

KENNEDY VS. FRY

Child Custody Case

7 roles

Revised June 21, 2007;js

Clerk: Order in Court, all rise.

Judge: You may be seated.

Clerk: Number 12 on Your Honor's list; Dennis Kennedy versus Jane Fry.

Judge: Before we start could you give me the position of the parties and what exactly are you asking for.

Applicant Council: As you will remember there is a disagreement over the custody of these two children. Due to the present situation involving social workers and the R.C.M.P., my client is seeking interim custody of both children and supervised access for the mother.

Judge: Thank you. Respondent's Council do you wish to comment?

Respondent Council: Yes, Your Honor, we will be denying these accusations and asking that the previous orders stand.

Judge: Thank you. Call the first witness for the Applicant.

Applicant Council: I call Dennis Kennedy.

Clerk: Please stand
Do you solemnly affirm that the evidence you shall give shall be the truth, the whole truth, and nothing but the truth?

Kennedy: I do.

Clerk: State your name and spell your last name for the record.

Kennedy: Dennis Kennedy. K-E-N-N-E-D-Y.

Clerk: Thank you, you may be seated.

Applicant's Council: How old are you Mr. Kennedy?

Kennedy: Thirty.

A.C.: How old is Ms. Fry?

Kennedy: Twenty-four.

A.C.: Did you live together?

Kennedy: Yes, for five years.

A.C.: As a result you have two children?

Kennedy: Yes, Billy four and Vanna two.

A.C.: When did you separate?

Kennedy: Eighteen months ago.

A.C.: You have had several orders through this Court since then.

Kennedy: Yes.

A.C.: There is a consent order in place now; can you tell us about it?

Kennedy: Yes, my son Billy lives with me during the week and my daughter Vanna lives with Ms. Fry. On the weekends it changes. We meet at Wendy's Restaurant on Patricia Boulevard at 10:00 on Saturdays and she picks up Bill. She returns him Sunday at 6:00 and the next weekend I get both children.

A.C.: Now, would you tell us what your new concerns are?

Kennedy: I have always had concerns because I know that Jane drinks, but the other night I was putting Billy in the tub and noticed two very inflamed circles on his arm. When I asked what they were he replied, "Mommy burned me". I said, "How did that happen"? He replied, "She was drunk and burned me". Then he got upset and wouldn't say any more.

A.C.: What did you do next about this incident?

Kennedy: Well I called you and then the Social Worker Mr. Money.

A.C.: Is there anything else that has arisen?

Kennedy: Yes, Billy is having nightmares where he is calling out, "No Mommy"!

A.C.: Have you asked him about his dreams?

Kennedy: Yes, but he will not talk about them, he just doesn't seem happy and doesn't want to stay with his Mom.

A.C.: How do you know that?

Kennedy: Well, when it's time to leave, his head goes down and he says, "I don't want to go".

A.C.: Thank you, no further questions.

Judge: Would Responding Council like to cross-examine?

Respondent's Council: Thank you. Your relationship with Ms. Fry has been stormy, hasn't it?

Kennedy: We have had our problems, but not all the time.

R.C.: You have been in trouble for assaulting her, haven't you?

Kennedy: Once.

R.C.: You were convicted on that charge?

Kennedy: I pled "Guilty".

R.C.: Has there been more than one charge laid, over the years?

Kennedy: There have been two more, but they were stayed because she later told the truth.

R.C.: Isn't it true, that you take Ms. Fry back to Court every time she gets some sort of a social life?

Kennedy: No, if that were the case we would be here every day.

R.C.: Are you in a new relationship at the present?

Kennedy: No.

R.C.: You are not saying that Ms. Fry has poor parenting skills with Vanna?

Kennedy: I think drinking a lot when you have children at home displays poor parenting skills.

R.C.: How do you know that she drinks a lot?

Kennedy: Both Billy and Vanna tell me.

R.C.: Vanna does not complain about being mistreated?

Kennedy: No.

R.C.: You told Ms. Fry that she had been charged with mistreating Billy?

Kennedy: No, I never told her that.

R.C.: Can you explain why then, that it is noted on your application, "The Respondent had been charged with assaulting Billy".

Kennedy: I had misunderstood the Constable and thought that he had laid a charge.

R.C.: You have told people that Ms. Fry is not to have access to Billy?

Kennedy: No.

R.C.: I have no further questions, Your Honor.

Judge: Thank you. (Addressing the Applicant) You may be seated Mr. Kennedy.
(To A.C.) You may call your next witness.

Applicant's Council: I call my next witness Robert Money.

Clerk: Please stand.
Do you solemnly affirm that the evidence that you shall give shall be the truth?

Money: I do.

Clerk: State your name and spell your last name for the record.

Money: Robert Money. M-O-N-E-Y.

Clerk: Thank you, you may be seated.

Applicant's Council: Mr. Money I understand you work for the Ministry of Children and Family Development?

Money: Yes.

A.C.: How long have you worked there?

Money: This is my sixth year.

A.C.: Have you been in contact with the Kennedy/Fry family?

Money: I have.

A.C.: Explain the contact to us.

Money: September 25th, we received a complaint that Ms. Fry was neglecting Vanna, as Vanna had been seen in the early morning running around outside unsupervised.

A.C.: Are you at liberty to say who made the complaint?

Money: No. I am covered by strict rules of confidentiality.

A.C.: What happened?

Money: Another Social worker and myself went to the residence but everything appeared normal and we left the residence. Then on September 31st, another call came in.

A.C.: Can you tell us if it was the same person?

Money: No, I cannot tell you that.

A.C.: Continue.

Money: This call stated that Billy had burn marks on his arm and so I spoke to his father, Mr. Kennedy, and we made arrangements to go to the Doctor.

A.C.: What did the Doctor say?

Money: He said it could be consistent with cigarette burns.

A.C.: What happened next?

Money: On October 3rd, I saw him in my office alone. He let me see his arm and said, "Mommy burned me when she was having beers", he is just a little guy about 3 or 4 years old and he said this several times.

A.C.: Did you tape this?

Money: Yes.

A.C.: Is there written record of that tape?

Money: Yes.

A.C.: What did you do next?

Money: I asked Ms. Fry if she would take Vanna to the Doctor which she agreed to do. The Doctor examined the little girl from head to toe and found nothing to be wrong with her.

A.C.: Did you ask the R.C.M.P. to investigate the little boy's burn complaint?

Money: Yes, I reported it to Constable Stanley.

A.C.: Did you do anything further?

Money: Yes. I went unannounced to Mr. Kennedy's home twice. Both times I found him there with Billy, and everything seemed fine.

A.C.: Thank you, no further questions.

Judge: Does Respondent's Council like to cross-examine?

Respondent's Council: Yes, Thank you Your Honor. Mr. Money, did you make any observations about Ms. Fry's yard?

Money: Yes, it was fenced all around with a five-foot high fence.

R.C.: You have no way of knowing if Billy's comments about his Mommy burning him were true, do you?

Money: No.

R.C.: You say you visited Ms. Fry's house several times. How did you find her?

Money: Very cooperative, in fact both parents have been cooperative.

R.C.: Your Honor that is all the questions I have.

Judge: Thank you Mr. Money, you are free to go.

Applicant's Council: I have no further witnesses.

Judge: (Addressing the Respondent's Council) Do you wish to call any witnesses?

Respondent's Council: Yes, only one witness Your Honor, Ms. Fry.

Judge: Thank you, call your witness.

Clerk: Please stand.

Fry: I wish to swear on the Bible.

Clerk: Please remain standing and take the Bible in your right hand. Do you swear the evidence you shall give shall be truth, the whole truth, and nothing but the truth so help you God?

Fry: I do.

Clerk: Please state your name and spell your last name for the record.

Fry: Jane Fry. F-R-Y.

Clerk: Thank you, you may be seated.

Respondent's Council: Do you live in Prince George?

Fry: Yes.

R.C.: For how long?

Fry: Four years.

R.C.: Who did you live with?

Fry: My daughter Vanna.

R.C.: Did you used to live with Mr. Kennedy?

Fry: Yes, but we separated in March of last year.

R.C.: Where did you meet Mr. Kennedy?

Fry: Ontario.

R.C.: Why did you leave there?

Fry: Because he was running away from a charge.

R.C.: What type of charge?

Fry: Assault.

R.C.: Who did he assault?

Fry: He hit a guy with a bottle.

R.C.: Did you witness this?

Fry: Yes.

R.C.: Did he ever assault you?

Fry: Yes, many times.

R.C.: Was he charged and convicted on any of these assaults?

Fry: Yes, for one he received a \$500.00 fine, the other one I did not go through with.

R.C.: Why?

Fry: Because he said that this time he would go to jail and I loved the guy and had two small children.

R.C.: What happened that made you leave Mr. Kennedy?

Fry: Well, he started beating me again, and throwing furniture and I just realized that things were not going to get better so I decided to get out of there.

R.C.: Did the children see him beat you?

Fry: Yes, Billy, on the last night came out and Dennis said, "Go back to your room, Mommy has gone crazy again".

R.C.: Who took care of the children when you were all together?

Fry: I did. I fed, washed, dressed them, and I got up in the middle of the night and fed and changed them, Dennis never did, and in fact I'm sure that if it weren't for the income assistance, he would not have wanted custody of Billy.

R.C.: How do you find Billy when you pick him up?

Fry: Often his clothes and hands and face are dirty.

R.C.: How does he greet you?

Fry: He hugs me and tells me he loves me.

R.C.: Does he get on well with Vanna?

Fry: Oh! They just love each other, cuddles and kisses and they play well together.

R.C.: Have you burned Billy with a cigarette?

Fry: Never.

R.C.: Why do you think that Mr. Kennedy is so angry with you?

Fry: I think that it is because he has found out I have a new boyfriend, and he doesn't want me, but he doesn't want anyone else to have me either, and when he is drinking he gets even worse.

R.C.: Do you know him to drink a lot?

Fry: He use to when we were together, he could go through two cases of beer in an evening and think nothing of it.

R.C.: Do you know if he drinks now?

Fry: When he hands Billy over I often smell liquor on his breath.

R.C.: Thank you, no further questions.

Judge: (Addressing the Applicant's Council) Do you wish to cross-examine?

A.C.: Yes, Your Honor.
Isn't it true that when you say left Mr. Kennedy you left the two children with him, saying that you could not cope?

Fry: No.

A.C.: Are you saying you took the children with you?

Fry: I took Vanna with me. He insisted on keeping Billy.

A.C.: And despite all this alleged drinking and assaults, you had no worries about leaving Billy?

Fry: No.

A.C.: You say that you left Ontario because of an assault with a bottle and you say you witnessed this?

Fry: Yes.

A.C.: Were you called as a witness?

Fry: No, we didn't stay for it to get to Court.

A.C.: Do you drink?

Fry: Occasionally.

A.C.: Do you use drugs?

Fry: Never.

A.C.: Isn't it true that you were found guilty of possession of marijuana?

Fry: Yes, but not since I have had the children.

A.C.: Are you saying you never use marijuana?

Fry: Yes.

A.C.: Are you saying you have never paid your babysitters with marijuana?

Fry: I have never paid my babysitters with marijuana.

A.C.: When you worked at the BX Pub, who looked after the children then?

Fry: Dennis.

A.C.: He changed diapers, fed them, and tended to their needs?

Fry: Yes.

A.C.: Didn't you threaten to bring another assault charge if Dennis didn't give you custody of Billy?

Fry: No, I never said that.

A.C.: Thank you, no further questions.

Judge: You may be excused, Ms. Fry. Thank you. Does that conclude this application?

Applicant's Council: Yes, Your Honor.

Respondent's
Council:

Yes, Your Honor.

Judge:

It is now up to you to decide what should happen with these children. When your decision is ready, ask Mr. Kennedy and Ms. Fry to stand up. Give your decision and tell us if your decision is temporary or permanent and what you might want the parents to do to get help.