

CANADA / JUDGMENT

M.J.C. v. P.R.C.

2025 BCSC 2147

COURT

Supreme Court of British Columbia

DECIDED

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2025 BCSC 2147 M.J.C. v. P.R.C.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

M.J.C. v. P.R.C.,

2025 BCSC 2147

Date: 20251030

Docket: E201572

Registry: Vancouver

Between:

M.J.C. also known as M.J.T.

Claimant

And

P.R.C.

Respondent

Before: The Honourable Justice J. Hughes

Reasons for Judgment

The Respondent, appearing in-person:

P.C.

No further appearances

Place and Dates of Hearing:

Vancouver, B.C.

October 24, 2025

Place and Date of Judgment:

Vancouver, B.C.

October 30, 2025

Background

- [1] The respondent, P.C., applies for my recusal in this long-running, high-conflict family law case. The parties married in October 2007 and separated in August 2020. They have six children together, ranging in age from four to 17 years old.
- [2] This action was commenced in August 2020. M.C. had legal counsel representing her for many years, but is now self-represented. P.C. has been self-represented throughout.
- [3] The circumstances of the parties' separation and the procedural history of this action are set out in my reasons for judgment issued December 17, 2024 (M.J.C. v. P.R.C. (17 December 2024), Vancouver E201572 (B.C.S.C.)) and June 2, 2025 (M.J.C. v. P.R.C. (2 June 2025), Vancouver E201572 (B.C.S.C.)) and need not be repeated here. M.C. has been the primary parent since separation, and the children have been residing with her from then until now. P.C. did not have parenting time for a significant period following separation. Allegations of family violence were made by M.C. against P.C.
- [4] A supervised parenting time order was made in August 2020, but difficulties in implementing that order ensued and as a result, P.C. did not obtain his parenting time as ordered. A further order was then made in December 2021, which provided P.C. with two hours of supervised parenting time per week. However, on account of further difficulties in implementing the order, P.C. did not begin exercising parenting time until August 2022.
- [5] P.C. sought to have the December 2021 order varied on multiple occasions in the months and years that followed. However, his applications were not heard on the merits for a variety of reasons, including insufficient time estimates and the Court declining to hear him because of his non-compliance with earlier court orders requiring him to pay child support and costs.
- [6] Consequently, four years after this action was commenced, and despite multiple appearances before the Court, it was not progressing in any orderly sense towards a trial on the merits. In September 2024, I was appointed as the case management and trial judge. At that time, P.C. had multiple extant applications seeking, among other relief, a "custody reversal" making him the primary parent, and a report under s. 211 of the Family Law Act, S.B.C. 2011, c. 25.

- [7] An initial case management conference was held before me on October 23, 2024. P.C.'s outstanding applications were set for hearing on December 5-6, 2024. In the course of that hearing, on December 6, 2024, I made an order granting P.C.'s application for a s. 211 report to be prepared by a Family Justice Counsellor. In reasons issued December 17, 2024, I made a variety of orders which had the effect of, among other things, increasing P.C.'s parenting time to three hours per week unsupervised, provided one of the older two children or his parents were present (the "December 2024 Order"). No appeal was taken of the December 2024 Order.
- [8] By February 2024, it was clear that the s. 211 report would not be available in time for the existing May 2025 trial date. The trial was thus adjourned, but two days during that week were reserved for the hearing of further applications. Both parties set down applications on those dates seeking a multitude of different orders. P.C. applied to vary the December 2024 Order and sought additional orders that: his arrears be cancelled, M.C. submit to a psychological evaluation, income be imputed to her, she produce financial documentation, and penalties be imposed on her for, among other things, perjury. For her part, M.C. sought orders reducing P.C.'s parenting time, reimposing a supervision requirement, imposing a non-removal order, requiring production of financial documentation, and imposing conduct orders arising out of an incident between the parties which occurred on April 21, 2025.
- [9] There was insufficient time to deal with all the relief sought by the parties on the hearing dates set. The available time was used to consider a further variation of the December 2024 Order and to deal with disclosure of financial documentation necessary for trial. In the course of the hearing, M.C. advised that the eldest child wished to have his views put before the Court. Considering this, and without objection by the parties, I determined that it was appropriate to interview the three eldest children to hear their views.
- [10] By way of reasons for judgment issued June 2, 2025, M.C.'s application to reduce P.C.'s parenting time and reimpose a supervision requirement was dismissed. Instead, P.C.'s parenting time with the five younger children was moderately increased. I also ordered that the parties' 17-year-old son could have parenting time with P.C. at his discretion. P.C. did not appeal the June 2025 order.
- [11] On June 9, 2025, P.C. indicated that he intended to bring a recusal application and proceed with his application that M.C. submit to a psychological assessment. The parties were advised that the recusal application would need to precede any other applications and could be heard at a judicial management conference that was scheduled for July 11, 2025. P.C. took the position that one hour was not sufficient and therefore did not set his recusal application for hearing on that date. It eventually came on for hearing on October 24, 2025.
- [12] This action remains in the interlocutory stage. A full s. 211 report was completed by the Family Justice Services Branch in late August 2025. That report was first provided to the Court in the context of this application. The parties are engaging in document discovery, and the action has been set for a 10-day trial commencing in May 2026.

Legal Framework

- [13] The principles governing an application for recusal based on actual or apprehended bias are set out in *Pereira v. Dexterra Group Inc.*, 2023 BCCA 201:
- [10] Judges are held to the highest standards of impartiality. The protection of the interests of the parties to a case and the administration of justice requires judges to be disqualified if they are biased or if there is a reasonable apprehension that they are biased: *R. v. Valente*, [1985] 2 S.C.R. 673, 1985 CanLII 25 (S.C.C.); *R. v. S.(R.D.)*, [1997] 3 S.C.R. 484, 1997 CanLII 324 (S.C.C.); *Yukon Francophone School Board, Education Area No. 23 v. Yukon (Attorney General)*, 2015 SCC 25 [Yukon Francophone School Board]; *R. v. Anderson*, 2017 BCCA 154.
- [11] There is a strong presumption of judicial impartiality that is not easily displaced: *Yukon Francophone School Board* at para. 25. Judicial impartiality requires judges to approach each case with an open mind, free from inappropriate or undue assumptions: at para. 22.
- [12] The strong presumption that judges act impartially means that a party must meet a high burden to prove that a reasonable apprehension of bias exists. The longstanding test as repeated in *Yukon Francophone School Board* is:
- [20] The test for a reasonable apprehension of bias is undisputed and was first articulated by this Court as follows:
- ... what would an informed person, viewing the matter realistically and practically - and having thought the matter through - conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly. [Citation omitted.]
- (*Committee for Justice and Liberty v. National Energy Board*, 1976 CanLII 2 (SCC), [1978] 1 S.C.R. 369, at p. 394, per de Grandpré J. (dissenting))
- [13] The approach to this test is "inherently contextual and fact-specific": *Yukon Francophone School Board* at para. 26.
- [14] The question of whether there is a reasonable apprehension of bias is considered with the following principles in mind (*Pereira* at para. 15, citing *Taylor Ventures Ltd. (Trustee of) v. Taylor*, 2005 BCCA 350):
- a) a judge's impartiality is presumed;
 - b) a party arguing for disqualification must establish that the circumstances justify a finding that the judge must be disqualified;
 - c) the criterion of disqualification is the reasonable apprehension of bias;
 - d) the question to be determined is what would an informed reasonable and right-minded person, viewing the matter realistically and practically, and having thought the matter through, conclude;

- e) the test for disqualification is not satisfied unless it is proved that the informed, reasonable and right-minded person would think it more likely than not that the judge, whether consciously or unconsciously, not decide fairly;
 - f) the test requires demonstration of serious grounds on which to base the apprehension; and
 - g) each case must be examined contextually and the inquiry is fact-specific.
- [15] The threshold that must be met to establish actual or reasonably apprehended bias is high: *Wang v. Sullivan*, 2024 BCCA 266 at para. 10. As Justice Griffin explained in *Pereira*, judges have a duty to hear the cases assigned to them:
- [17] The strictness of the criteria required to show a reasonable apprehension of bias reveals that judges must necessarily not habitually yield to parties who want them to step down. Doing so would erode the administration of justice and damage the reputation of the judiciary. Judges have a duty to hear the cases assigned to them, which cannot be displaced by a party selecting one judge over another preferentially and without good reason. An additional danger of frequent recusals is that parties could use such motions strategically, which includes attempting to judge-shop or delay the proceedings: *De Cotiis v. De Cotiis*, 2004 BCSC 117 at paras. 10-11; *Anderson* at para. 16; *Liszkay v. Robinson*, 2003 BCCA 506 at para. 53.
- [16] P.C. takes issue with the presumption of impartiality and with the requirement that I hear this recusal application. It is settled law in this province that the hearing of a recusal application is to be conducted by the justice whose recusal is sought: *A.N.H. v. L.D.B.*, 2025 BCSC 207 at para. 1.

Analysis

- [17] P.C. must establish that an informed person, viewing the matter realistically and practically, and having thought through the matter, would conclude that it is more likely than not that I would be unable to decide this case fairly: *Pereira* at para. 12; *Wang* at para. 11.
- [18] As I understand them, the circumstances that P.C. says give rise to actual or reasonably apprehended bias can be summarized as follows:
- a) I refused to consider ordering a "custody reversal" and ignored "evidence of alienation and chronic perjury" by M.C.;
 - b) I have made orders that are unsupported by the evidence; and
 - c) I have failed to consider or make orders that are in the best interests of the children.
- [19] I am not satisfied that any of these grounds would cause a reasonable and right-minded person to think it more likely than not that, whether consciously or not, I would not decide this case fairly.

- [20] First, P.C. has not provided any evidence to displace that presumption of impartiality or to substantiate any actual or reasonable apprehension of bias. No transcripts were provided to the Court detailing statements he alleges demonstrate bias. This type of evidentiary challenge was highlighted in A.N.H., where the court noted the claimant's inability to identify any instance in the transcripts which supported his recusal application and dismissed the recusal application: paras. 40, 46-47. The same gap in the record on the present application made it particularly difficult to assess P.C.'s allegation that I "refused" to consider a custody reversal as it is unclear when and in what context the alleged refusal was made, if at all.
- [21] Regardless, even if I did express a preliminary view that it was unlikely that the December 2021 supervised parenting time order would be varied to affect a "custody reversal" by giving P.C. full-time unsupervised parenting, expressing preliminary views does not give rise to actual or apprehended bias. It is not unfair for a judge to express some preliminary views of the case as it "allows the parties to direct their advocacy to the points troubling the judge, and to correct errors that might be seen in the judge's preliminary reasons": S.N. Carlson Trucking Ltd. v. 590580 B.C. Ltd., 2018 BCCA 211 at paras. 52-53.
- [22] Moreover, in response to P.C.'s submission that I have approached this case with pre-conceived notions and refused to consider his claim of alienation, I note that shortly after being appointed case management judge, I acceded to P.C.'s request for a full s. 211 report and directed that the report writer consider "Management approaches to a child or children resisting/refusing parenting time or contact with the claimant or the respondent". The resulting report--completed in August 2025--has not been before the Court on any prior application, but will be available for consideration at trial.
- [23] P.C.'s assertions of reasonable apprehension of bias largely centre on my alleged failure to: (a) treat this as an alienation case and order a complete reversal of custody; and (b) find M.C. guilty of perjury and impose penalties against her. Respectfully, P.C. is conflating the notion of bias with his dissatisfaction with my failure to grant him the full panoply of interlocutory relief he has sought to date. Bias does not arise simply because a particular outcome is unsatisfactory: *Middelkamp v. Fraser Valley Real Estate Board*, [1993] B.C.J. No. 1846, 1993 CanLII 2884 (B.C.C.A.) at para. 14. Further, the fact that a judge dismisses a claim or defence is not a sign that the judge is biased against that party and unable to hear other arguments with an open mind: *Pereira* at para. 19.
- [24] The central focus of P.C.'s submissions on this recusal application was his disagreement with the orders I have made thus far. He takes issue with my assessment of the evidence and factual findings and asserts that my orders are unsupported in the evidence. These are matters properly addressed by way of appeal; they do not provide a basis for recusal. If P.C. took issue with my reasons, then he had a right of appeal, but apparently chose not to exercise it as he did not appeal either of the December 2024 or June 2025 orders.

- [25] P.C.'s attempt to use this recusal as an opportunity to reargue his previous applications and undertake a detailed criticism of the reasons for judgment granting him some, but not all, of the relief sought, is inappropriate: Pereira at para. 20. This is particularly the case in respect of his suggestion that the summary of my interview with one of the children demonstrates "dishonesty" by the Court. If his position is that my factual findings were unsupported by the evidence or that I failed to consider the best interests of the children, then those are matters for the Court of Appeal, not grounds for recusal.
- [26] P.C. takes particular issue with the factual findings I made regarding an April 2021 incident between him and M.C. during a parenting time exchange. M.C. alleged that P.C. hit her vehicle and she sought conduct orders limiting their contact. P.C. denied hitting her vehicle. I accepted M.C.'s version of events and granted the conduct orders as sought. P.C. says I ought to have rejected M.C.'s evidence because she has continually perjured herself. I am not satisfied that my assessment of the evidence, on this point or any of the others that P.C. took issue with on this application, establishes that my findings or the resulting orders were made for unethical, unlawful, or improper purposes: see e.g. A.N.H. at para. 46.
- [27] P.C. also takes issue with my assignment as both case management and trial judge on the basis that duty counsel advised him that this is "unusual". Respectfully, it is not unusual for a judge to be assigned as both case management and trial judge. In any event, a judge's prior involvement in matters involving a party does not provide a basis for recusal: Wang at paras. 11-13.
- [28] P.C. relies on *Este v. Esteghamat-Ardakani*, 2019 BCSC 653, where the judge recused himself from hearing a counterclaim after striking the plaintiff's civil claim as an abuse of process: para. 36. *Este* is factually distinguishable from the present circumstances and is thus of limited assistance. In *Este*, the recusal order was made after the judge dismissed the plaintiff's claim after hearing five weeks of evidence, and there was a prospect that the remaining counterclaim would be heard together with a family action involving some, but not all the same parties. In those "unusual" circumstances, the judge concluded that if the civil counterclaim and family action were heard together, an informed person would, more likely than not, think that his involvement in the earlier five-week trial would prevent him from "having a fresh and open mind to the evidence heard (or re-heard)", thereby giving rise to a reasonable apprehension of bias: paras. 29 and 35. Here, there has been no trial on the merits, I have not heard viva voce evidence from either party, I have not made any final orders, and there is only the family action which is presently set for trial in May 2026.
- [29] P.C. also appears to have formed the view that I am too "soft-hearted" and that I lack the ability to make the types of "draconian" orders he feels are necessary to remedy the alienation he says M.C. is causing. This does not give rise to a basis for recusal and absent such grounds being established, a litigant's preferences about the judge who hears their case cannot be determinative: Wang at para. 12.

[30] Finally, P.C. asserts that my failure to make decisions that reflect the best interests of the children justifies recusal, irrespective of any actual or reasonably apprehended bias. P.C. provides no legal authority in support of this submission. In the absence thereof and given the clear and well-settled test for recusal outlined in the jurisprudence summarized above, I decline to recuse myself on this basis.

Conclusion

[31] In my view, a reasonably informed person, viewing the matter realistically and practically, would not conclude that I am biased or that I would not hear future applications or the trial of this matter fairly and with an open mind.

[32] In the result, P.C. had not met his burden of establishing a basis for my recusal. I decline to recuse myself. P.C.'s application is dismissed.

"Hughes J."

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