

CANADA / JUDGMENT

N.A.J. v. L.S.B.

2025 BCSC 2629

COURT

Supreme Court of British Columbia

DECIDED

31 December 2025

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2025 BCSC 2629 N.A.J. v. L.S.B.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

N.A.J. v. L.S.B.,

2025 BCSC 2629

Date: 20251231

Docket: E74133

Registry: New Westminster

Between:

N.A.J.

Claimant

And

L.S.B.

Respondent

Before: Associate Judge Nielsen

Oral Reasons for Judgment

In Chambers

Counsel for the Claimant:

N. Kulusic

Counsel for the Respondent:

E. Surajballi

Place and Dates of Hearing:

New Westminster, B.C.

December 30-31, 2025

Place and Date of Judgment:

New Westminster, B.C.

December 31, 2025

- [1] THE COURT: There are two applications before me: an application by the claimant to enforce a without notice order compelling the return of the parties' three children to Tsawwassen, British Columbia, Canada, from Dallas, Texas, USA, and an application by the respondent for a protection order.
- [2] The claimant and respondent are both 32 years old. They have been married for seven years. The claimant is the owner of two McDonald's franchises, one in Ladner and one in Tsawwassen, British Columbia, and the respondent is a homemaker. They have three children: Child 1, aged five years, he turns six in January, 2026; Child 2, age four years; and Child 3, aged eight months.
- [3] By way of background, on July 30, 2025, the respondent travelled to Dallas, Texas, to visit her family while the claimant went to Pakistan. The respondent had originally wanted to stay with the claimant's family in Edmonton while the claimant was in Pakistan, but the timing did not work, so she went to Dallas instead. The plan had been for the respondent and the children to return home on August 21, 2025.
- [4] The respondent did not return, which has led to the current applications and legal proceedings.
- [5] The parties have had a tumultuous relationship with its ups and downs. There have been incidents of family violence as defined by the Family Law Act, S.B.C. 2011, c. 25 perpetrated by both the claimant and the respondent. Acts of violence by the parties is denied by each party. Both parties, according to the evidence, can be dramatic in the heat of the moment, and it is also apparent that the parties have had typical moments of a loving relationship as well.
- [6] There is a pattern in the relationship of conflict followed by forgiveness and reconciliation, including statements affirming their love of each other. This pattern of behaviour is evidenced in the exchange between the parties between July 30, 2025, when the respondent went to Dallas, and August 9, 2025, the date where their argument peaked and resulted in their determination to separate and divorce.

- [7] In their seven-year marriage, there is one police report which followed an argument between the parties and resulted in no charges. Indeed, the report notes there were no violations of the Criminal Code and the respondent felt safe in the presence of the claimant.
- [8] In the materials, there is reference to two alleged knife incidents. One allegedly occurred on June 21, 2025, involving the claimant. The claimant denies a knife incident occurred.
- [9] The claimant has pointed to a series of text messages that took place contemporaneous with that period of time, and there is no reference in those text messages or written communications between the parties concerning an alleged knife incident. Indeed, only four days after the alleged incidents, there are messages from the respondent proclaiming her love for the claimant, and again making no mention of a knife incident.
- [10] There is also a knife incident involving the respondent that occurred on March 25, 2024. Apparently that incident is admitted. It was admitted allegedly during the course of a Texas court proceeding. I do have a photograph of the respondent with her hand behind her back. Apparently behind her back was the knife, and the claimant at that time, which was March 25, 2024, text messaged the respondent's mother with the picture, and there is a brief discussion about the respondent having a knife.
- [11] I pause to note that that knife incident occurred during financial difficulties the claimant and the respondent were having and that the knife incident surrounded a threat to essentially cut a painting, not the claimant. Although the claimant retreated to a downstairs bedroom and the respondent allegedly followed him, there was nothing beyond that, which took place on that day.
- [12] It is apparent from the evidence, as well, that both parties are loving parents who have had their ups and downs regarding their parenting. Their son, Child 1, who will be six years old in January, 2026, has been diagnosed with autism and, according to the evidence, can be a handful. The evidence indicates both parties have had their moments in relation to parenting him. However, I have no concern for the safety of the children. Indeed, despite the application by the respondent for a protection order with respect to herself and the children, there is a lengthy email chain between the claimant and the respondent wherein the respondent states the claimant can see the children whenever he wants, for as long as he wants, without any supervision, if it occurs in Dallas, Texas.
- [13] In my view, the protection order is a means to an end, that being to resist returning to Canada with the children. There is no risk of violence to either the respondent or the children, in my view, and I do not find a protection order is warranted.
- [14] However, the relationship, in my view, does require conduct orders and I note that Associate Judge Hughes on December 19, 2025, did make some conduct orders and I intend to supplement those later in the reasons.

- [15] The respondent has emphasized the evidence with respect to the email chain used in support of the without notice order of September 10, 2025, was incomplete, and strongly submitted that it is incumbent on an applicant for a without notice order to be transparent and to provide a complete and honest record.
- [16] The claimant admits the evidence was not complete. The email exchange was missing portions of the exchange between the parties. The claimant has explained that he had deleted the portions of the email chain in the heat of the moment, and when he downloaded them later for the purpose of putting them in an affidavit, the deleted portion was no longer part of the email chain. The claimant attests this was unintentional, that he was in a state of despair, and simply forgot that he had deleted some of the messages, a portion of the email exchange between the parties.
- [17] In *Son v. Kim*, 2024 BCSC 1011, the court lays out principles for consideration of an ex parte order and when it should be set aside. That is discussed in para. 16 of the judgment of Justice Chan which quotes Justice Dley's, decision, *Son*, quoting paras. 36 through 38 of the Dley decision .
- [18] Justice Dley indicates at para. 38 of his decision, which is cited at para. 16 of *Son*, that:
- An ex parte applicant must be "fastidious" in disclosing all important aspects of the evidence and pointing out what defenses may be available to the opposing party
- [19] However, he also indicates at para. 37 that an innocent non-disclosure is an important consideration but not decisive as to whether the breach is such that the order is to be set aside, and he notes that not every omission necessarily results in the order being set aside.
- [20] Here I accept the claimant's explanation. We now have a complete record. Counsel for the claimant went through it in detail. The court has all the facts and it does not cause me concern with respect to the orders made on September 10, 2025.
- [21] The respondent, on the other hand, was deliberately untruthful with the Texas court when seeking a protection order in that jurisdiction. On two occasions, she checked the "no" box on an application form concerning whether there were prior court proceedings. In my view, this was deliberate and it was an attempt to deceive the Texas court to frustrate the return of the children to Canada. I find this course of conduct particularly egregious as it was deliberate with a view to thwart the course of justice. Further, the respondent, through counsel, assured the Texas court that the claimant would have video calls with the children. However, none were permitted until after Associate Judge Hughes ordered video contact between the children and the claimant by order dated December 19, 2025.

- [22] The respondent has provided two letters purporting to support the respondent's non-return to Canada with the children, one from a pre-kindergarten teacher and the other from a family therapist. Both, in my view, are alarming as they are potentially evidence of the beginning of an attempt to alienate the children from the claimant in his absence, and are inconsistent with the respondent's current position encouraging the claimant's unsupervised contact with the children, "provided it occurs in Texas".
- [23] The application of the respondent for a protection order is dismissed.
- [24] The application of the claimant at paragraphs 1(a) through (c) are granted.
- [25] Paragraph (e) is granted until the children return to Canada. Once in Canada, that order is varied to provide that both parties will have joint decision-making responsibilities with respect to the children.
- [26] The application of the claimant at paragraphs 1(a) through (c) are granted. Paragraph (d) is allowed until such time as the respondent returns to Canada, after which the primary residence will be different.
- [27] Once the respondent is in Canada, on an interim without prejudice basis, the primary residence of the children will be with the respondent, who will have sole occupancy of the family home at 5129 Wilson Drive, Tsawwassen, British Columbia. However, this order will expire after 90 days, unless varied or extended by written agreement of the parties, or court order.
- [28] Next, on an interim and without prejudice basis, the claimant will be solely responsible for the maintenance of the family home and all related expenses, and that order will expire in 90 days unless varied or extended by written agreement or further court order.
- [29] Next, the requirement for a judicial case conference is vacated for the purposes of determining child support, spousal support, and parenting time.
- [30] THE COURT: The orders sought in 1(g) through (n) are granted.
- [31] The order sought at paragraph 2 seeking a fine is dismissed.
- [32] In terms of the conduct orders made by Judge Hughes, she has covered most of it. It does not reference mutual communication restrictions. I am going to make the order that, under s. 225 of the Family Law Act, the parties will communicate with each other only through Our Family Wizard once everyone is back in Canada, subject to agreement of the parties or further court order.
- [33] The parties are not to follow one another. They are not to attend at their respective residences or place of business, including the McDonald's restaurants in Ladner and Tsawwassen.
- [34] The issue of parenting time is subject to agreement of the parties or further court

- [35] CNSL N. KULUSIC: Okay. And finally, Your Honour, your decision on costs?
- [36] THE COURT: The claimant will have his ordinary costs on both applications, in any event of the cause.
- [37] THE COURT: The signature of counsel for the respondent on the order is dispensed with given that she is off the record. However, the claimant is to deliver a copy of the entered order, to former counsel for the respondent, and the respondent, forthwith upon receipt.
- "Nielsen A.J."

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