

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-2016-042-000072
[2016] NZFC 2678**

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

BETWEEN NEW ZEALAND POLICE
Applicant

AND KS
MF
Respondents

AND AF BORN ON [DATE DELETED] 2004
Child or Young Person the Application Is
About

Hearing: 31 March 2016

Appearances: Sergeant C Parfitt for the Applicant
S J Zinsel for the Respondent S
C A McCarthy and H B M Reuben for the Respondent F (via
telephone)
J C S Sandston as Lawyer for the Child MS in support

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 AF. In particular it is an application by the New Zealand Police for a declaration that AF is in need of care and protection.

[2] The position here is the police filed the application and also, with that, an application for a s 78 interim custody order. That order was made by Judge Barkle on 11 March, and AF was placed in the interim custody of the Chief Executive.

[3] A family group conference was held 24 March, and I have been presented with a record of the agreements which were reached. In summary, it has been agreed that AF is a child in need of care and protection, and the plan goes on to address the various tasks and goals which the participants at the family group conference agreed there should be for AF for the period of the plan.

[4] Present at this judicial conference is Sergeant Parfitt. Mr Zindel appears alongside AF's mother, Ms KS, and her grandmother, MS. Appearing by telephone link is AF's father, Mr MF, and his counsel Ms McCarthy and Ms Reuben. Finally, Mr Sandston appears for AF.

[5] Sergeant Parfitt has explained that at the family group conference there was agreement reached that AF was in need of care and protection not only under s 14(1)(e) but also under the provisions of 14(1)(b), (d) and (f). Sergeant Parfitt seeks to amend the application for a declaration to include those sections, and seeks a declaration on all four grounds set out in those sections. There is no opposition to this course of action.

[6] Sergeant Parfitt has said the police agree to a s 101 custody order being made, placing AF in the custody of the Chief Executive of the Ministry of Social Development. The difficulty I have in doing this today is I do not have a s 186 social work report. Otherwise Sergeant Parfitt is happy with the FGC plan as the first plan for AF.

[7] Mr Zindel agrees with the approach taken by the police as I have summarised. He does, however, think it needs to be pointed out that AF suffers from

a number of issues including autism, oppositional defiant disorder, an anxiety disorder and also from dyspraxia issues. Mr Zindel's submission is that these issues need to be recorded today and also to be addressed in the s 186 social work report. Mr Zindel does not go so far as to say that the Ministry need to prepare a new or amended plan.

[8] Ms McCarthy has said that Mr MF agrees with what is proposed, and has no issue or difficulty with the declaration being made today in the way I have outlined.

[9] Mr Sandston has filed a report. He has met AF, and has outlined how that interview went. He agrees that AF is a child in need of care and protection, and is supportive of the proposed plan.

[10] Mr Sandston has highlighted the need for him to attend a meeting scheduled for mid-June to represent AF's interests. That meeting is scheduled for the purposes of determining what AF's residence and schooling situation. I am not able to extend his appointment to attend that meeting unless there is a live review application or indeed some other application which is before the Court. This issue can, however, be addressed as part of the social work report, and Mr Sandston can no doubt make representations to the social workers as to the review period of the plan.

[11] Having set out the parties' positions, I now make the following orders and directions:

- (a) I amend the application for a declaration to include the application being on the grounds set out in s 14(1)(b), (d) and (f) of the Act.
- (b) I now make a declaration pursuant to s 14(1)(b), (d), (e) and (f) of the Act that AF is a child in need of care and protection.
- (c) I adjourn these proceedings to a registrar's list on 6 May for review.
- (d) I direct the Ministry provide to the Court a s 186 social work report and, if they think appropriate, an amended plan. That report, and if

necessary a plan, should be filed and served within 14 days from today.

- (e) If any party objects to what is proposed in the report and plan, then they are directed to advise the registrar before the registrar's list date which I have adjourned these proceedings to. I record that Ms McCarthy's client, Mr MF, has yet to sight a copy of the FGC plan which has been filed today.
- (f) The s 78 order shall continue until the date a custody order is made.
- (g) Leave is reserved to any party to seek the Court's further directions on three days' notice.

R J Russell
Family Court Judge