

**NOTE: PURSUANT TO S 139 OF THE CARE OF CHILDREN ACT 2004,  
ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B TO  
11D OF THE FAMILY COURTS ACT 1980. FOR FURTHER  
INFORMATION, PLEASE SEE  
[HTTP://WWW.JUSTICE.GOV.T.NZ/COURTS/FAMILY-  
COURT/LEGISLATION/RESTRICTIONS-ON-PUBLICATIONS](http://www.justice.govt.nz/courts/family-court/legislation/restrictions-on-publications).**

**NOTE: PURSUANT TO S 437A OF THE CHILDREN, YOUNG PERSONS,  
AND THEIR FAMILIES ACT 1989, ANY REPORT OF THIS PROCEEDING  
MUST COMPLY WITH SS 11B TO 11D OF THE FAMILY COURTS ACT  
1980. FOR FURTHER INFORMATION, PLEASE SEE  
[HTTP://WWW.JUSTICE.GOV.T.NZ/COURTS/FAMILY-  
COURT/LEGISLATION/RESTRICTIONS-ON-PUBLICATIONS](http://www.justice.govt.nz/courts/family-court/legislation/restrictions-on-publications).**

**IN THE FAMILY COURT  
AT TIMARU**

**FAM-2014-076-000155  
[2016] NZFC 1916**

IN THE MATTER OF      THE CARE OF CHILDREN ACT 2004

BETWEEN                      PG  
   Applicant

AND                              ZH  
   Respondent

**FAM-2015-076-000158  
FAM-2015-076-000160**

IN THE MATTER OF      THE CHILDREN, YOUNG PERSONS, AND  
   THEIR FAMILIES ACT 1989

AND BETWEEN              CHIEF EXECUTIVE OF THE MINISTRY OF  
   SOCIAL DEVELOPMENT  
   Applicant

AND                              PG  
   ES  
   EA

Respondents

AND                              BS  
   BORN ON [DATE DELETED] 2005  
   DS

BORN ON [DATE DELETED] 2008  
CS  
BORN ON [DATE DELETED] 2009  
AH  
BORN ON [DATE DELETED] 2011  
Children or Young Persons the application is  
about

Hearing: 3 March 2016

Appearances: T Lawrence for the Applicant  
F Trewnion for the Respondent H  
C Satchy for the Chief Executive  
C Houlahan Social Worker  
No appearance by or for the Respondent S  
J Lovely for the Respondent A  
J Strauss as Lawyer for the Children

Judgment: 3 March 2016

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**ORAL JUDGMENT OF JUDGE M B T TURNER**

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[1] There is a raft of proceedings before me involving the children of PG. Ms B is the mother of BS 11, DS 8, and CS nearly 7. Their father is ES. He has decided not to participate in today's proceedings. The mother is present with her counsel Ms Lawrence.

[2] Ms B is also the mother of AH aged 4 years. ZH is her father. He is present in Court represented by Ms Tewnion.

[3] Ms Strauss appears for all of the children.

[4] There are both Care of Children Act 2004 proceedings and Children, Young Persons, and their Families Act 1989 in respect of AH and Children, Young Persons, and their Families Act proceedings in respect of the S children.

[5] In addition, the Ministry has sought a restraining order against Mr EA, who is also known as PR, RJ and PW. Until recently he was the partner of the children's mother. He is represented in Court today by Mr Lovely in respect of the Ministry's application for a restraining order.

**S Children:**

[6] The Ministry seeks a declaration that B, D and C are children in need of care and protection. A family group conference was convened on 26 February and reached agreement that a declaration should be made and that the children should remain in the care of their mother, but formally supported pursuant to a s 91 support order against the Chief Executive.

[7] This afternoon the children's mother and lawyer for the children consent to the declaration being made. It is noted the children's father has not appeared in Court.

[8] I make a declaration that B, D and C are in need of care and protection, the order being made under s 67 of the Act, on the grounds set out in s 14(1)(a)(b) and (f).

[9] I adjourn the proceedings to 23 March at 11.00 am to await a social work report. In this case the Ministry proposes asking the Court to adopt the family group conference plan as the initial care plan for the children.

**AH:**

[10] The Ministry also seeks a declaration that A is a child in need of care and protection on the grounds set out in s 14(1)(a)(b) and (f).

[11] The family group conference recently held for her also resulted in an agreement that a declaration should be made but no agreement was reached as to disposition orders.

[12] This afternoon the mother, through counsel, asks that these proceedings be adjourned for a brief period of time so as to enable the mother's counsel to fully advise her client. A's father adopts the same approach. He is not opposed to the making of the declaration but seeks an adjournment so as to discuss the situation with the Ministry as to proposed disposition orders.

[13] Ms Strauss as lawyer for A accepts that an adjournment in these circumstances is warranted.

[14] I adjourn the proceeding to 23 March 2016 at 11.00 am.

**Care of Children Act 2004 Proceedings:**

[15] Mr H and Ms B are also parties to an application under the Care of Children Act brought by A's father for a parenting order. It is appropriate that the application be adjourned to 23 March 2016 at 11.00 am to run alongside the Children, Young Persons and their Families Act proceedings. The outcome of the Children, Young

Persons and their Families Act proceedings may well result in the disposition of the Care of Children Act proceedings.

**Restraining Order – Mr A:**

[16] Mr A was until recently the partner of Ms B, the mother of all of the children. The Ministry obtained an interim restraining order under s 88 of the Act against Mr A. He has filed a notice of intention to appear in respect of the making of a final order.

[17] This afternoon I was advised that the personal relationship between Mr A and Ms B has come to an end. They do not intend to reconcile. Mr A advised me that he intends to leave the Timaru area in the near future and has no desire to maintain contact with the children involved in these proceedings.

[18] The children's mother consents to a final restraining order being made, as does Mr H in respect of A. Mr S, as noted, has taken no part in the proceedings, but lawyer for child also supports the making of a final restraining order.

[19] For his part Mr A wished to oppose the making of a final order, mainly on grounds of principle. I discussed the matter directly with him and suggested that an order could be made on certain conditions which might address his concern in that regard. I stood the matter down briefly to enable Mr A to discuss the situation with his counsel. On resuming Court Mr A has signed a written instruction that he will not oppose the making of the restraining order.

[20] Consequently, I discharge the interim restraining order and make a final restraining order. I do so on the following basis.

[21] First, Mr A does not object to the making of the order. It is supported by the other parties in Court, as I have noted.

[22] Secondly, Mr A has indicated to the Court that he does not intend to continue his relationship with the children's mother, nor will he have contact with the

children, unless approved of by the Court. Further, Mr A has indicated his intention to move from the district in the near future.

[23] Finally, and I specifically record that in the making of a final restraining order the Court is not making any adverse findings against the character of Mr A in respect of allegations which are somewhat historical in nature.

[24] I also record for Mr A and the parents' benefit that the restraining order is likely to have run its course. If Mr A leaves the area and/or has no ongoing contact with Ms B, at that point it would seem that the order could be discharged.

M B T Turner  
Family Court Judge