

**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
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**IN THE FAMILY COURT
AT WHANGAREI**

**FAM-2015-088-000571
[2016] NZFC 3579**

IN THE MATTER OF	THE CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES ACT 1989
BETWEEN	CHIEF EXECUTIVE OF THE MINISTRY OF SOCIAL DEVELOPMENT Applicant
AND	HEMI THOMAS GINA HARRIES Respondents

Hearing: 27 April 2016

Appearances: J Capper for the Chief Executive
No appearance by or for the Respondents
D Whitehead as Lawyer for the Children

Judgment: 27 April 2016

ORAL JUDGMENT OF JUDGE M J HUNT

[1] These are the proceedings for Nico Harries and Tama Harries. They are twin boys born [date deleted] 2007. Ms Gina Harries is their mother and has appeared on two previous occasions in respect of these proceedings. On the first occasion, which was on 10 February, I gave directions as to her filing of evidence and she received from the ministry copies of all of the relevant papers.

[2] When the matter next was called on 15 March nothing had been done and Ms Harries complained that there had been insufficient time. I set the matter down for today on the basis that it would proceed as a formal proof and made it plain I would proceed on the evidence contained in the affidavits.

[3] The matter has been called today at 3.00 pm. Ms Harries is not present and there has been nothing filed by her. I intend therefore to proceed to dispose of this matter. A declaration is sought under ss 14(1)(a) and 14(1)(b) that the two boys are in need of care and protection. I have read the materials, I am satisfied that the grounds for the making of those orders are made out. There is a pattern of exposure to neglect, violence and alcohol affected conduct by Ms Harries that is meant that the boys are in need of care and protection.

[4] Furthermore, and as it transpires significantly, the boys have not attended school until this year and as a result they have been significantly disadvantaged. In terms of adoption of the plan the plan anticipates that the boys will be kept safe in their current placement and in particular the boys will engage with schooling. Both boys also have some obesity issues and in that regard they will need assistance.

[5] The order sought is that the boys be placed in the custody under s 101 of the Act and that order is made. I am told at this stage that no guardianship issues are sought although I have to say on the evidence on the file I have some misgivings about the extent to which Ms Harries will be helpful or constructive. Nevertheless, it is the custody order that I make.

[6] A review is due in six months and so a plan and report are to be filed on or before 23 September with a report from Mr Whitehead on or before 7 October and

the matter to be included in a registrar's list for 14 October to monitor the progress in that regard.

[7] There is one particular issue that is not yet resolved. Attached to Mr Whitehead's report is a summary of the boys' educational achievement from the [name of school deleted] compiled by Mr Adnan. It is comprehensive, indicates their current levels of achievement and the extent to which they require additional assistance to get them up to expected levels of achievement in relatively short order.

[8] Mr Adnan recommends that support be available for the three terms left in 2016 and one term in 2017 for a successful intervention. In that regard, a total estimated cost of the intervention is \$28,000. The school indicates that is purely to fund the wages with the school picking up the other incidental costs associated with the intervention. It is apparent that this is essential for successful outcomes here and Mr Whitehead seeks some comfort that that is going to be implemented and approved in a timely way and that the educational assistance will start as soon as it practicably can. In the regard, the school term commences shortly and as yet no decision has been made.

[9] In that regard, I direct the ministry within two weeks of today's date and to be clear on or before 11 May to file confirmation that the funding for the necessary tutoring for the two boys has been approved or to the extent it has not, why it has not and what alternative arrangements are proposed for the tutoring. If it is not approved I will convene an urgent telephone conference with counsel to discuss what further steps might be appropriate or required.

[10] I observe today, and I sense Mr Whitehead shares this view, that the money spent now is an investment in the successful outcome for these boys as they transition into adolescence and adulthood and is imperative if they are going to experience success within the education system. I say no more than that. The funding has to be considered and approved based on the ministry criteria and I simply want to know what is the outcome of that process.

[11] Accordingly, a s 101 custody order is made, a declaration pursuant to ss 14(1)(a) and 14(1)(b), the s 78 orders are discharged and the review is scheduled in the timeframes I have specified.

M J Hunt
Family Court Judge