

CANADA / JUDGMENT

## Williams v. Williams

2022 BCSC 517

COURT

Supreme Court of British Columbia

DECIDED

9 March 2022

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2022 BCSC 517 Williams v. Williams

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Williams v. Williams,

2022 BCSC 517

Date: 20220309

Docket: NEW-E-59082

Registry: New Westminster

Between:

Cheryl Ann Williams also known as Cheryl Ann Lige

Claimant

And

Lawrence Michael Williams

Respondent

Before: The Honourable Madam Justice Walkem

Oral Reasons for Judgment

Counsel for the Claimant appearing by videoconference:

J.B. Thompson

Counsel for the Respondent appearing by videoconference:

E.A. Berrie

Place and Date of Trial/Hearing:

Abbotsford, B.C.

February 28; and

Mar 1, 2, 4 & 7, 2022

Place and Date of Judgment:

Abbotsford, B.C.

### **March 9, 2022**

- [1] THE COURT (by videoconference): We had a six-day trial where we heard from counsel for both Mr. and Ms. Williams regarding this matter and this is my oral decision on it. I will start with the caution that if a transcript is ordered and we are going to convert it to, in essence, a written decision, that I reserve the right to edit that, not for the decision itself but it for clarity and reference and so forth.
- [2] This case concerned two people who had a longstanding relationship entered into when both were very young. The main issues between the parties are the division of property, investments, vehicles, pensions, and debt. Ms. Williams also seeks a permanent protection order which Mr. Williams opposes.
- [3] In submissions, both parties clarified that they are not seeking spousal support.

### **Background**

- [4] The couple started dating in the 1970s when they were both very young. Ms. Williams was about 18 years old and Mr. Williams about 22 years old. They started living together in 1979. They have two children: a daughter and a son, now adults. So far, they have one grandchild.
- [5] The parties have three properties: the family home located at 34672 Vosburgh Avenue (the "Vosburgh home"); a rental home located at 7631 Mary Street (the "Mary home"); and a second rental home located at 32395 Diamond Crescent (the "Diamond home"). All three homes are located in Mission, British Columbia.
- [6] After living together for about 14 years, the couple separated in 1993. Ms. Williams' evidence was that they separated due to Mr. Williams' drinking. Mr. Williams said they separated because Ms. Williams started a relationship with another man.
- [7] In 1995, Mr. Williams, who remained in the Mary Street home that the couple had purchased, mortgaged that home and transferred \$70,000 to Ms. Williams, which roughly equaled a 50-percent equity in the Mary home. Ms. Williams used that money for a down payment on the Diamond home. The couple agreed that they would each remain on title for the Mary and Diamond homes, in part to ensure that their children would inherit the properties should anything happen to either of them. Ms. Williams' father provided a

second mortgage on the Diamond home in the amount of \$23,054.52.

- [8] After living apart for three years, the couple reconciled. They later married in 1999. The marriage was not always a happy one. The respondent admits that he suffers from the disease of alcoholism. Trauma in the respondent's early years, including the fact that he was raised in foster care, has continued to impact his life and the lives of those around him. Over the past 10 years, the respondent's drinking has worsened. When the couple first met, Mr. Williams was serving a weekend sentence for driving under the influence.
- [9] The financial situation between the parties was not precise. During the marriage, each party maintained their own bank account where their incomes went. Ms. Williams was primarily responsible for purchasing food and paying for household expenses, as well as utilities. Mr. Williams claimed he made some contributions toward these. Mr. Williams' contributions did not appear to be set, but rather occurred on an ad hoc basis.
- [10] Mr. Williams generally took care of issues related to vehicles between the parties, but not completely. Mr. Williams collected rent from the two rental properties. He would sometimes give part of this money, about \$300 per month, more or less, to Ms. Williams. At times, while the parties were living together, Mr. Williams entirely paid the mortgage for the house that they were living in. Mr. Williams took care of the upkeep of the rental properties and has continued to do so during separation.
- [11] Ms. Williams paid the home insurance for the Vosburgh home and the two rental properties, and has continued to do so since separation.
- [12] Collecting vehicles was a hobby of the couple. A number of vehicles were part of the family property to be divided.

## Issues

- [13] The main issues at trial concerned a determination of family property in these categories:
- 1) Real estate, vehicles, investments and savings, pensions, and potentially hidden cash;
  - 2) Determination of whether any amounts should be excluded property;
  - 3) Return of the personal property of Mr. Williams from Ms. Williams; and
  - 4) Request for a permanent protection order.
- [14] I will address the determination of family property together with any excluded property first.

## Family Property and Debt

- [15] Section 85 of the Family Law Act, S.B.C. 2011, c. 25 [FLA] provides a broad definition of family property which includes real property, business interests, investments, money, pensions, and increases in value of any excluded property during the course of a relationship.
- [16] Per s. 87 of the FLA, valuation of family property must be based on market value and determined as of the date of an agreement dividing family property and debt, or at the court hearing to determine those matters. In the family property scheme, the FLA allows for property to be identified as excluded and not subject to equal division. Property may be excluded from equal division under s. 85 if it is acquired by a spouse before the relationship between the spouses began, is an inheritance, or a gift to a spouse from a third party. The spouse claiming that property is excluded is responsible for demonstrating how that exclusion occurs.
- [17] The Court of Appeal in *Shih v. Shih*, 2017 BCCA 37 [Shih] set out the legal test for excluded property under s. 85 of the FLA. The party seeking property to be excluded must establish, on a balance of probabilities, that the property should be excluded. The Court rejected a legal standard demanding mathematical certainty or precision, finding this improperly tips the standard closer to a criminal standard of proof beyond a reasonable doubt. The Court stated "in many relationships of any significant length, documents will have been destroyed and memories dimmed. A legal standard that demands mathematical certainty or precisions risks defeating legitimate claims": at paras. 41-42.
- [18] In *Venables v. Venables*, 2018 BCSC 1736, Mr. Justice Marchand considered situations where funds of a family were comingled, for example where a spouse got an inheritance or gift and then brought that amount into what seemed to be pooled family property. At para. 64, Justice Marchand commented on the case of *S.E.V. v. T.M.V.*, 2018 BCSC 30, where Mr. Justice Abrioux, as he then was, concluded that the proper approach was to consider the transferor's intention and to look at the transferor's intention in the overall context of their actions:
- [64] Finally, in *S.E.V. v. T.M.V.*, 2018 BCSC 30 at para. 96, Abrioux J. concluded that, rather than apply a presumption, the proper approach was to consider the transferor's intention. At paras. 100-101, Abrioux J. conducted a fact-specific inquiry and determined that each party intended to give 50% of their property to the other. Even though certain funds could be traced to the sale of excluded property, Abrioux J. considered all of the parties' property to be family property and divided it equally. In the alternative, at para. 104 Abrioux J. found that it would be significantly unfair not to divide the funds at issue equally.
- [19] Similarly, in *Pisarski v. Piesik*, 2019 BCCA 129 [Pisarki], the Court of Appeal emphasized the principle that the onus rests on the person seeking the exemption to prove that property should be considered exempt. The Court in *Pisarki* adopted the *Shih* test for balance of probabilities, and noted that the party seeking to exclude property must do so with clear and

cogent evidence. Further, the trial judge considering the exemption has to balance the evidence as a whole and can draw reasonable inferences from the evidence presented about what is the intention of the parties in the circumstances.

- [20] When Ms. Williams' dad passed away, the amount he loaned to purchase the Diamond home was forgiven. A note associated with Ms. Williams' dad's will explained she had received less on his death because of that mortgage being forgiven.
- [21] After Ms. Williams' mom sold the family farm, Ms. Williams was gifted \$293,000. With this amount, Ms. Williams paid out the mortgages on the Diamond home of \$10,000 and on the Mary home of \$21,000. It is these amounts which Ms. Williams is claiming should be considered excluded property.
- [22] There is, as well, an additional sum of money that Ms. Williams' mom gave to purchase the Vosburgh home. The current value of the Vosburgh home is \$1.965 million. Ms. Williams' mom paid for the entire cost of the family home of \$720,000. Both parties agree that that amount should be excluded and this amount, when all else is tallied, should be credited toward Ms. Williams.
- [23] Ms. Williams' testimony was that the Vosburgh home was purchased with both their names on title, even though her relationship with Mr. Williams had evolved to being one of roommates. Ms. Williams' testimony was that she feared Mr. Williams' actions if she made an issue of not having his name on title.
- [24] I find this a convenient argument to make now. While the relationship was not great, they were still married and living together as husband and wife at the time the Vosburgh house was purchased.
- [25] Ms. Williams, as agreed by both parties, is entitled to have the full purchase price of the Vosburgh home, of \$720,000 as excluded property. In addition, I find that the \$23,054, which was the discharge of the mortgage loan from her father to Ms. Williams used to purchase the Diamond home, is excluded property. This amount was clearly intended as a gift to her, and tracked a similar gift made to her sister on her dad's death. A letter from him confirmed that he intended that to be a gift for her in lieu of a larger inheritance, such as the one her sisters received.
- [26] I do not agree that the amounts of \$10,077 and \$21,254, which Ms. Williams received as a larger financial gift from her family and paid off mortgages to the Diamond and Mary home properties, should be considered excluded property. These payments, though made from money gifted to Ms. Williams, were used to pay down mortgages on two jointly owned investment properties while the couple were married. I do not find any intention on behalf of Ms. Williams to keep these amounts separate from family property.

- [27] Each of the parties made separate payments to those two homes at various times. These contributions were co-mingled in the property. Ms. Williams has not proven, on a balance of probabilities, the intention to keep those particular funds separate.
- [28] In submissions, each party expressed that they wanted to keep specific property or assets in the division of property, and proposed to buyout the other's interest. Ms. Williams wants to keep the Vosburgh home. Mr. Williams expressed interest in keeping some of his investments, and his IWA pension. I go through what my decision is on each of these assets, and as you will see at the end, I think, that it is possible for the parties to work this out with the sale of the other homes to see who owes who. If the parties cannot work that out through counsel, including on discussions on what assets need to be transferred or amounts credited to each of them, the parties can come back before me. But, I expect that they will be able to work this out between counsel.
- [29] Mr. Williams points out that Ms. Williams has lived in the Vosburgh home since the couple separated and he has not had the benefit of occupational rent. Given that Mr. Williams did not live at Vosburgh in 2021, I find that he should not be responsible for the \$6,442 property taxes for that property, despite that property taxes were an expense that he was responsible for when the parties lived together. The outstanding property taxes for 2021 on the Vosburgh home are the responsibility solely of Ms. Williams.
- [30] The total amount each party is entitled to from the Vosburgh home will be determined after the excluded property amounts (\$720,000 for the home purchase, and \$23,054 of the forgiven mortgage on the Diamond home) are subtracted from the current assessed value of the home. The remainder is subject to division equally between the parties. I understood the parties to propose that Ms. Williams would buy out Mr. Williams' interest in the Vosburgh home after the sale of the investment properties. Once that is done, Mr. Williams' interest in the Vosburgh home shall be transferred to Ms. Williams.

### **The Mary home and the Diamond home**

- [31] I understand that these two properties will be or have been listed for sale with a joint conduct of sale, with the agreement that all communication will occur through the listing agent or legal counsel.
- [32] The proceeds of the sale of the Mary and Diamond homes will be divided equally between the parties after any mortgages or charges against the homes, realtor's fees, legal or notary fees related to the sales, and outstanding property taxes are deducted. Each party will be responsible for their own capital gains taxes owing as a result of the sale of those properties.

- [33] Though outstanding property taxes will be paid on the sale, Mr. Williams will pay 50 percent of the costs of any 2021 property tax arrears for the Mary and Diamond homes to Ms. Williams, as he solely collected and kept the rents for those properties. Mr. Williams is not entitled to be reimbursed for any money he may have spent on improvements or repairs to the two properties since separation.
- [34] If this is an issue, though I understand that it may not be, either party may be reimbursed for any costs of having the tenants vacate the properties in association with their sale. The responsibility lies first with Mr. Williams to take care of any tenant issues.
- [35] CNSL A. BERRIE: My Lady, I'm sorry to interrupt. I'm sorry to interrupt you. I brought this up to my friend after court. The Residential Tenancy Act, S.B.C. 2002, c. 78 does not allow for a landlord selling a property to evict a tenant because he is selling a property. The tenants get to go with the property and it becomes the obligation of the new landlord to evict.
- [36] THE COURT: All right, so I am going to continue with my decision. If you feel like you need to come back before me, you will do that in writing through the registry.
- [37] CNSL A. BERRIE: Thank you.
- [38] THE COURT: If you cannot work that out. So, if there are responsibilities to be taken care of regarding steps to prepare the properties for sale, those lie first with Mr. Williams. If he does not do anything that needs to be done, Ms. Williams may do so and be reimbursed for those costs, but will first provide one week notice through counsel of her opinion that a thing or action needs to be done associated with that sale.

## Vehicles

- [39] Mr. Williams says that the parties went together and registered all the vehicles in both of their names after his brother died and his sister-in-law was unable to re-insure a vehicle because her name was not on title. He generally said their understanding was that some of the vehicles were owned by each of them separately, despite both their names appearing on title.
- [40] The vehicles the parties owned are as follows: a 2005 GMC HD 2500; a 1967 Chevelle; a 1996 Pontiac Sunfire; a 1931 Ford kit car; a 1969 Chevelle 442 in pieces; a 1993 Chevrolet Silverado; a 1995 Chevrolet Blazer; and, a 1965 Malibu Chevelle. In submissions, it was learned that the Mazda Protégé that was listed as an asset in some filings has since been disposed of and both parties agree, in any case, it was of negligible value.
- [41] The parties agree that the following vehicles are the sole property of Ms. Williams: the 1967 Malibu Chevelle and the 1993 Chevrolet Silverado. It was further agreed that the 1996 Pontiac Sunfire, a gift from a friend, is Mr. Williams' sole property.

- [42] I understood Mr. Williams to express an interest in the following cars: the 2005 GMC which was paid for by Mr. Williams and used and maintained by him, the 1931 Ford kit car, and the 1969 Chevelle, which belonged to Mr. Williams' father and Mr. Williams was in the process of purchasing when his father passed away.
- [43] If either party is interested in purchasing any of the remaining vehicles, including those three that I just listed, they may, at their own expense, have an independent appraisal or valuation done by a mutually-acceptable party. This can be an appraiser, or a dealer, as agreed by the parties through communication with counsel. After that appraisal or valuation is done, either party can purchase the other party's 50 percent interest in that vehicle at half of the appraised or declared value from that process.
- [44] If both the parties are interested in purchasing one of the vehicles, they can jointly pay for the appraisal or valuation of that vehicle. Each party can make a sealed bid through counsel by a set date, and the party who makes the higher bid may purchase the other party's half interest at the price they have proposed.
- [45] For any of the cars that are recognized as the sole property of either party in this decision, or that either party purchases through a process set out in this decision, the other party will provide all keys in their possession to the other party, through counsel, as soon as practicable. Each party will sign whatever papers are necessary to affect the transfers and remove themselves from title.
- [46] All other vehicles not disposed of above will be offered for sale at auction with the proceeds divided equally between the parties. I note that the parties appear to be car aficionados. If the parties think that there is a way to get more money through a different method of sale, they can communicate through counsel and agree upon an alternate method. In the absence of agreement, the vehicles will be sold through auction.

## Registered and Non-Registered Investments and Bank Accounts

- [47] I now turn to investments and bank accounts. We had considerable delay in the trial to address Mr. Williams' failure to provide full disclosure of all financial assets. During the course of trial, with some delay, and with work of counsel, I understood that there was a full list of financial assets finally provided. So, I am intending here to list what I think Mr. Williams' registered funds are. Those registered funds are as revealed in the disclosure provided during the course of trial. My understanding of the registered funds are as follows: a contract ending 4612 in the amount of \$2,517; a rate climber RRS2 in the amount of \$7378; an RRSP term deposit nine in the amount of \$7780; a rate climber RSP number 17 in the amount of \$51,550; a rate climber RSP number 18 in the amount of \$3476; a rate climber number 19 in the amount of \$2,835; an RSP term deposit 21 in the amount of \$2,749; RSP term deposit number 22 in the amount of \$4,342; an RSP term deposit number 23 in the amount of \$6,929; an RSP term deposit 24 in the amount of \$4,285. I believe that the total amount of those registered funds is \$93,841.

- [48] Ms. Williams' registered funds are as follows: a variable RRSP in the amount of \$1,007; RRSP number two in the amount of \$1,079; RRSP three in the amount of \$1,065; an investment in Primerica in the amount of \$49,499 for \$52,650.
- [49] In total, each party, on my math has an entitlement to \$73,245, and so if we were to minus the amount, \$52,650, of Ms. Williams' holdings that she gets to keep, Ms. Williams is entitled to \$20,595. Mr. Williams can elect to credit that amount to Ms. Williams from his share of the proceeds of the sale of the rental properties or whatever interest it is that he has in the Vosburgh home, or the parties can, through discussion, elect a T2220 spousal rollover to equalize the holdings between the two. The important point is that the registered funds of the parties are split equally between them.
- [50] Mr. Williams also has an investment account whose current value is \$147,896. Ms. Williams is entitled to half of that amount, \$73,948.
- [51] Mr. Williams' non-registered investments and debt are as follows. I will start with a debt which I am finding to be a family debt. I think that was agreed between the parties in any case, which was a line of credit in a golden chequing account in the amount of \$5,878 which was in existence at the time of separation. His non-registered investments and accounts include: a golden interest chequing account in the amount of \$51,861; a high-interest savings account of \$94,284; Plan 24 shares of \$42; TFSA of \$16,475; an advantage chequing account in the amount of \$18,622. So that, I believe, is \$175,406 net of the line of credit. Then a Manulife investment in the amount of \$251,174 and a Manulife contract GIF in the amount of \$135,954. In total, \$562,534.
- [52] From this amount, Ms. Williams is entitled to \$284,206 before factoring in Ms. Williams' negative non-registered accounts, which are as follows: from Prospera Westminster she had a balance to be considered of \$309; in her daily interest chequing account she was overdrawn by \$703, so the amount that is negatively to be applied is \$394. Or I guess that would be -- so it would be -- the way it would apply, that would be \$197. So, in total the amount to be paid would be \$284,403, that Mr. Williams owes to Ms. Williams.

## Pensions

- [53] Regarding the pensions, the parties' employment pensions are divided equally between the parties. Mr. Williams must reimburse Ms. Williams for her share of the IWA pension that has been withdrawn. I believe that amount is \$28,836. The parties can probably work out how to do that when they are doing the balancing of the other amounts.

## Family Debt

- [54] I note that the line of credit that Mr. Williams had was addressed above.

- [55] Generally speaking, debt acquired during the course of the relationship is considered shared family debt per s. 86 of the FLA. Per s. 95 of the FLA, family property may be unevenly divided where an equal division would be unfair to the parties.
- [56] Ms. Williams has three credit card debts which were in issue. There was a President's Choice MasterCard, a CIBC Visa card, and a Canadian Tire MasterCard. The President's Choice card and the CIBC Visa debt will be considered family debt, in their entirety. Mr. Williams will be responsible for half of those amounts.
- [57] Regarding the Canadian Tire MasterCard, Mr. Williams disputed that it should all be considered family debt. A review of the credit card statements show that the amounts consisted of a lot of work-related travel charges. Ms. Williams' evidence was that these charges relate to her role as a union representative, some of which may or may not have been reimbursed. In addition, there were charges for travel with her mom, as well as cash advances.
- [58] In argument, it was suggested that if Mr. Williams had contributed more toward family expenses, Ms. Williams would not have had to run up the debt by cash withdrawals. However, on a balance of probabilities, based on Ms. Williams' own evidence that many of those charges relate to work-related travel, I do not agree that Mr. Williams should be fully responsible for half the amount. Mr. Williams argued that \$3,000 should be deducted from the overall amount and I agree. To count the full amount of the Canadian Tire credit card, used significantly for work travel, as family debt would be significantly unfair to Mr. Williams per s. 95 of the FLA.
- [59] I order that the amount of the Canadian Tire credit card, minus \$3,000, should be considered family debt. Mr. Williams is responsible for half of the remainder of that.

### Mr. Williams' Hidden Cash

- [60] Mr. Williams argued that he had approximately \$68,000 to \$70,000 in cash which he stashed variously in the trunk space of several cars, as well as the shop on the Vosburgh property. Mr. Williams' evidence was that he usually deposited money that he earned, money collected in rent, and saved up these amounts in cash. At one point, after the parties separated, Mr. Williams said he advised his daughter of where the money was and asked her to pass along a request to Ms. Williams that she retrieve the money, keep half, and send the other half to him. He speculated that Ms. Williams had potentially found and kept the cash.
- [61] Given the lack of evidence about whether or not this money existed, or what happened to it, I am unable to decide on that matter. I make no order about it.

### Mr. Williams' Personal Property

- [62] After a lifetime together, the parties share much property. The parties had considerable back and forth about the recovery of Mr. Williams' personal items from the family home and I understand that the discussions about personal property has been going on for quite a while. In the course of examination of the two parties, they largely reached an agreement regarding Mr. Williams' personal property that still remains at the Vosburgh home.
- [63] Ms. Williams will make available for pickup all Mr. Williams' personal property as agreed to by her in her direct and cross-examination, for pickup on behalf of Mr. Williams. Through counsel, no later than 90 days after this decision, Mr. Williams will arrange to have either Ms. Berrie's son and his friends, or other people as agreed to by the parties, pick up all of his personal items. Ms. Williams has packed or will have ready those personal items, including all garage tools and equipment, excluding the compressor which the parties agreed Ms. Williams can have.

### Protection Order

- [64] I now turn to the protection order. Over the course of their relationship together, particularly in the later years, Mr. Williams was often nasty and unkind to Ms. Williams through verbal abuse, taunting, and insults. Events culminated on October of 2019, when Mr. Williams was drinking heavily. The couple got into an argument and Mr. Williams smashed a dining room chair at a table Ms. Williams was sitting at. To some degree, the escalation of family violence was situational. The October 2019 incident occurred within a day or a few days of Mr. Williams having been laid off permanently from a job he had worked at for over 23 years.
- [65] Mr. Williams suffered a significant concussion as a young man when he fell out of a truck bed while drinking when he was about 21. He says that the ongoing impact of the concussion is that he is often forgetful. In testimony, it was clear that drinking heavily also contributes to periods of memory loss for Mr. Williams.
- [66] Mr. Williams agrees that he was nasty with Ms. Williams. He remembers vaguely breaking the dining room chair. Both parties agree that he was never physically violent to her person. In testimony, an earlier incidence of family violence was referred to. It occurred around the summer of 2016 when the whole family, including the parents and their two adult children, were drinking at the Vosburgh home. Mr. Williams struck the cheek of their daughter. As a result, the Ministry of Children and Families was involved and their daughter and grandson had to leave the house for a time due to safety concerns.
- [67] The insults and threats that Mr. Williams made while drinking, were particularly troubling for Ms. Williams. These threats continued over the course of years, but got increasingly worse as Mr. Williams' drinking problem got worse.

- [68] Ms. Williams felt belittled, insulted, and scared. The threats made by Mr. Williams included repeated suggestions that Mr. Williams might carry out a murder/suicide, that he might kill the entire family including the adult children and grandchild, and that he wanted to slit Ms. Williams' throat. Mr. Williams made threats to burn the Vosburgh home down. Mr. Williams told Ms. Williams that she had signed her death warrant when she called 9-1-1 during the October 2019 incident.
- [69] The escalation of threats, insults, and belittling behaviour worsened when Mr. Williams drank, but occurred while he was sober as well.
- [70] As a result of the October 2019 incident, Mr. Williams was charged with uttering threats contrary to s. 264.1(1) of the Criminal Code, R.S.C. 1985, c. C-46 and uttering a threat to burn, destroy, or damage property contrary to s. 264.1(1)(b) of the Criminal Code. Mr. Williams gave an undertaking pursuant to ss. 493 and 679 of the Criminal Code, which included his promise, amongst other things, to not be within 100 metres of Vosburgh unless with a peace officer to retrieve belongings, not to have direct or indirect contact with Ms. Williams, not to possess a firearm, cross-bow, prohibited weapon, or restricted weapon, not to possess a knife aside from for purposes of eating food or preparing it, not to consume alcohol, and not to enter a liquor store, pub, or any place where alcohol is sold.
- [71] Mr. Williams appears to have violated those terms on several occasions. For example, on August 4, 2020, Ms. Williams received a note that the 2005 GMC that the couple owns together, but Mr. Williams drove, had been impounded because Mr. Williams was driving the vehicle with a blood alcohol level of over 80. Mr. Williams said he came onto the Vosburgh property once to look for the \$68,000 in cash, and once indirectly communicated through the couple's daughter with a proposal about how Ms. Williams could find, and hopefully share, that cash.
- [72] As a result of the October 2019 incident and threats, Ms. Williams had a security system installed which records movement at the Vosburgh home. On a day when Ms. Williams was with her sister and mom to honour her father on the anniversary of his death, a date with which Ms. Williams says Mr. Williams would have been familiar with, Ms. Williams' security system picked up an image of a man who came onto her property, touched the door, and a window, and then left. The video is not clear.
- [73] Ms. Williams said she thought it was Mr. Williams based on his gait and stance. Mr. Williams denied it was him and produced evidence from his work that he was working at the time. Ms. Williams called the police. The RCMP officer, Constable Sidhu, who attended as a result of that call, reviewed the security tape and was of the opinion that identity could not be established either way as a result of the tape.

- [74] The RCMP officer said Ms. Williams was adamant that Mr. Williams should be arrested for breaching conditions. In the end, this was not done. The video, which was introduced as evidence in this trial, is simply unclear. It is not possible to identify who the person in the video is. On a balance of probabilities, I cannot conclude that Mr. Williams was in fact the person on the video.
- [75] The prohibition from communicating with each other, uttering threats, and breaches were addressed through a peace bond which was set to expire in January of 2022. A protection order was made on December 22, 2021, by Master Schwartz, restraining Mr. Williams from directly or indirectly communicating with or contacting Ms. Williams, except through counsel. Mr. Williams was restrained from attending or entering the Vosburgh home or Ms. Williams' workplace, and from following her. Instead of the one-year default set out in s. 183(4) of the FLA, the order is set to expire on the date these reasons for judgment are released.
- [76] Mr. Williams expressed fear that the protection order on the grounds sought, especially due to its permanency, might make him vulnerable to false claims or calls to the RCMP by Ms. Williams. He points to the fact that the affidavit Ms. Williams swore in seeking the current extension suggests the RCMP were going to recommend charges as a result of their review of the security tape, and this was clearly not the case.
- [77] After the incident with Mr. Williams, their daughter, and their grandchild, Mr. Williams took some counselling. After the October incident, Mr. Williams undertook weekly counselling for a period of about a year to address his anger and alcohol use. When his counsellor left her practice, he started seeing another counsellor once every couple of months. He has since stopped seeing her.
- [78] It was pointed out that Mr. Williams was not in a good state of health. He has had a heart attack, has had several stints put in, has COPD, and angina. He has had operations on his knees and hands. He has had an operation for cataracts. He experiences chronic back pain and has severe ulcerative colitis which significantly impacts his day-to-day activities.
- [79] I pause to note that illness or frailty on the part of a person does not prevent that party from exercising family violence.
- [80] Mr. Williams was prescribed an antidepressant by his doctor but stopped taking it without first consulting with his doctor, because he did not like the way it made him feel. He says that he often feels helpless and like giving up. Mr. Williams confirmed that he has contemplated suicide.
- [81] The separation has been quite difficult for Mr. Williams, who continues to struggle with an active addiction to alcohol, and though he says he has been able to process through some of the traumas he has suffered stemming from being raised in foster care and the death of his friends and brother, this addiction continues. Mr. Williams said he regrets his actions and expresses no desire to harm Ms. Williams now. He says he does not remember the actual

incidents or what he said. He remembers he did smash a chair and he was nasty. I expect there is a lot hidden behind the phrase "nasty". I expect that his behaviour was considerably more than nasty.

- [82] The claimant cites *K.H.D. v. O.O.M.*, 2021 BCSC 1808 at para. 42 for the proposition that where a protection order is filed without notice, the court must first consider the need for a protection order de novo, considering the evidence of both parties and the circumstances that have occurred since the original order was made.
- [83] Sections 186 and 187 of the FLA are also part of the protection order regime. Section 186 sets out what a court may do when a protection order is made without notice on an application, allowing the court to set aside an order or change or terminate it. Section 187 sets out options for how a court may vary or terminate protection orders. The definition of "family violence" under the FLA includes psychological or emotional abuse, including intimidation, harassment, coercion, threats, threats respecting property, and intentional damage to property.
- [84] Considerations for this court in making a protection order are set out in s. 184. An assessment of a whole series of risk factors is required, including a history of family violence; whether family violence is repetitive or escalating; whether any psychological or emotional abuse constitutes, or is evidence of, a pattern of coercive or controlling behaviour directed at the at-risk family member; and, the current status of the relationship between the family member against whom the order is made and the at-risk family member, including any recent separation or intention to separate. There is a requirement on the court to look at the situation at the particular time, and to consider the at-risk family member's perception of the risk to their own safety and security.
- [85] In *S.M. v. R.M.*, 2015 BCSC 1344, this Court noted, at para. 20:
- [20] If the Court determines that family violence is likely to occur and the other family member is an at-risk family member, the order may include one or more of the protective provisions set out in s. 183(3).
- [86] Mr. Justice Schultes, in *Morgadinho v. Morgadinho*, 2014 BCSC 192, noted that the purpose of the protective functions in the FLA is to recognize the danger to vulnerable family members that can arise in these often-volatile relationships and to ensure that courts have the means of ensuring the safety of those who are at risk:
- [59] The purpose of these provisions is obvious -- to recognize the danger to vulnerable family members that can arise in these often-volatile relationships and to ensure that courts have the means of ensuring the safety of those who are at risk. The broad and inclusive definition of "family violence" recognizes that the kinds of harm that can be inflicted in this situation extend beyond the infliction of physical violence.

- [87] The broad and inclusive definition of "family violence" recognizes that the kinds of harm that can be inflicted in these situations extend beyond physical violence.
- [88] Ms. Williams' testimony was that she had been prescribed an anti-anxiety medication to address the stress and fears that she feels thinking about Mr. Williams and that he may carry out any of the threats that he has made. Overall, Ms. Williams testified that she is scared to encounter Mr. Williams and she avoids stores or areas that she knows he shops. She often drives through a parking lot to check if his car or his truck, rather, is parked there before entering a store.
- [89] Both parties live in relatively close proximity in Mission. Ms. Williams said that she thought once or twice Mr. Williams was following her, an allegation which Mr. Williams denied. Mr. Williams has not tried to contact Ms. Williams directly. He has not made any further threats or attempted to see Ms. Williams. He has not gone by her work. He did admit sending an indirect message through their daughter regarding hidden money. Ms. Williams herself denied that contact.
- [90] It is important not to underplay the severe impact of the form of psychological family violence here, even if there was no direct physical attack involved. The fear that such threats can generate is real, debilitating, and serious. I have no doubt that the threats and verbal attack made by Mr. Williams on October 16, 2019 and for many years prior have had a lasting impact on Ms. Williams.
- [91] Here the claimant seeks a permanent protection order. That is a very rare remedy. A permanent protection order is usually made to address an ongoing threat that would warrant such an order.
- [92] Sections 184(1)(e) and (f) of the FLA contemplate substance abuse and perception of risk respectively as considerations in making a protection order, but in the absence of ongoing any recent conduct on behalf of the respondent, the perception of risk must be considered in light of other factors.
- [93] For example, in *Cabezas v. Maxim*, 2014 BCSC 767, the claimant claimed an ongoing fear, but the Court was not persuaded that there was a reason for that fear. Coupled with extremely limited contact with the claimant since separation, the Court declined to grant a protection order.
- [94] In *Prasad v. Prasad*, 2015 BCSC 207, the Court found it likely that the husband would react violently towards the wife if the division of assets and pensions of the parties did not weigh heavily in his favour and it was clear the husband would not agree to stay away from the wife and stop communicating with her. There was a previous history of physical, verbal, and emotional abuse. A permanent order was made, with the husband not being entitled to apply to vary or amend the order for three years.

- [95] In *Primeau v. L'Heureux*, 2018 BCSC 740, an interim protection order was in place. The respondent attempted to sabotage the claimant's employment twice, the second time after being separated for four years. The court found on both times the respondent did so solely to jeopardize the ex-wife's employment. Before trial, the respondent threatened to make false allegations to the Ministry of Children and Family Development against the claimant's new husband. The respondent also intentionally destroyed property, was needlessly hostile in communication, engaged in conduct to inflict emotional and financial harm, made threats, and engaged in other behaviours that indicated a need for a protection order. In that case, a protection order was made for two years.
- [96] In the circumstances of this case, I am not convinced that an ongoing permanent protection order is necessary.
- [97] In the cases mentioned above, there were ongoing concerns that required a protection order. That is not the case here. The original order stems from the October 2019 incident which was situational in nature, given Mr. Williams' recent job loss and escalating drinking. I do not believe there will be an ongoing threat once the parties are divorced and the assets divided. However, after hearing the evidence, there is some concern for the safety of the claimant, particularly given the situational nature of the escalation of family violence in the past.
- [98] I grant a protection order for a limited time, for a period of six months, which should cover the period while assets are distributed, the properties sold, and the personal property is returned, and so forth. I will read out the terms of that order at the end.
- [99] Family property and debt shall be divided as I have set out above. I make the following orders:
- (1) Subject to s. 12 of the Divorce Act, R.S.C. 1985 (2nd Supp.), c. 3, the claimant, Cheryl Ann Williams also known as Cheryl Ann Lige, born November 21, 1960, and the respondent, Lawrence Michael Williams, born November 3, 1956, who were married at Reno, Nevada on May 1, 1999, are divorced from each other, the divorce to take effect on the 31st day after the date of this order.
- [100] The terms for the protection order are as follows:
- (1) Under s. 183 of the Family Law Act, Lawrence Michael Williams, born November 3, 1956, is restrained from directly or indirectly communicating with or contacting Cheryl Ann Williams, also known as Cheryl Ann Lige, born November 21, 1960, except through counsel for the purposes of the within family law proceeding or a designated realtor for the purposes of distributing assets.

- (2) Under s. 183 of the Family Law Act, that Lawrence Michael Williams is restrained from attending at, nearing or entering the residence and property located at 34672 Vosburgh Avenue, Mission, BC, the claimant's workplace, Cascade Aerospace located at 1337 Townline Road in Abbotsford.
- (3) Under s. 183 of the Family Law Act, that Lawrence Michael Williams is restrained from following or being within 50 metres of the claimant, Cheryl Ann Williams also known as Cheryl Ann Lige.
- (4) This order will expire September 9, 2022, six months from the release of these reasons for judgment.
- (5) Should the claimant, Cheryl Ann Williams also known as Cheryl Ann Lige, make an application to extend this order under s. 187 of the Family Law Act, the respondent, Lawrence Michael Williams, shall be provided with notice of the application of not less than five business days.
- [101] Given the result, I am of the preliminary opinion that each party should bear their own costs, but that Mr. Williams should contribute an extra \$2500 to Ms. Williams' legal costs to address the lack of financial disclosure, which delayed the trial. If either party wishes, I will hear submissions now about a different disposition regarding costs. As I mentioned earlier, given the direction given in this decision, and each party's desire to keep different assets, I understood the parties through counsel were going to work out the division of assets after the sale of the two investment properties. If for some reason you cannot work it out, you can come back.
- [102] All right, does anyone want to address costs?
- [103] CNSL B. THOMPSON: Yes, I would like to address costs, My Lady, and I would -- I would be grateful and I think the court would benefit from myself and my friend having an opportunity to address this in a very sort of prepared and concise fashion. I would suggest written submissions. There was a formal offer, so that's part of the consideration, but the other argument would be whether Ms. Williams was substantially successful.
- [104] THE COURT: All right, so I will take the submissions in writing of no more than five pages, and you can make -- do you want to set a timeline for that?
- [105] CNSL B. THOMPSON: I'd be happy to have my submissions to my friend within 15 days, and perhaps she could have 15 days to submit hers to me, and I guess we would both submit them to you on the 30th day.

- [106] THE COURT: All right, so I will expect to receive both of your submissions within 30 days, and as I have said, I tried to say how I thought they should be divided, but I expect that there is some freedom there because, for example, Ms. Williams wants to keep Vosburgh, there are things Mr. Williams wants to keep. I expect that once we have sort of had a decision about where they should go, that you will be able to sort that out, and if not, you can come back before we finalize your order, all right.
- [107] CNSL A. BERRIE: If I could say, My Lady, we're content, Mr. Williams is going to be content with your order of each party bear their own costs plus \$2500 to Mrs. Williams. I will provide a response, only because Mrs. Williams is seeking to have costs, but Mr. Williams is content.
- [108] THE COURT: All right. So, I will expect to hear from both parties via written submissions through the registry within 30 days or perhaps less.
- [109] All right, thank you very much for your submissions, parties. I can see with your pen, Mr. Thompson, that I expect you have something to say.
- [110] CNSL B. THOMPSON: I would just like to seek a little bit of clarification if I could with respect to the bank account division. You indicated that in terms of the registered money, that Mr. Williams would -- would owe Ms. Williams \$20,595 and then you said he can elect to credit this to Vosburgh or [indiscernible] T2220. Did I understand that correctly?
- [111] THE COURT: I think, if it helps, my overall thinking is that -- so I have made decisions, I think, on all of the property and how it shall be divided. What I am directing you to do is to kind of work that out. So, if he, for example, owes Ms. Williams \$20,000 from this pot of say bank accounts, that can be applied against the amount that she owes him for Vosburgh, and at the end of this, once you've got the sale of the -- you have got the sale of the properties and you know how much that is worth, I am not ordering him to transfer the money. I am saying what the -- basically what the decision is, is of those accounts, Ms. Williams is entitled to 50 percent. He is also entitled to 50 percent of what she has. You can work it out after the sale, so I am not ordering he pay her any money now. He owes her a certain amount of the value of that asset, and then once you have got -- because she is keeping Vosburgh, you know what the amount of that is worth, after you have the sale you will know what that money is worth, and you will know how that shakes down and if you cannot work it out, then you can seek direction.
- [112] All right. Ms. Williams, I wish you good luck. Thank you.
- [113] CNSL B. THOMPSON: Thank you, My Lady.
- [114] CNSL A. BERRIE: Thank you, My Lady.

Walkem J.

**Source & reproduction note**

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

**ORIGINAL SOURCE**        <https://www.bccourts.ca/jdb-txt/sc/22/05/2022BCSC0517.htm>

**CASE PAGE**                <https://chat.esheria.ai/case-law/canada/williams-v-williams-2022>

Prepared on 25 October 2026 · Esheria