



COMMISSION OF INQUIRY INTO THE CIRCUMSTANCES
SURROUNDING THE DEATH OF PHOENIX SINCLAIR

Commission Disclosure 1731

THE QUEEN'S BENCH

WINNIPEG CENTRE

IN THE MATTER OF: "The Child and Family Services Act";

AND IN THE MATTER OF: Phoenix Victoria Hope Sinclair,
23 April, 2000; [REDACTED]
[REDACTED], 30 November, 2004; [REDACTED]
[REDACTED], 12 December 2005

BETWEEN:

WEST REGION CHILD AND FAMILY SERVICES,

Petitioner,

- and -

SAMANTHA DAWN KEMATCH, NELSON DRAPER STEVE SINCLAIR
and KARL WESLEY MCKAY,

Respondents.

TRANSCRIPT OF PROCEEDINGS before Senior Master
Lee, held at the Law Courts Complex, 408 York Avenue, in the
City of Winnipeg, Province of Manitoba, on the 13th day of
August, 2003.

APPEARANCES:

MS. D. POSKAR, for Petitioner

MR. J. HARVIE, for Anishinaabe Child and Family Services

CP MATTER - RESTRICTION ON ACCESS

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1 AUGUST 13, 2003

2

3 MR. HARVIE: Number 10, Your Honour, the Director
4 v. Samantha Kematch.

5 MS. POSKAR: Your Honour, the father is here on
6 this matter as well. I'm just going to have Mr. Williams
7 bring him in.

8

9 (OTHER MATTER SPOKEN TO)

10

11 MS. POSKAR: Your Honour, Mr. Williams is just
12 coming back in with his client.

13 Your Honour, on the Kematch/Sinclair matter the
14 agency is seeking a three month temporary order of
15 guardianship.

16 The mother was here on July 2nd and indicated her
17 waiver and consent to that order. Present with my client,
18 Mr. Williams, is the father of Phoenix. And perhaps I can
19 ask Mr. Williams to come forward and set out the position
20 for his client as well as Your Honour and Mr. Harvie.

21 MR. WILLIAMS: Good morning, Your Honour. Stan
22 Williams representing Child and Family Services. Speaking
23 on behalf of Mr. Sinclair.

24 I understand that he's been having some struggles
25 recently and not too far in the past one of his other
26 daughters died and he's been having some difficulties
27 parenting his daughter, who he has basically parented for
28 the last three years.

29 At this time baby's come into care. Her name is
30 Phoenix. And is now placed with a, a place of safety with
31 the friends of the family, the godparents. And Mr. Sinclair
32 is, is feeling that he needs some time to, to get his
33 business in order and we're prepared to support him in that
34 venture.

1 So, in, in this, in this light we're, we're asking
2 -- we, we think this will take about three, three months to
3 accomplish.

4 THE COURT: All right. And I take it that Mr.
5 Sinclair would have open access to Phoenix during the time?

6 MR. WILLIAMS: Yes. He does, yes.

7 THE COURT: All right.

8 Mr. Sinclair, if you could come forward to the
9 microphone where Mr. Williams has been standing?

10 If you can state your full name for the court
11 record, sir?

12 MR. SINCLAIR: Nelson Draper Steve Sinclair.

13 THE COURT: And, Mr. Sinclair, you're the father
14 of Phoenix Sinclair?

15 MR. SINCLAIR: Yeah.

16 THE COURT: And you are aware that you have a
17 right to speak to a lawyer if you don't agree with what the
18 agency is requesting?

19 MR. SINCLAIR: Um-hum.

20 THE COURT: Are you wishing to speak to counsel or
21 are you prepared to tell the court today if you agree
22 with --

23 MR. SINCLAIR: No, I already agree. I already
24 agree so --

25 THE COURT: All right.

26 So, the record will indicate Mr. Sinclair is
27 consenting to the three month temporary order of
28 guardianship sought by the agency.

29 MS. POSKAR: Your Honour, I would just ask Mr.
30 Williams, given that the mother consented on July 2nd, is
31 three months running from July 2nd sufficient time for the
32 plan to develop?

33 MR. WILLIAMS: Yeah. And we can reassess at that
34 time but that's what we think, yeah.

1 MR. HARVIE: Your Honour, if I may, on behalf of
2 Anishinaabe Child and Family Services, my instructions were
3 and we had requested particulars of the proposed placement.
4 There was some question as to whether or not this would
5 proceed by way of a supervisory order or a temporary order.
6 Obviously our only concern in this matter is if we can be of
7 assistance in complying with program standards to ensure
8 that the child is placed in either an extended family or a
9 culturally appropriate placement. That's what we're
10 mandated to assist in. If perhaps the -- I could be
11 provided with some information? I have instructions,
12 obviously, to consent if the placement is extended family or
13 culturally appropriate.

14 MS. POSKAR: I think what Mr. Williams indicated
15 it's the child's godparents.

16 MR. HARVIE: And I assume that that's --

17 THE COURT: Is that culturally appropriate from
18 the point of view of Mr. Harvie's agency?

19 MR. WILLIAMS: I'm not sure what their standards
20 are but, but I understand both parents are, are agreeable
21 and acceptable with the placement and, and they know both,
22 both parents.

23 MR. HARVIE: The -- with respect to the agency,
24 it's not our standards, it's obviously the provincial
25 standards and programs that we're obliged by to follow. The
26 question simply is that the first priority that we have to
27 look at is extended family and the second one is community
28 awards and the third one would be culturally appropriate.
29 By that I and the province mean that this would be a First
30 Nations family.

31 MR. WILLIAMS: I think the, the mother is, is
32 aboriginal background.

33 MR. HARVIE: In light of that, I don't have any
34 instructions to oppose this, Your Honour.

1 THE COURT: All right. And if we are looking at a
2 three month order, it's from July 3rd as well.

3 MR. HARVIE: That's right.

4 THE COURT: So, I appreciate that then. I'm
5 taking that as a consent then from Anishinaabe as well and
6 we can proceed.

7 MS. POSKAR: Your Honour, Phoenix's registration
8 of birth is on the court pocket. If it could please be
9 marked as Exhibit Number 1.

10 THE COURT: Document 12 on file is a registration
11 of birth for the child Phoenix Victoria Hope Sinclair. It
12 will be marked Exhibit 1.

13

14 **EXHIBIT 1: REGISTRATION OF BIRTH**
15 **FOR PHOENIX VICTORIA HOPE SINCLAIR**

16

17 MS. POSKAR: You can have a seat, Mr. Sinclair, if
18 you wish.

19 And an affidavit of service on the mother, Ms.
20 Kematch.

21 THE CLERK: Exhibit Number 2.

22

23 **EXHIBIT 2: AFFIDAVIT OF SERVICE ON**
24 **SAMANTHA DAWN KEMATCH**

25

26 MS. POSKAR: An affidavit of service on Mr.
27 Sinclair.

28 THE CLERK: Exhibit Number 3.

29

30 **EXHIBIT 3: AFFIDAVIT OF SERVICE ON**
31 **NELSON DRAPER STEVE SINCLAIR**

32

33 MS. POSKAR: An affidavit of service on West
34 Region Child and Family Services.

1 THE CLERK: Exhibit Number 4.

2

3 **EXHIBIT 4: AFFIDAVIT OF SERVICE ON**
4 **WEST REGION CHILD AND FAMILY**
5 **SERVICES**

6

7 MS. POSKAR: And an affidavit of service on Anishinaabe
8 Child and Family Services.

9 THE CLERK: Exhibit Number 5.

10

11 **EXHIBIT 5: AFFIDAVIT OF SERVICE ON**
12 **ANISHINAABE CHILD AND FAMILY**
13 **SERVICES**

14

15 THE COURT: Thank you.

16 Having considered the, considering the evidence
17 filed, noting, for the record, that Ms. Kematch attended on
18 July 2nd, 2003, consented to a three month temporary order
19 of guardianship to run from that date, having heard Mr.
20 Sinclair today, I am prepared to grant a three month
21 temporary order of guardianship in favour of the agency with
22 respect to the child Phoenix Sinclair to run from July 2nd,
23 2003.

24 MS. POSKAR: Thank you.

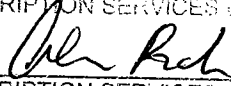
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26 (PROCEEDINGS CONCLUDED)

CERTIFICATE OF TRANSCRIPT

I hereby certify that the foregoing pages of printed matter, numbered 1 to 5, are a true and accurate transcript of the proceedings, transcribed by me to the best of my skill and ability.

JEANNE METCALFE
COURT TRANSCRIBER

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