

CANADA / JUDGMENT

Chaput v. Yorke-Hardy

2019 BCSC 783

COURT

Supreme Court of British Columbia

DECIDED

17 May 2019

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2019 BCSC 783 Chaput v. Yorke-Hardy IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: Chaput v. Yorke-Hardy, 2019 BCSC 783 Date: 20190517 Docket: E51442 Registry: Vernon
Between: Christine Chaput Claimant And Matthew Yorke-Hardy Respondent Before: Master R.W. McDiarmid Reasons for Judgment Appearing on her own behalf: C. Chaput Appearing on his own behalf: M. Yorke-Hardy Place and Date of Hearing: Kamloops, B.C. May 13, 2019 Place and Date of Judgment: Vernon, B.C. May 17, 2019

- [1] The claimant filed a Notice of Family Claim on May 4, 2016 to deal with issues arising from the parenting of Tobias Levi Chaput, born March 12, 2016. There were preliminary issues which were sorted out over the course of the balance of 2016 and early 2017. On March 7, 2017, the parties attended before me on an application brought by the claimant. I adjourned it with directions.
- [2] On May 16, 2017, Master Muir ordered the respondent to pay to the claimant \$597.00 per month based on 2016 income of \$64,156.42, with payments to commence March 1, 2017. There were other terms of that order.
- [3] On February 6, 2019, the respondent filed a Notice of Application seeking to change child support, cancel or reduce support arrears and seeking an order for equal parenting time, to be introduced gradually over six months.
- [4] On March 28, 2019, the claimant filed a Notice of Application seeking retroactive child support and disclosure orders.
- [5] On April 2, 2019, the respondent filed a further Notice of Application essentially re-stating what was sought in the Notice of Application he filed on February 6, 2019.
- [6] The matter initially came on for hearing in front of me on April 23, 2019 in Vernon.
- [7] The respondent had not seen Tobias since Tobias was a newborn. It was apparent from the submissions that Tobias did not know the respondent.
- [8] I was also satisfied that the respondent was not working as a result of medical issues, which are disabling him.

[9] I made some interim orders as follows:

1. The parties are to exchange Parenting After Separation certificates;
2. On an interim basis, the respondent is to have parenting time at Prince Charles Park in Kamloops, B.C. at 3:30 p.m. to 4:30 p.m. on Friday, April 26, Thursday, May 2, and Friday, May 10, 2019;
3. All parties are not to be under the influence of any prescription medication;
4. The parties will:
 - a) Put the best interests of the child before their own;
 - b) Encourage the child to have a good relationship with the other parent and speak to the child about the other parent and that parent's partner in a positive and respectful manner; and
 - c) Make a real effort to maintain polite and respectful communications with each other, refraining from any negative or hostile criticism communication or argument in front of the child.
5. The parties will not:
 - a) Question the child about the other parent or time spent with the other parent beyond simple conversational questions;
 - b) Discuss with the child any inappropriate adult, court or legal matters; or
 - c) Blame, criticize or disparage the other parent to the child.
6. The parties will encourage their respective families to refrain from any negative comments about the other parent and his or her extended family, and from discussions in front of the child concerning family issues or litigation;
7. Neither party will consume or possess any alcohol or controlled substances within the meaning of s. 2 of the Controlled Drugs and Substances Act, except as prescribed by a licensed physician, during contact or parenting time with the child;
8. On a "without prejudice" basis, child support is to be reduced to \$1.00 per month effective March 1, 2019; and
9. The balance of both parties' application is adjourned to Monday, May 13, 2019 in Kamloops Law Courts.

[10] The matters were then dealt with in chambers in Kamloops on Monday, May 13, 2019.

- [11] The chambers proceeding was somewhat irregular and was conducted more like a judicial case conference or judicial settlement conference than like a contested family court hearing. Both parties were respectful to each other. The three brief parenting sessions enjoyed by the respondent and Tobias, in the presence of the claimant, seems to me to have given both parties substantial insight into moving forward in a way that is in the best interests of Tobias.
- [12] The respondent at present has no income other than social assistance. He is experiencing medical issues which impair his ability to earn income. He does own real property and has some equity in it. The claimant's child support is secured by a Family Maintenance Enforcement Order. That property is embroiled in litigation with the respondent's former spouse (not this claimant). Both parties acknowledge the economic issues facing each other, which are significant.
- [13] In dealing with the Notices of Application, I made the following orders:
1. The parties will:
 - a) Put the best interests of the child before their own interests;
 - b) Encourage the child to have a good relationship with the other parent and speak to the child about the other parent and that parent's partner in a positive and respectful manner; and
 - c) Make a real effort to maintain polite and respectful communications with each other, refraining from any negative or hostile criticism communication or argument in front of the child.
 2. The parties will not:
 - a) Question the child about the other parent or time spent with the other parent beyond simple conversational questions;
 - b) Discuss with the child any inappropriate adult, court or legal matters; or
 - c) Blame, criticize or disparage the other parent to the child.
 3. The respondent will have parenting time with Tobias Friday, May 17, 2019 from 10 a.m. to 12 p.m. at Riverside Park in Kamloops, Sunday, May 26, 2019 at 2 p.m. at the Kamloops Wildlife Park, and thereafter Sundays at 2 p.m. at locations to be determined and agreed upon by the parties;
 4. Child support arrears are fixed at \$13,300.00;
 5. The respondent is to advise the claimant of any change in financial circumstances, including receipt of any spousal support, employment, receipt of disability pension or sale of the property;

6. The claimant's application to enforce arrears is adjourned and can be reset by the claimant after September 30, 2019; any filing fees associated with so doing are ordered waived.
- [14] If either party has ongoing issues respecting parenting, they have leave to bring further applications on proper notice; any filing fees are ordered waived. I am not seized. "Master R.W. McDiarmid" MASTER McDIARMID

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