



[1] These proceedings concern MMJ-S and NJ-S, twins born on [date deleted] 2013, aged two. They are the children of KJ and PS. They have been, for the most part of their lives, in the care of their paternal aunt, Ms TS.

[2] The Ministry's position is that they support the placement with Ms TS and they support the making of orders under Care of Children Act 2004 to secure that placement. Ms TS has brought those applications. She is proposing that upon the making of a parenting order the children have supervised contact with their mother four times per year.

[3] Ms KJ opposes that application. The issue for her is not the day-to-day care arrangements but the frequency and nature of her contact with the children. She seeks unsupervised contact. She has filed her notice of response and affidavit outside the period allowed by the rules.

[4] Ms Tan appears today for Mr Roots who acts for Ms TS. She opposes the Court accepting the late filing of the notice of response and affidavit. I do not allow that opposition. I accept that Ms KJ has had difficulty engaging counsel who are prepared to accept instructions on a legally aided basis. It seems unfortunate but that appears to be the landscape for parties at this stage. The notice is filed four weeks out of time and I do not consider that egregious. Accordingly, I accept the notice of response and affidavit.

[5] Counsel have invited me to consider directing a psychological report, whether under s 133 or 178. I am not satisfied that that is essential. It is not, in my view, a matter of attachment in terms of determining what contact is appropriate; primarily it is a matter of risk. That is a factual matter upon which a Court can make a decision without a psychological report.

[6] I accept the indications from counsel that this matter is unlikely to settle and that it needs to be directed towards a hearing. Ms Rowden, who appears for Ms Kiri on behalf of Ms KJ invites me to allocate a one hour submissions only hearing on

interim contact. I do not consider that the matter can be appropriately dealt with by way of submissions only. The matter simply needs to go to a substantive hearing.

[7] In the meantime the Ministry has filed a review of plan, essentially by way of a holding pattern, to ensure that there is some legal structure for these children to support the continued placement with Ms TS. No opposition has been voiced to that plan.

[8] I should also note that Mr Earl, who appears on instructions from Ms Gunn who is counsel for the children, takes the position that the matter needs to proceed to hearing.

[9] Against that background I make the following orders and directions:

- (i) The review of plan dated 14 March 2016 is noted as complying.
- (ii) The s 101 custody order is continued and there shall be a review in six months.
- (iii) If it has not already occurred, the Children, Young Persons and Their Families Act 1989 and Care of Children Act 2004 proceedings are consolidated, so that the applications for discharge of the Ministry's orders and Ms TS's application for parenting and ancillary orders can be considered at the same hearing.
- (iv) The social worker is to file an updated affidavit within 21 days.
- (v) Ms TS and Ms KJ may file any affidavits in response within a further 21 days thereafter. The Court indicates that it would be helpful if Ms KJ were to file the results of any drug testing that she chooses to undertake.

[10] A pre-hearing conference is to be allocated at the expiry of that timetable to ensure that all matters are in order for the allocation of a hearing.

S D Otene  
Family Court Judge