couch had been slashed, the walls had been damaged, and a coffee table was broken. Ms Bazant-Gosling also testified that she had advised the Mother on a number of occasions to fix a crib which was held together by a piece of string and to not put FM in this room during a time-out. This room also contained a fish tank.

31 As a result of these safety concerns, visits were initially moved to one of the Director's offices.

32 With respect to the visits in the Director's offices, Ms Bazant-Gosling said that the Mother did not always bring to the visits what the Children needed such as diapers and food. Visits were described as being chaotic in nature. FM was described as being aggressive towards her sister DM.

33 Ms Bazant-Gosling advised that Collaborative Mental Health was contacted by the caseworker for advice and made recommendations regarding strategies to help make the visits proceed better.

34 Ms Bazant-Gosling reported that during her involvement, the Mother made minimal effort in contacting Sheriff King, AADAC, or in following through with an intake she had set up at the Brenda Stratford House for the Mother. Ms Bazant-Gosling said that she had also given the Mother information with respect to the Mary Dover House and had asked the Mother whether or not she needed assistance in obtaining housing through Calgary Housing.

35 Ms Bazant-Gosling said that the Mother refused to apply to the Brenda Stratford House because she said that she would be purchasing a home with her father.

36 Ms Bazant-Gosling claimed that she revised her teaching strategies on a regular basis from lecturing to observing and to modeling. She said that she also spoke to the caseworker on different strategies because of the lack of progress and resistance being exhibited by the Mother. Ms Bazant-Gosling said that the Mother continued to demonstrate inconsistent parenting and hostility towards accepting advice. Visits continued to be chaotic. (page 126, January 15, 2007 transcript)

37 Ms Bazant-Gosling said that she routinely told the Mother that she should examine different approaches if certain ways weren't working and asked the Mother why the latter thought certain approaches weren't working. (pages 812 and 813, February 6, 7, 8, 2007 transcript)

38 On a number of occasions during her involvement, Ms Bazant-Gosling offered to quit but the Mother asked that she stay on as her in-home support worker.

39 Ms Bazant-Gosling advised that on October 4<sup>th</sup>, 2006 at a case conference, her mandate was changed by the caseworker to that of monitoring in order to determine if the Mother could follow through without being cued all the time. This was done for two reasons. Firstly, the Mother was resistant to advice being offered to her so Ms Bazant-Gosling said that she would stand back to see whether or not the Mother could incorporate any of the learning strategies. Secondly, FM was constantly looking to her rather than the Mother for signals during access visits.

40 Ms Bazant-Gosling said that the Mother's response at this conference was to state that she had done everything that the Director had asked but that nobody liked her. Ms Bazant-Gosling said that this was a common theme throughout her involvement. She also said that the Mother chronically stated that nothing was working.

41 Ms Bazant-Gosling said that she attended a case conference on October 30<sup>th</sup>, 2006. At this conference, Dr. MacDonald's report and recommendations were reviewed. The Mother was also present at this case conference.

42 It was at the October 30<sup>th</sup> case conference that Ms Bazant-Gosling said that she first became aware of Dr. MacDonald's recommendations as to how to teach the Mother parenting skills.

43 Ms Bazant-Gosling's main criticism of the Mother was the inconsistency that she demonstrated in her parenting techniques as well as her resistance to being taught.

44 Ms Bazant-Gosling acknowledged that she could have modeled certain parenting techniques for longer than she did, but stressed that the Mother resisted directions and input. Furthermore, the Mother kept changing her parenting techniques, sometimes based on information that she had received from her friends. As a result, only minimal improvement was noted in her parenting skills.

45 Towards the end of her involvement, Ms Bazant-Gosling noted that the Mother had attended AADAC and had redone Phase 1 of the Sheriff King program. The Mother also communicated to her information about the various other programs she had been taking including the Nobody's Perfect course and private counseling. Ms Bazant-Gosling said that she relayed this information to Ms Harkin. Ms Bazant — Gosling noted that the Mother had also made some progress in her budgeting skills and was starting to give the Children scattered praise.

46 Ms Bazant-Gosling stated that the Children were not yet ready to be returned to the Mother because of her inconsistent parenting.

47 Ms. Bazant-Gosling said that the Director had her continue her involvement with the Mother, notwithstanding the application for a PGO, because the Director wanted to provide the Mother with every opportunity to see if she could progress and make changes prior to the matter going to trial.

48 The next witness for the Director was Ms Marlene O'Neill-Laberge. Ms O'Neill-Laberge works for Collaborative Mental Health which is a multi-disciplinary group consisting of social workers, a psychologist, a pediatrician, and a psychiatrist. This group provides both consultations and assessments of parents and children under age three with child welfare involvement on issues such as child development.

49 Ms O'Neill-Laberge was qualified as an expert in children's mental health with a speciality in attachment issues.

50 Ms O'Neill-Laberge received her referral from the doctor who examined the Children after they came into the care of the Director. The doctor was concerned with FM.

51 Ms O'Neill-Laberge talked to Ms Harkin and Ms Bazant-Gosling and was asked to do a consultation with respect to FM.

52 Ms O'Neill-Laberge met with the Mother on June 30<sup>th</sup>, 2006 in order to coach the Mother with respect to engaging DM. Ms O'Neill-Laberge said this visit went okay. The visit on July 12<sup>th</sup>, 2006 with the Mother and

FM was, however, quite chaotic. Ms O'Neill-Laberge said that the Mother had difficulty prioritizing tasks while trying to manage FM's behaviour.

53 Ms O'Neill-Laberge said that FM demonstrated the following negative behaviours:

- a) she was too friendly with strangers,
- b) she was disinterested in play due to a lack of stimulation and structure in her life,
- c) she was tense in her posture and resistant to affection,
- d) she was disinterested/upset at meals, and
- e) she was aggressive with her peers.

54 By the time Ms O'Neill-Laberge became involved, the Children had already had four care givers and were also going to daycare. She considered them to be at high risk for attachment disorder as a result of the multiple placements. Ms O'Neill-Laberge therefore recommended limiting the number of transitions for the Children.

55 Ms O'Neill-Laberge said that additional risks to these Children were their exposure to domestic violence as well as potential maternal substance abuse during pregnancy. She said that the Mother's exposure to domestic violence and alcohol/drug use was a source of distress and fear and prevented her from properly responding to her Children's cues because her own responses were blunted.

56 Ms O'Neill-Laberge said that because of the number of moves, it was impossible to get a baseline data reading on the Children. She stated that it requires approximately three to four months with one care giver before a baseline can be established. However, she stated that the Children appeared to be age appropriate developmentally.

57 Ms O'Neill-Laberge stated that if there were controls around intrusions such as noise and clutter, the Mother performed well. However, Ms O'Neill-Laberge noted that life is not like this.

58 Ms O'Neill-Laberge said that FM does not have trust because she believes that all of her care givers are temporary. As such, she said that FM's behaviours are designed to elicit a rejection response from her care givers.

59 Ms O'Neill-Laberge said that FM has special needs and would require a parent who has therapeutic skills in parenting. She said that FM has extreme difficulty with emotional regulation. Ms O'Neill-Laberge stressed that a child cannot self-regulate without first regulating to a care giver. FM's care givers would have to understand attachment issues and behaviours that a child produces, be aware of their own triggers and vulnerabilities when FM acts up, and be equipped with strategies sensitive to attachment issues. (page 242, January 16, 2007 transcript)

60 Ms O'Neill-Laberge said that stability of children within their first year of life is crucial. With respect to these Children, she said that it is already quite late. Furthermore, children do not stabilize in foster care and therefore, there is extreme urgency with respect to permanency planning for these Children. (pages 249 and 250, January 16, 2007 transcript)

61 In her opinion, leaving the Children in foster care for an additional three months in order to see if the Moth-

er could incorporate change would leave these Children with virtually no chance of a positive mental health outcome. (page 285, January 16, 2007 transcript)

62 Ms O'Neill-Laberge said that a marginal parent, such as the Mother, would struggle. In her opinion, the Mother is a marginal parent because she brings unresolved issues of trauma and grief and is not emotionally healthy herself.

63 Ms O'Neill-Laberge said that the Mother's verbal learning difficulties would require hands-on training. However, the Mother's low frustration tolerance, her anti-social personality traits, her limited insight into accepting help, her need for a more responsible lifestyle which excluded drugs, her need for stable housing and a job, her need for a supportive social network, and her need to enhance her level of stimulation response to her Children all support Dr. MacDonald's conclusion that the Children remain in care for at least one further year.

64 In her opinion, there are not any programs within the City of Calgary that would help the Mother to move faster in overcoming all of her issues. (page 309, January 16, 2007 transcript)

65 Furthermore, the Mother's commencement of therapy with Dr. Walters in November of 2006 could only be viewed as an eleventh hour initiative on her part and too late to overcome her barriers. (page 311, January 16, 2007 transcript)

66 Ms O'Neill-Laberge said that an appropriate strategy to deal with someone like FM would be to use time-ins instead of time-outs because time-ins allow a parent to help the child to calm down.

67 While Ms O'Neill-Laberge said that she consulted with Ms Bazant-Gosling towards the middle or end of June of 2006, she did not mention to Ms Bazant-Gosling that time-ins would be preferable to time-outs then being utilized. She said that Ms Bazant-Gosling would not have necessarily known to use time-ins instead of time-outs. Ms O'Neill-Laberge said, however, that the use of time-outs with FM in view of her Mother instead of being alone in a bedroom, while not being the best option, would be a neutral factor with respect to FM's behaviours. She said that the use of time-outs by Ms Bazant-Gosling could not account for FM's behaviours, most of which happened prior to the apprehension when FM was already emotionally deregulated.

68 In Ms O'Neill-Laberge's opinion, had FM had a healthy attachment to her Mother prior to the apprehension, she would not have struggled as much subsequent to the apprehension.

69 Ms O'Neill-Laberge also stated that had the Mother not been so resistant to Ms Bazant-Gosling's efforts, other strategies utilized by her would have been effective. (page 260, January 16, 2007 transcript)

70 Ms O'Neill-Laberge concluded her evidence by stating that FM is at high risk for poor mental health because of the early onset of emotional behavioural problems which has placed her in a position of not being able to regulate her own emotions. Furthermore, due to the insecure attachments resulting from multiple care givers, FM's exposure to domestic violence, coupled with a parent who doesn't have a good history of working with services and possesses anti-social personality traits, and due to the possible prenatal exposure to drugs, FM could not be returned to the care of her Mother.

71 The next witness for the Director was Ms Gail Korn. Ms Korn works for Worth Resolving, an agency which provides visit supervisors.

72 Ms Korn supervised a visit between the Mother and the Children at the Mother's home. Ms Korn stated that

there was kitty litter under the kitchen table and the Mother was forced to use hand sanitizer to wash FM's hands. She stated that the Mother told FM not to touch the litter box under the kitchen table.

73 Ms Korn also said that a cigarette lighter was laying on the couch.

74 Ms Korn said that FM ran around during the visit and kicked the baseboards, pulled cords out of the walls, screamed, demanded things, pushed her sister DM once and hit her once. The Mother attempted time-outs on four or five different occasions during this visit.

75 On once occasion, Ms Korn said that the Mother went outside to have a cigarette thus forcing Ms Korn to take the Children outside as well.

76 Ms Korn said that the Maternal Grandmother showed up part way through this visit and helped. Ms Korn said that during this visit, FM also hit her several times.

77 Finally, Ms Korn said that FM touched her vagina on three different occasions and tried to touch DM's vagina as well.

78 The next witness for the Director was Ms Dana Harkin. Ms Harkin is a caseworker who received this file from the investigator on April 4<sup>th</sup>, 2006.

79 At the time Ms Harkin received the file from the investigator, the concerns with the Mother were domestic violence, criminal activity, poor parenting choices, as well as drug and alcohol use.

80 There were similar concerns with the Mother prior to the apprehension which had resulted in investigations by the Director during the months of November and December of 2005.

81 Ms Harkin said that after the apprehension, the Children were initially placed with the Maternal Grandmother and her husband. However, because the Maternal Grandmother's husband was an alcoholic, the Children were moved to the home of the Father of FM and his girlfriend K.J. (hereinafter referred to as "KJ"). This move was made with the consent of the Mother.

82 Ms Harkin said that she met with the Mother in early April of 2006 to review the issues and what changes would be required by her including the need to establish a stable home. Ms Harkin said that the Mother agreed to the service plan which was signed at a later date. This plan included these obligations: see Dr. MacDonald, attend all visits with her Children, work with in-home support, and establish stable housing and employment.

83 Ms Harkin said that she initially recommended to the Mother that she attend for substance abuse treatment. However, Ms Harkin advised that the Mother was rejected by Aventa as not being a suitable candidate and was advised instead to attend AADAC.

84 Ms Harkin said that she met with Ms Bazant-Gosling and gave her the service objectives for the Mother. Ms. Harkin said that Ms Bazant-Gosling told her that she was providing weekly reminders to the Mother about these service objectives.

85 With respect to the Mother's substance abuse, Ms Harkin advised that the Mother tested positive on one occasion for marijuana in March of 2006, tested positive for marijuana and cocaine twice in April of 2006, tested positive for marijuana in May of 2006 and for alcohol in November of 2006. Additionally, there were five no-

shows for drug testing up to the period ending September of 2006.

86 Ms. Harkin acknowledged that the Mother had been clean from July of 2006 to November of 2006 when she tested positive again for alcohol.

87 Ms Harkin advised that she received permission to apply for a PGO on both FM and DM on July 21<sup>st</sup>, 2006 after it had been determined in discussions with Ms Bazant-Gosling that the Mother was defensive and had not made any progress.

88 Ms Harkin said that the Mother told her she didn't believe there was an issue with respect to her parenting or lifestyle choices and was refusing to engage in services provided by the Director.

89 Ms Harkin said that when she applied for a PGO, she did a further service plan with the Mother. At that time, Ms Harkin said that family members were invited to attend a case conference in July of 2006 and were asked if any of them wanted to apply for kinship care of the Children.

90 Ms Harkin said that she cautioned all family members at this case conference not to give the Mother parenting advice as it was conflicting with the advice being given to her by Ms Bazant-Gosling. Notwithstanding this, Ms Harkin was informed that the Maternal Grandmother, KJ, as well as KJ's mother S.J. (hereinafter referred to as "SJ") were continuing to give the Mother parenting advice.

91 Notwithstanding the Director's application for a PGO, Ms Harkin said that she asked the Mother in August of 2006 if she wanted to change in-home workers due to her lack of progress. The Mother responded that she wanted to keep Ms Bazant-Gosling. Ms Harkin said that she asked the Mother on a monthly basis if she still wanted to continue with the services of Ms Bazant-Gosling or obtain a new in-home support worker.

92 Ms Harkin said that for the period from July through October of 2006, the Mother had multiple placements including stays in hotels. In October of 2006, KJ obtained a rental home for the Mother.

93 Ms Harkin said that in June of 2006, the Mother was arrested and charged with fraud and theft.

94 Ms Harkin said that she recommended the Brenda Stratford House to the Mother. She again recommended to the Mother that she reapply at the Aventa residential substance abuse program.

95 With respect to the November 8, 2006 service plan that she reviewed with the Mother, Ms Harkin said that she told the Mother that it would be up to her to give feedback to Ms Bazant-Gosling as to which strategies were and were not working. In addition, Ms Bazant-Gosling was specifically instructed to implement the Collaborative Mental Health recommendations as well as Dr. MacDonald's recommendations.

96 Ms Harkin said that in November of 2006, the Mother told her that she would no longer advise Ms Harkin as to what she was doing.

97 Ms Harkin said that the Mother obtained employment in September of 2006. She was told to provide her employment record to Ms Bazant-Gosling so that the two of them could work on designing a household budget. Ms Harkin later heard that the Mother lost her employment.

98 Ms Harkin admitted to making a mistake by not referencing the requirement that the Mother attend AADAC in the July 2006 service plan even though the Mother was then being randomly tested for substance abuse. The

Mother did know, however, that treatment was required as she had previously been told to apply at Aventa, and failing same, to AADAC.

99 Ms Harkin also acknowledged that domestic violence was another objective with the Mother that was never put into the service plan. Ms Harkin said that her priority was to get the parenting assessment done by Dr. MacDonald. She noted that the Mother had already taken the Sheriff King Phase 1 domestic violence course.

100 Ms Harkin confirmed that by October of 2006, the Mother had been given all of the Director's expectations in writing as to what was expected of her despite having been previously told by Ms Harkin.

101 Ms Harkin acknowledged that no new services were put in place for the Mother after the October case conference to review Dr. MacDonald's report.

102 Ms Harkin confirmed that in November of 2006, Ms Bazant-Gosling was told not to cue the Mother due to the Mother's complaints that FM was looking to Ms Bazant-Gosling rather than to her for signals at supervised visits.

103 At an October 30<sup>th</sup>, 2006 case conference, which Ms Bazant-Gosling attended, the Mother was again offered another support worker but declined. Ms Bazant-Gosling voiced her concerns at this conference about the Mother's progress. When Ms Harkin was informed by the Mother at this case conference that there were inaccuracies contained in Dr. MacDonald's report, Ms Harkin said that she told the Mother to contact Dr. MacDonald. She also advised the Mother to contact Dr. MacDonald about redoing her observed visit if she wasn't happy with the way the prior one had taken place. Ms Harkin said that she told the Mother that the Director would pay for this.

104 Ms Harkin acknowledged that she never visited the residence of T.I. (hereinafter referred to as "TI"), the person who babysat the Children during the weekdays when they were then in the care of SJ. Ms Harkin said that she let SJ make the determination as to whether TI was an appropriate babysitter.

105 Ms Harkin vigorously denied the suggestion that she never offered the Mother encouragement.

106 Ms Harkin denied the suggestion that she was waiting for Dr. MacDonald's report before putting in other services for the Mother other than in-home support. She said that she had told the Mother to use AADAC and Sheriff King. Ms Harkin said that she had tried to get the Mother into housing when the Mother was homeless. She also confirmed that she instructed Ms Bazant-Gosling to constantly cue the Mother as to what services she needed to follow up on as part of her objectives.

107 At a November 1<sup>st</sup>, 2006 case conference, Ms Harkin advised the parties that she was actively looking for a permanent placement for the Children and that they would be moved from SJ's home, where they had been placed after their transfer from the home of the Father of FM and his girlfriend KJ, due to SJ having allowed unauthorized contact by the Mother with her Children.

108 Ms Harkin said that had the kinship referrals all been done early enough and the paperwork completed, all reports would have been ready for February of 2007. (page 636, February 6, 7, 8, 2007 transcript)

109 At a November 22<sup>nd</sup>, 2006 case conference with the Mother and Ms Bazant-Gosling, Ms Harkin was told by the Mother that she was going to attend Sheriff King the next day, that she had taken an AADAC relapse prevention program, and that she was seeing a counselor, Dr. Diane Walters. Ms Harkin said that she told the Mother

er to address family of origin issues with this counselor. Ms Harkin said that she was denied permission to speak to Dr. Walters.

110 Ms Harkin confirmed that the Father of DM did not want to be a parent and declined any services from the Director. Ms Harkin said that he also refused to submit to drug testing and therefore was denied access to DM.

111 Ms Harkin confirmed that whoever ultimately would look after the Children would be advised to be a stay-home parent for a one year period due to their needs.

112 Ms Harkin confirmed that Ms Gail Smillie was hired to do an assessment on whether or not the Children ought to be split and put into different homes should a PGO be issued.

113 The Director's next witness was Ms Marietta Horchower.

114 Ms Horchower said that on July 4<sup>th</sup>, 2006, she was told by the Mother that she had just commenced her first appointment with AADAC.

115 Ms Horchower said that KJ told her she would not adopt FM at a July 14<sup>th</sup>, 2006 case conference at which the Mother, Maternal Grandmother, Ms Harkin, the Father DM, SJ, Ms Bazant-Gosling and FM's Paternal Grandparents were also present.

116 It was at this case conference that Ms Horchower said that she told FM's Paternal Grandparents that it was important to keep the Children together. The guardianship application by FM's Paternal Grandparents was for the care of FM only.

117 It was also at this case conference that Ms Harkin provided kinship information to the Maternal Grandmother as well as to DM's Paternal Grandmother.

118 Ms Horchower said that at a November 8<sup>th</sup>, 2006 case conference with the Mother, the Mother told her to not move the Children to a new foster placement or to split them up. Ms Horchower said that the Mother was told at that time of the need to address permanency planning for the Children.

119 Ms Horchower said that she did not believe the Mother was uncomfortable in confronting Ms Harkin when she didn't disagree with Ms Harkin's handling of her case.

120 The Director's final witness was Ms Gail Smillie.

121 Ms Smillie was recognized as an expert in attachment. She wrote a report dated March 8, 2007. Ms Smillie conducted seven sessions with the Children.

122 Ms Smillie advised that she was contacted by Ms Horchower in late January of 2007 just after the Children had been moved from SJ's home to a new foster home. Ms Smillie was asked to provide directions to the Director on the merits of splitting up the Children into two foster homes.

123 Ms Smillie was advised by Ms Horchower that the Children had never been separated. She was also told that the Director's concerns leading to the apprehension were domestic violence, drug/alcohol exposure and the parent's criminal involvement.

124 Ms Smillie thought that there were only three primary care givers for the Children from their apprehension

to the present time but was told in Court that there were, in fact, more than that.

125 Ms Smillie said that she observed the Children at different times during the day. This included observing their play because, in her opinion, play is child centered and indicates how children absorb their anxieties. Play indicates what the Children have experienced including exposure to safety issues and whether or not they will allow parental guidance and whether or not they trust adults. She described this as the abandonment cycle.

126 Ms Smillie said that she also used therapy which is adult directed and is used to see whether or not the Children can be nurtured, given structure and delay gratification.

127 Ms Smillie said that FM is indiscriminate in her style. This means that FM feels as safe with a stranger as a foster mother because she doesn't know where her security lies.

128 She described FM as disorganized. She said that FM sought attention and was clingy, yet rejected this attention when it was given to her. Ms Smillie described this behaviour as part of the abandonment cycle. Ms Smillie said that FM could no longer soothe herself.

129 Despite having attachment issues, Ms Smillie said that because FM was older, she could provide care for her younger sister DM.

130 Ms Smillie said that the reason why the Mother had been getting into power struggles with FM was that the Mother had been emotionally struggling.

131 Ms Smillie said that had the Children been securely attached to the Mother before the first move, subsequent moves would have been easier. However, she said this was not the case here.

132 Furthermore, as the number of moves to different foster homes increases, the number of potential problems that these Children may encounter later on in life would increase as well. Therefore, Ms Smillie said that the Children had to be immediately placed on a permanent basis with therapeutic parenting in a setting where the abandonment cycle would not be triggered.

133 Ms Smillie said that FM's aggressiveness towards DM is a common profile of older children who have had to parent younger siblings. She stated, however, that it is the degree to which FM watches over DM which is indicative of whether or not a child is parentified. Despite FM's aggressiveness, Ms Smillie opined that if the Children were split, DM's behaviour would deteriorate worse than FM's because of the external threat to the Children. That is to say, the Children are bonded, DM follows FM around, and they watch out for each other. Because these Children both have attachment issues, their bond to each other is stronger than in healthier children.

134 Furthermore, FM is not so dangerous to DM that separation would be necessary. (pages 945 and 946, April 26, 2007 transcript)

135 Ms Smillie said that the Children must be kept together as this is the only continuity they have had in their lives. Each would help the other settle into a new home. (page 963, April 26, 2007 transcript)

136 Ms Smillie said that the Children need a permanent home. They are both adoptable. Given the degree of attachment issues here, they could be considered as special needs children.

137 Furthermore, this placement must be the last placement. (page 980, April 26, 2007 transcript)

138 Ms Smillie said that if FM's behaviours are not dealt with shortly, these behaviours could become the precursor to a personality disorder and impaired relation issues with her own children.

139 Ms Smillie said that the Children cannot wait forever for the Mother to improve her parenting skills to the point where she can provide a minimal level of care. When told that the Mother had been seeing Dr. Walters since November of 2006, Ms Smillie expressed surprise given the extensive period of time that the Children have been in care. She said that this is a red flag because the Mother should have responded much sooner after her Children had been taken away.

140 Ms Smillie reported that the foster mother told her that the Children's behaviour deteriorated after visits. She also said that the foster mother told her that the Children did not ask for their Mother.

141 Ms Smillie said that the Children saying they missed their Mother at the end of visits is just a survival strategy and not an indication of love.

142 Ms Smillie said that FM is getting better because the foster mother was told how to handle FM. As a result, there had been less hitting, swearing and tantrums.

143 Ms Smillie said that you can determine a lot about the Children regardless of the fact that she had never observed the Mother interact with them. In cases such as this, she said that it is highly unlikely that the Children would have had good secure parenting and the Mother did not have a good secure attachment to the Children. (page 959, April 26, 2007 transcript)

144 Ms Smillie said that if the Maternal Grandmother didn't pass the kinship assessment screening, it would be wrong to assess her to see if there was a bond between her and the Children. (page 973, April 26, 2007 transcript)

### **Evidence of the Mother**

145 KJ was the first witness for the Mother.

146 KJ said that the Father of FM is her fiancé. She said that she had previously been in a relationship with him for approximately one and a half years. This relationship had ended and the Mother and the Father of FM then had a two month relationship during which time the Mother became pregnant with FM. After the Father of FM ended his relationship with the Mother, he reunited with KJ.

147 KJ acknowledged that she gave the Mother advice from time to time on parenting and that the Mother was not hostile to her advice.

148 KJ felt that Ms Harkin was always negative towards the Mother. She claimed that Ms Harkin told her that while she hoped the Mother would get her Children back, this was not likely to occur.

149 KJ also felt that Ms Bazant-Gosling was always negative towards the Mother. She also claimed that Ms Bazant-Gosling told the Mother that in-home support workers were not allowed to be positive while in the home. (page 840, February 6, 7, 8, 2007 transcript)

150 KJ confirmed that the Children were placed in her care from April 4<sup>th</sup>, 2006 through to May 30<sup>th</sup>, 2006. During this period of time, she said that DM was a happy child but said that FM had issues that included chronic

crying, and on one occasion, eating out of the garbage. She said that Ms Harkin told her that Collaborative Mental Health would be doing an assessment on the Children.

151 KJ said that while the Children were in her care, the Mother did not miss any access visits.

152 KJ claimed that she was not told until a few days after she had received the Children that the Mother was only to have supervised access. She stated that on one occasion, the Mother came over to her house with some baby bottles and ended up staying and having a visit with the Children. During this visit, KJ said that the Mother fed her Children, washed and cleaned them as well as changed their diapers. At the end of this visit, KJ said that the Mother demonstrated affection before leaving. KJ said that she never told Ms Harkin about this visit. Rather, KJ said that she told Ms Harkin that the Mother had just dropped off some baby bottles.

153 KJ claimed that it was very difficult to get hold of Ms Harkin. She said that she was always leaving messages in her mailbox when her mailbox wasn't full. She said that FM's Paternal Grandparents also told her they had difficulty in contacting Ms Harkin.

154 KJ said that she did not support the private guardianship applications of any of the applicants. With respect to FM's Paternal Grandparents, she expressed serious concerns with respect to their drinking. KJ claimed that on weekends, FM's Paternal Grandparents had wine and juice for breakfast and then drank vodka the rest of the day until bedtime. KJ also said that FM's Paternal Grandparents were always out of town. KJ also claimed that the Father of FM did not support the application of FM's Paternal Grandparents.

155 KJ said that she helped the Mother find a house in October of 2006. KJ said that she wanted the Children kept together. She said that the Children should be adopted out to a family that could deal with FM's issues. (page 878, February 6, 7, 8, 2007 transcript)

156 KJ said that she told Ms Horchower on November 8<sup>th</sup>, 2006 that the Mother had done an eighty per cent turnaround with respect to dealing with her issues compared to when she had previously known her. KJ was not aware, however, that the Mother had tested positive for alcohol in November of 2006.

157 KJ acknowledged herself that she had previously had a substance abuse issue in the past and that she had also been a teen mother.

158 TI was the Mother's second witness.

159 TI told the Court she is best friends with KJ.

160 TI said that she babysat the Children while they were in the care of SJ. This occurred during the period from the end of May of 2006 through to the beginning of January of 2007, every weekday from 8:15 a.m. through to 4:00 p.m.

161 TI said that FM was always excited to see her Mother on supervised visits. She also claimed that FM was always asking about her Mother.

162 TI said that nobody from the Director's office ever came to investigate her home.

163 The Mother's evidence was as follows.

164 The Mother is currently 22 years old.

165 The Mother acknowledged that she has a small young offender's record. As an adult, the Mother acknowledged that she has one breach of a peace bond and is currently facing two charges of fraud and two charges of possession of stolen property.

166 The Mother acknowledged that she started drinking and using pot and ecstasy at the age of fifteen. She said that she drank on weekends and used pot every day.

167 The Mother said that she recognized her substance abuse problem when she evicted the Father of DM out of their house which occurred after the apprehension of her Children. She claimed not to have used drugs since April of 2006 and alcohol since November of 2006.

168 The Mother acknowledged using the Maternal Grandmother's prescription for Ativan to treat her anxiety before obtaining her own prescription.

169 The Mother said that she had a normal upbringing despite the fact that her father is an alcoholic.

170 She said that her first relationship was at the age of fifteen with the Father of DM. She said that they separated due to domestic violence and because he was always drunk when this violence occurred. The Mother said that on December 31<sup>st</sup>, 2005, she broke her hand striking him in self-defence.

171 The Mother confirmed KJ's evidence that she stayed with the Father of FM for only two months, became pregnant with FM, and that he subsequently left her and returned back to KJ. She said that she had no desire to reunite with the Father of DM because he still does drugs and associates with the wrong people.

172 The Mother also said that she has no desire to see the Father of FM again but maintains a good relationship with his fiancé KJ.

173 The Mother said that she immediately washed FM's hands when they touched the kitty litter box at one of the home visits.

174 The Mother admitted to forgetting her first appointment with Dr. MacDonald.

175 The Mother said that she never reviewed the assessment with Dr. MacDonald and said that the assessment is incorrect where it states that she was with the Father of FM for two years and that he beat her up. The Mother also said that Dr. MacDonald's report is incorrect where it states that her parents were physically abusive towards her and that she had sex with a family member.

176 The Mother claimed that Ms Bazant-Gosling never showed her what to do. Rather, Ms Bazant-Gosling told her how to parent in a tone of voice that she did not find instructive. She also claimed that Ms Bazant-Gosling never used demonstrations with her and never went over her concerns.

177 The Mother said that she quit her first job because her boss would not give her the night off to take her Children out on Halloween night. The Mother acknowledged, however, that she was told that she could not take her Children out on Halloween night by Ms Harkin.

178 The Mother said that she has been in her current residence for six months and is paying \$950.00 per month

for rent.

179 The Mother claimed that she has been working as a waitress since February of 2007 making \$52,000 per year. This amount was revised to \$37,000 per year during cross-examination. Prior to the Children's apprehension, the Mother acknowledged that she had been receiving welfare.

180 The Mother said that she started therapy with Dr. Walters in November of 2006. She said that she wanted to discuss with Dr. Walters family of origin issues because she had just learned from Ms Harkin that this was a matter she had to deal with. The Mother said that she also wanted to address her parent's pending divorce, her substance abuse issues, and domestic violence issues.

181 The Mother said that she would return to Dr. Walters and had initially stopped seeing her because of ongoing chaos in her life and her parents moving to a new home. In her testimony on June 6<sup>th</sup>, 2007, the Mother again said that she would return to Dr. Walters as soon as possible. (page 1191, June 6, 2007 transcript)

182 The Mother admitted to forgetting to call in for two drug tests in July of 2006. She also couldn't explain the third missed test that month. The missed test in January of 2007 was due to the fact that she had been up late the night before celebrating Ukranian Christmas, had slept in and had no time to attend for the test before a scheduled with her Children.

183 Since April of 2006, the Mother acknowledged that she has had five different residences.

184 The Mother said that she completed an AADAC self awareness and relapse prevention program in 2006. She said that she has also done the Sheriff King Phase 1 domestic violence program twice and had attended three sessions of Phase 2 before quitting due to work.

185 The Mother said that she was told not to take any parenting classes until Ms Bazant-Gosling was done with the in-home support. The Mother acknowledged not telling Ms Harkin that she was going to parenting classes. She said that she has taken the Family Matters parenting course where she learned for the first time about the use of time-ins and how to avoid power struggles. She also said she took the Nobody's Perfect course. She claimed that Ms Bazant-Gosling never told her about the use of time-ins instead of time-outs.

186 The Mother acknowledged in cross-examination that taking parenting courses at the same time as Ms Bazant-Gosling was providing her with information would have caused inconsistent parenting.

187 The Mother acknowledged that as of April of 2007, she was still discussing parenting issues with KJ.

188 The Mother claimed that she raised issues with respect to Ms Bazant-Gosling's performance at her meetings with Ms Harkin. She said that due to the minimal amount of time left prior to this hearing commencing, a change to a new in-home support worker would not be in her best interest.

189 The Mother said that she has applied the information learned at the parenting classes she has taken at visits with her Children.

190 The Mother said that the Children are excited to see her on visits and don't want her to leave. She said that FM has told her to stay but that she has always encouraged them to return to their foster home at the end of a visit. At visits, the Mother claimed that she used positive praise and later on, time-ins to help control FM.

191 The Mother acknowledged that SJ let her visit with her Children on three occasions without Ms Harkin's knowledge in contravention of the requirement to have supervised visits. She acknowledged the need for her Children to have a stable residence yet knew that her actions could cause a breakdown of this placement. The Mother said that she continued to have unsupervised visits because she thought that she wouldn't get caught. (page 1202, June 6, 2007 transcript)

192 The Mother claimed that Ms Harkin did not review the July and August 2006 service plans with her. She said that Ms Harkin told her that she could read these plans if she wanted. The Mother said that Ms Harkin reviewed the October 2006 service plan with her. With respect to the October 2006 plan, the Mother said that she met all of the objectives except for drug testing and completing Phase 2 at Sheriff King. The Mother also acknowledged that Ms Harkin gave her the November 2006 service plan.

193 The Mother said that she is ready to have the Children returned to her care. She said that she is now more responsible, has a stable residence, a good job, and is living on her own. Furthermore, she said that the Maternal Grandmother, her younger sister, KJ, FM's Paternal Grandparents, DM's Paternal Grandmother, and two other friends are available for support.

194 The Mother said that her current plans are to have the Children returned to her care, work part-time and go back to school.

195 The final witness for the Mother was Dr. Diane Walters.

196 Dr. Walters was recognized as an expert in clinical psychology with a sub-expertise in psychotherapy. She prepared a report dated March 28, 2007 based on six therapy sessions that she did with the Mother between November 28<sup>th</sup>, 2006 and February 27<sup>th</sup>, 2007.

197 Dr. Walters said that the Mother told her that she was interested in finding out why she had gotten into her current situation. The Mother disclosed information about domestic violence, substance abuse, criminal activity, poor school attendance and the circumstances surrounding the apprehension of her Children. With respect to the domestic violence, Dr. Walters said that the Mother told her that both the Father of DM and the Father of FM had been violent with her. (page 1016, April 26, 2007 transcript).

198 The Mother expressed anxiety with respect to the Director's involvement and felt frustrated, discouraged and confused with respect to the help that she was receiving.

199 The Mother told Dr. Walters that she was taking Ativan for her anxiety. Dr. Walters said that she recommended to the Mother certain stress management techniques instead of the medication.

200 Dr. Walters expressed the view that the Mother was getting different messages from people. So as not to confuse her further, Dr. Walters declined to offer the Mother any parenting advice. Dr. Walters said, however, that she believed the Mother could comprehend instructions being given to her.

201 Dr. Walters said that the Mother disclosed to her that the Father of DM had threatened to kill her. Dr. Walters said that she gave the Mother various options to deal with this matter such as contacting the police and obtaining a restraining order.

202 Dr. Walters said that the Mother did not disclose anything dysfunctional in her childhood other than a sexual advance by an individual when she was the age of fourteen. Based on this disclosure, Dr. Walters said

that there did not appear to be any family of origin issues. The Mother told Dr. Walters that she blamed her troubles on getting involved with bad friends in junior high school.

203 Dr. Walters detected impulsiveness on the part of the Mother and told her that she needed to make good choices.

204 Dr. Walters stated that the Mother tended to gloss over challenges. The Mother told her that she had the skills and everything would be fine. Dr. Walters said that she worked with the Mother to help her accurately identify a problem, identify possible solutions and get the necessary information. Dr. Walters thought that the Mother was increasing her insight and as a result, her anxiety level was lower. (page 1111, June 6, 2007 transcript)

205 Dr. Walters said that she was aware that FM had attachment disorder.

206 Dr. Walters said that her last appointment with the Mother was on February 27<sup>th</sup>, 2007. Dr. Walters said the Mother told her that she was starting new employment and thus couldn't continue with therapy but was left with the impression that the Mother would be contacting her again to book new appointments once she had gotten her work schedule. Dr. Walters said, however, that the Mother did not contact her further with respect to attending any more sessions. (page 1030-1032, April 26, 2007 transcript)

207 In Dr. Walters' opinion, she would have encouraged the Mother to attend a further six to twelve more sessions bi-weekly to address the process of insight. The reason for bi-weekly sessions was to allow the Mother the opportunity to put into practice the information provided to her at each of these psychotherapy sessions. Dr. Walters noted that this would have translated into an additional three to six months of therapy.

208 Dr. Walters acknowledged that the Mother gaining insight would not necessarily translate into changed behaviour on her part. She acknowledged that after six sessions, it would be hard to know whether or not there have been any behavioural changes in the Mother with respect to problem solving. (page 1127, June 6, 2007 transcript)

209 Dr. Walters said that she called the Mother two weeks after their last session to advise her that she had been requested to prepare a written report with respect to their sessions and that her verbal consent was required. Dr. Walters said that the Mother provided this consent by way of voice mail but no further contact occurred after this.

210 Dr. Walters confirmed that she works one evening a week and Saturdays during wintertime and therefore would have been able to see the Mother other than during the weekdays.

211 Dr. Walters said that she stressed with the Mother the need for her to receive feedback without being defensive and to follow the expectations of the caseworker. She said that the Mother never told her that she refused to work with the supports she was receiving.

212 Dr. Walters confirmed that her report was based solely on the Mother's self reporting. Other than reading Dr. MacDonald's report, Dr. Walters acknowledged that she did not have access to any other information.

### **Analysis**

213 Some of the most damning evidence against the Mother came from her own testimony and that of Dr. Wal-

ters, a therapist chosen solely by the Mother.

214 The Mother commenced therapy with Dr. Walters but subsequently quit at the end of February of 2007 after only six sessions. This therapy was not begun until late November of 2006, months after the Children had been apprehended, and at a point in time which both Ms Smillie and Ms O'Neill-Laberge described as being an eleventh hour initiative.

215 The Mother said that she quit therapy because of the ongoing chaos in her life and her parents moving to a new home. She gave Dr. Walters a different reason. Dr. Walters said that the Mother told her she was quitting because of her new employment. The Mother told me that she would again begin therapy as soon as possible in her testimony on June 6<sup>th</sup>, 2007. Despite this hearing ending on July 18<sup>th</sup>, 2007, I was never advised that such therapy had again commenced.

216 Dr. MacDonald concluded that the Mother's personality characteristics, her low frustration tolerance, and her interpersonal relations difficulties would interfere with her ability to engage professionals. The Mother did not believe she needed child welfare involvement. Dr. MacDonald correctly predicted that the Mother would quit seeing Dr. Walters.

217 Dr. Walters detected impulsiveness on the Mother's part. She said that the Mother glossed over challenges. She tried to teach the Mother life skills. Furthermore, Dr. Walters said that the Mother required at least six to twelve more sessions in order to determine whether her behaviour was successfully being modified. This would have required the Children to remain in foster care for at least three more months, if not longer.

218 Every PGO hearing requires that the Judge make a determination as to the adequacy of parenting skills of a guardian as they relate to the needs of a child in order to determine if, subject to section 33 of the *CYFEA*, a child could or should be returned to the custody of the guardian within a reasonable time.

219 The Mother testified that she was ready to have the Children returned home immediately. The evidence of Dr. MacDonald was that the Children could not be returned to the Mother for at least one year in order to determine whether the Mother had internalized the information she received. Ms O'Neill-Laberge described the Mother as a marginal parent and agreed with Dr. MacDonald's assessment of at least one additional year in foster care before a decision could be made on returning the Children to the Mother.

220 The Mother could not yet prepare a basic household budget despite some progress having been made in this regard. She didn't even know the cost of daycare.

221 The Mother has just recently demonstrated the beginnings of stability in housing and in employment. Dr. MacDonald was not satisfied of the Mother's stability in housing at the time of her assessment. Dr. MacDonald was also concerned as to the negative effect that frequent moves would have on the Children.

222 It is difficult to determine how much credibility to put on the Mother's critique of both Ms Bazant-Gosling and Ms Harkin. Given the Mother's position that she did not require the Director's involvement in her life, her low frustration tolerance, her lack of insight, her lack of receptiveness to advice, her anti-social personality characteristics, and her interpersonal relations difficulties, it is not a stretch to conclude that any caseworker or in-home support worker would have had difficulty with the Mother.

223 While I accept the premise that the Mother's frustration would have been lessened had a hands-on ap-

proach been utilized, her lack of adequate parenting skills is but one of the insurmountable problems facing the Mother in arguing that the Children should be returned to her care.

224 It was also not encouraging to hear about the Mother's current criminal charges given her past history as well as her prior involvement with drugs.

225 It is trite law to state that a child is not guaranteed the best possible parents. It is also trite to state, however, that when a parent causes a child to have special needs, that parent's ability to care for the child in the future must be carefully scrutinized in the context of these special needs.

226 The Mother's past clearly created her unhealthy attachment with FM. Both Ms O'Neill-Laberge and Ms Smillie confirmed this. These two experts also discussed in detail FM's special needs that are a direct result of the unhealthy attachment to and poor parenting by the Mother. Ms Smillie said that FM is at risk for developing a personality disorder.

227 Ms Smillie also discussed the fate of DM if she were not to be placed with her sister FM.

228 Both Ms Smillie and Ms O'Neill-Laberge said that the next placement for the Children must occur immediately and be the last permanent placement for them. Ms O'Neill-Laberge stated that an additional three months in foster care for the Children would virtually guarantee a negative mental health outcome for them.

229 Ms Smillie described in detail why FM was acting up. O'Neill-Laberge described the therapeutic foster home that would be required to deal with the Children, especially FM. FM's care givers would have to understand attachment issues and associated behaviours and be equipped with appropriate strategies.

230 On a good day with well adjusted children, the Mother might be able to convince me she has the necessary skills to parent. That she be able to do so with these Children immediately, given her questionable parenting skills and the special needs of the Children, is unfathomable.

231 My options are also limited. Other than a PGO, I could return the Children to the Mother's care, either with or without a supervision order in place. If I chose to return the Children even with a supervision order in place, I would be forced to ignore the evidence of all of the experts, including the Mother's therapist, in order to give the Mother one last chance.

232 It has been stated on many occasions in family courts across this country that one more chance for a parent is one less chance for a child.

233 What is the basis for the Mother's argument that she be given this chance? The Mother has, throughout his hearing, argued vociferously that had she been taught using a hands-on technique and given the proper tools, such as time-ins, the result would have been different.

234 With respect, the evidence does not lead one to this conclusion.

235 Dr. MacDonald said that the Mother's insight was limited. As a result, the Mother was resistant to any advice, other than the advice from her friends who told her that she was doing a good job parenting the Children. Dr. MacDonald said that because of her low frustration tolerance and lack of insight, the Mother's ability to learn would be more difficult, even with hands-on training.

236 KJ stated that despite the Mother's progress, FM should be placed for adoption where her needs could be effectively managed.

237 There was the suggestion that Ms Bazant-Gosling had not adjusted her teaching style with the Mother until the end of October of 2006. Nevertheless, Dr. MacDonald still concluded in her testimony that the Mother would have had difficulties in engaging with professionals. The likelihood of change was poor. A common theme throughout the evidence of the Director's witnesses was that the Mother was of the opinion that the professionals were attacking her and that she had done everything that had been asked of her.

238 Ms Bazant-Gosling stated that she revised her teaching strategies on a regular basis, which included modeling at one juncture, and invited feedback from the Mother. She constantly cued the Mother and made suggestions. She even offered to resign and find the Mother a new in-home support worker.

239 At one point in time, Ms Bazant-Gosling quit cuing the Mother in order to see if the Mother had internalized the teachings she had received and in order to allow FM to look to her Mother for guidance instead of her.

240 As if matters weren't difficult enough, the Mother confirmed KJ's evidence that she also took parenting advice from her friends, and at a later stage, took parenting courses without Ms Harkin's knowledge. She acknowledged that taking these parenting courses would have led to inconsistencies in parenting techniques. The same can also be said about accepting parenting advice from friends at the same time as the in-home support worker was providing advice.

241 Ms O'Neill-Laberge said that the Mother would struggle to learn new parenting skills, even with hands-on training, because of her low frustration tolerance, anti-social personality traits, limited insight, and a need for a more responsible lifestyle.

242 As for the suggestion that FM could have been better managed had the Mother been told to use time-ins instead of time-outs, I agree. Ms O'Neill-Laberge pointed out, however, that the use of time-outs, where FM was kept in view of her Mother, was a neutral factor and would not have accounted for FM's behaviours which happened prior to her apprehension.

243 Despite there being some question as to whether the Mother did see all of the service plans prepared by Ms Harkin, there is absolutely no doubt in my mind that the Mother knew what was expected of her. Ms Bazant-Gosling was providing the Mother with weekly reminders. There were a number of case conferences where matters could have been clarified had the Mother not been sure of the objectives set out for her.

244 Too little, too late, and to no avail is an accurate description of the Mother's performance. Tragic as it is to say, given the Mother's parenting deficiencies and the special needs of these Children, the Mother never had a realistic chance. In a perfect world, a PGO should have been issued on the Children during the summer of 2006, after receipt of the assessment reports on the Mother and Children, in order to allow for their permanency planning.

### **Observations**

245 I mentioned on July 20<sup>th</sup>, 2007 that I would have some brief comments about a number of issues that arose during this hearing.

246 A significant problem throughout this hearing, until Ms Mair took over conduct of this file on behalf of the

Director, was late disclosure. This necessitated my granting adjournments as a matter of procedural fairness and my having witnesses recalled after the parties had an opportunity to review the late disclosure.

247 While I cannot say where the difficulties arose or who is responsible for the late disclosure, I wish to make the following observations.

248 The Judges of Calgary Family and Youth Court are aware that due to a booming economy, it is difficult to hire and retain the necessary help to photocopy all of the documentation on the caseworker's file and provide this to Director's counsel on a timely basis.

249 In addition, I very much suspect that the rising number of child welfare applications filed in Calgary have caught a number of individuals off guard. It had been anticipated that the family enhancement scheme under the *CYFEA* would stream off a significant part of the child welfare caseload province wide. In Calgary, this has not materialized.

250 If the objective is to process children through the child welfare system as expeditiously as possible, which is the express intent of the *CYFEA*, then changes must be made. Clearly, funding and manpower will have to increase, at least in the short term.

251 Another issue which arose in this hearing relates to the lack of effective communication between the case-worker and the kinship care assessor. While the onus should always be on a kinship care applicant to process requests of them as expeditiously as possible, it cannot be forgotten that section 33 of the *CYFEA* imposes restrictions on time in care. In addition, attachment becomes an issue the longer children languish in temporary care.

252 While the evidence in this hearing clearly supports the conclusion that Ms Harkin approached family members very early on in the process with respect to possible kinship placements, follow-up was not done on a regular basis to determine the status of the applicants. There ought to be clear directives for ongoing reporting on the status of kinship care applicants so that when the matter is at the hearing stage, the Court is in a position to consider alternatives to a PGO and to ensure that section 2 of the *CYFEA* is complied with.

253 Yet another issue that arose in this hearing relates to the need to assess parents as soon as possible in order to determine what services ought to be provided, if any, and in what manner they should be provided.

254 For example, does a parent have any learning disabilities which would dictate the manner in which support is to be provided. Does a parent have a personality disorder that would prevent them from ever being able to care for their child.

255 The Judges of Calgary Family and Youth Court are aware that the Director has retained the services of Dr. John Pearce to assess child welfare files for the purpose of determining the need for parenting/psychological assessments. This action is highly commendable but is, with respect, not sufficient.

256 The hourly rate provided to these highly skilled assessors, where an assessment is required, is abysmally low and has resulted in an ever diminishing core group of assessors willing to do this work. Reports can therefore not be received on a timely basis, even if the parents were to be cooperative throughout the process.

257 With respect to this hearing, the evidence also demonstrated that the information provided by these assessors was not communicated on a timely basis to the Mother. Dr. MacDonald's recommendations as well as those of Ms O'Neill-Laberge were not provided to Ms Bazant-Gosling and the Mother on a timely basis. In other

cases, this may well have led me to conclude that a parent was denied a reasonable opportunity to work towards reunification with their child.

END OF DOCUMENT