

**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 NELSON**

**FAM-2015-042-000350
[2016] NZFC 2693**

IN THE MATTER OF	THE CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES ACT 1989
BETWEEN	CHIEF EXECUTIVE OF THE MINISTRY OF SOCIAL DEVELOPMENT Applicant
AND	PS MA KA Respondents
AND	DA BORN ON [DATE DELETED] 2004 SA BORN ON [DATE DELETED] 2006 Children or Young Persons the application is about

Hearing: 31 March 2016

Appearances: H A McKinnon and L P Berger for the Chief Executive
I D Miller for the Respondent PS
No appearance by or for the Respondent MA
No appearance by or for the Respondent KA
S J Heney as Lawyer for the Children
M Hills as Social Worker

Judgment: 31 March 2016

ORAL JUDGMENT OF JUDGE R J RUSSELL

[1] These are proceedings under the Children, Young Persons, and Their Families Act 1989 for SA and DA.

[2] Present in Court today is Ms McKinnon and Ms Berger and Ms Hills for the Ministry of Social Development, Mr Miller appears for the children's mother, Ms PS, and Ms Heney appears for the two children.

[3] The position here is that Mr KA, who is the father of DA, has not been served. He has a confidential address and is living in Australia. I am unable to progress the declaration application for DA until such time as he is served and the defence period has expired.

[4] For SA the position is different. Her parents have been served. Her father, Mr MA, has taken no steps in answer to the application. Mr Miller appears today for Ms PS and has no difficulty with the declaration being made. Ms Heney, likewise, has no opposition to the orders sought by the Ministry.

[5] Initially there was some thought about keeping the proceedings for both children together. The difficulty I have with that is the declaration proceedings for the children are long overdue for resolution and are already well outside the statutory 60 days timeframe prescribed by the Act. The concern of counsel was to keep the planning periods of these children together and I agree that that should occur but that is able to occur by a shorter period of the plan for DA being approved once his father is served. This will mean the next review periods will be occurring at the same time.

[6] Ms McKinnon seeks an interim support order under s 92 to cover both children in the meantime.

[7] Against all of that background I make the following orders and directions:

- (a) For the child DA, I make an interim support order under s 92 of the Act directing the Chief Executive to provide appropriate supports for DA while the proceedings are being served on his father.
- (b) I adjourn the application for DA to the next available CYPF list date in approximately one month from now for review.
- (c) For the child SA, I make a declaration she is a child in need of care and protection pursuant to s 14(1)(a) and (b) of the Act.
- (d) I make an interim support order under s 92 of the Act directing the Chief Executive to provide the support for SA. It was necessary to address care and protection concerns.
- (e) I direct there be a s 186 social work report and plan be filed within 21 days. This is to be filed and served and the parties and Ms Heney are to be given an opportunity to comment on the plan. It is to be called alongside the adjourned proceedings for DA in the CYPF list date that I have allocated for him.
- (f) Leave is reserved to any part to seek the Court's further directions on three days' notice, in particular if it becomes apparent service on Mr KA is problematic then the Ministry may want to consider whether to bring a substituted service application of some type in order to progress DA application.

ADDENDUM:

[8] I amend my directions to record that a s 186 social work report and plan has already been filed. It has yet to be served on the parties. This is to occur and the review is to be held on the next review day for DA.

R J Russell
Family Court Judge