

CANADA / JUDGMENT

A.R. v. A.V.R.**2016 BCSC 629**

COURT

Supreme Court of British Columbia

DECIDED

6 April 2016

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2016 BCSC 629 A.R. v. A.V.R. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: A.R. v. A.V.R., 2016 BCSC 629 Date: 20160406 Docket: E141600 Registry: Vancouver Between: A.R. Claimant And A.V.R. Respondent Before: The Honourable Mr. Justice Funt Oral Ruling on a Section 211 Critique Report Counsel for the Claimant: R.A. Henderson Counsel for the Respondent (for the current application): C. Linde Place and Date of Trial: Vancouver, B.C. April 6, 2016 Place and Date of Judgment: Vancouver, B.C. April 6, 2016

- [1] THE COURT: In these proceedings, a section 211 report has been prepared by a court appointed expert. The expert was asked to conduct a "full assessment of the needs of the children (two young boys) and the ability and willingness of the parties to satisfy their needs." The report was prepared and delivered to the parties some months ago.
- [2] At this late stage (the third day of a five day scheduled trial), the respondent has obtained a report that serves to critique the section 211 report.
- [3] The respondent wishes a ruling as to whether the critique report will be admissible, and whether its author may testify with respect to the critique report.
- [4] The Court notes that a section 211 report does not bind the Court. The Court's overarching duty is to the best interests of the child. In many cases, a section 211 report provides considerable assistance to the Court by serving as its "eyes and ears" with respect to investigating matter and providing advice as to the best interests of a child.
- [5] The jurisprudence reflects the rule that critique reports are not admissible: Hejzlar v. Mitchell-Hejzlar, 2010 BCSC 1139; L.C.T. v. R.K., 2015 BCSC 2378.
- [6] In the case at bar, I see no reason to depart from this rule. I agree with Justice Burnyeat in Hejzlar that a critique report is contrary to the nature and purpose of a section 15 (now section 211) report (at para. 15).
- [7] Our Court of Appeal has stated that the right to cross-examine a court-appointed investigator (such as the author of a section 211 report) "is an important safeguard integral to the custody and access process": K.M.W. v. L.J.W., 2010 BCCA 572 at para 62.

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- [8] The respondent has stated that he wishes to cross-examine the expert who prepared the section 211 report. The Court will be directing the section 211 expert to attend the trial upon the conclusion of the evidence of the parties. As part of his cross-examination, the respondent, if he wishes, may put propositions to the section 211 expert based on the information from his expert.
- [9] After hearing the evidence of the parties, the Court may also have some questions for the section 211 expert. At that stage, the Court is in the best position to take advantage of the assistance of a section 211 expert.
- [10] To conclude, the Court will not admit the critique report nor allow its author to testify with respect to the critique report.
- [11] I will discuss with the parties the scheduling of a hearing to have the section 211 expert available for cross-examination by either party, and possible questions from the Court. "Funt J."
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Prepared on 26 October 2026 · Esheria