

EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN [SQUARE BRACKETS].

**NOTE: PURSUANT TO S 182 OF THE FAMILY VIOLENCE ACT 2018, ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B, 11C AND 11D OF THE FAMILY COURT ACT 1980. FOR FURTHER INFORMATION, PLEASE SEE <https://www.justice.govt.nz/family/about/restriction-on-publishing-judgments/>**

**IN THE FAMILY COURT  
AT INVERCARGILL**

**I TE KŌTI WHĀNAU  
KI WAIHŌPAI**

**FAM-2023-017-000020  
[2024] NZFC 15679**

IN THE MATTER OF	THE FAMILY VIOLENCE ACT 2018
BETWEEN	[RICHARD NICHOLS] [KATHY NICHOLS] Applicants
AND	[ROSS CONWAY] Respondent

Hearing: 25 November 2024

Appearances: R Adams for the Applicants  
Respondent appears in Person with [S Conway] in support  
D Bryan-Lamb as Lawyer for the Child

Judgment: 25 November 2024

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**ORAL JUDGMENT OF JUDGE C M DOYLE**

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[1] At the end of the evidence I have heard today from Mr and Mrs [Nichols], and also from Mr [Conway], I am in a position to give an oral decision in relation to the outcome of the [Nichols]'s application as representatives of [Corey Nichols] for a final protection order to be made.

[2] During the course of the questions I asked Mr [Conway], I indicated what I was thinking and what I considered my legal obligations to be. It will be clear to him, and, in fact, to the other participants at today's hearing, that I am intending to make the protection order as sought, which means a final protection order on the same terms as the temporary order, except that the order needs to be amended to correctly record that the applicants are Mr and Mrs [Nichols], the protected person is [Corey], and it is to continue to have the condition which gives [Kathy Nichols] the ability to give consent only to there being any contact. That will continue to be the position until [Corey] turns 18 years old, at which time she is no longer a child in the eyes of the law and under the Family Violence Act 2018.

[3] The significant impact this will have on Mr [Conway] is that there will not be a condition which permits him to attend [sports] competitions and tournaments. His position in these proceedings has always been that he will accept that [Corey] does not want to have contact with him at all and that a final protection order can be made, except for the fact that he is concerned about what a final protection order will mean in terms of one of the very important aspects of his life, which is his ability to play [the sport], socially and competitively.

[4] He had proposed that there is a special condition attached to the final protection order which would make it not a breach of the order for him to be at the same [sports] tournament or competition as [Corey], meaning that he would have the ability to carry on what appears to be a very significant interest he has in [the sport], and where he has quite some talent and wants to play competitively.

[5] There are some interesting legal aspects to the application that has been made by Mr and Mrs [Nichols] as representatives of [Corey], and I want to take the opportunity to set out clearly the process by which we have come to today's hearing, the reason why there has been an almost 18-month delay since the applications were originally made, the steps that this Court has taken to comply with ss 62, 63, and 66 of the Family Violence Act, and how we have dealt with the issue of [Corey] having her views provided through a lawyer appointed to represent her, through the report obtained from Oranga Tamariki, and through judicial interview.

[6] Rather than make everybody sit through that, which would require at least an hour or so of me going through the statutory provisions and also the cases which have been determined by higher courts, I have decided to give my decision as to the outcome now and to reserve my decision as to reasons.

[7] What I can say is that I am satisfied that the five matters which I have to cover before I can make a final protection order have been established as follows:

- (a) There was a qualifying relationship. [Corey] and Mr [Conway] were in a girlfriend/boyfriend relationship from around 23 October 2022 until the protection order was made on 22 May 2023. I consider the relationship may have gone on longer than that, or at least there were communications between the two of them, through until October 2023, where there was a possibility that their relationship may continue. There has been no contact between them since 31 October 2023, and the relationship is now at an end.
- (b) I am satisfied that during the course of the relationship, up until 31 August 2023, Mr [Conway] has used family harm against [Corey], including sexual abuse and emotional and psychological abuse.
- (c) I am satisfied that [Corey] does have a subjective perception of the need for a final protection order to be made. She has made that clear to her lawyer, to the report writer from Oranga Tamariki, and directly to me.
- (d) I am satisfied that [Corey]'s subjective perception about the need for her to continue to have a protection order is objectively reasonably held on the basis of the evidence that I have heard today and the information available to me leading up into today's hearing, including the breaches of the protection order by Mr [Conway], his inability to understand, until perhaps my questioning of him today, the gravity of the situation and how [Corey] and the law perceive his behaviour towards her during the course of the relationship, and the high probability of them having contact again in the future through their shared interest in [the sport].

(e) I am also satisfied that Mr [Conway] is unable to establish any countervailing factors which would weigh against the need for a protection order to be made. I do acknowledge that he is in a new relationship and has been for 12 months, and has no interest in rekindling his relationship with [Corey]. He has physically moved to [location E] and has been in the [location E] area since 19 December 2023, with no intention to return to [location A], although he does still have reason to be in [location A] to visit family. Finally, he has completed the Living Without Violence programme, and there has been at least a full year where he has not endeavoured to contact [Corey] in any way, and he tells me that is as a result of the conversations he had with the Living Without Violence programme provider during his final one-on-one session, and also the warnings he has had from police about their intention to charge him if there are further breaches of the order.

[8] For all of those reasons, it is inevitable that a protection order must now issue to protect [Corey] from any further intended or unintended contact with Mr [Conway]. That is the only outcome permissible in terms of the purposes and principles of the Family Violence Act, and is the outcome that must be imposed if I am to follow the decisions that have been made by higher courts, which are binding on the Family Court.

[9] Mr [Conway] has asked about his appeal rights, which he can look up on the Ministry of Justice website. There are time limits which apply; if he wishes to appeal this decision to the High Court, he will need to get his appeal filed (I think) within 20 days of the date of my decision. The clock will be ticking from today.

[10] He has also asked about his ability to bring this matter back before the Family Court at some future time to revisit the ongoing necessity for [Corey] to have a protection order. What I take from that is that he holds out hope that at some stage in the future, he will be able to resume his interest and involvement in [the sport]. I cannot give any indication to him about how long will be enough of a gap between this hearing and an application being made by him to discharge the protection order, but I can tell him that there is nothing the Court or [Corey] or her parents could do to

stop him from asking the Court to look at this again at some future point. I cannot give him advice as to when he would be in the best position to make such an application. I would certainly not expect any such application would have any chance of succeeding until [Corey] is an adult, which is after her 18<sup>th</sup> birthday, and I very much recommend that he gets legal advice before he seeks to have this looked at by the Court again.

[11] I want to thank everybody for the way they have conducted themselves at today's hearing. These are difficult matters to discuss. It is difficult to be cross-examined and to give evidence, but everyone has done so in a way that has helped me understand really clearly where they are coming from and what it is they are wanting the Court to do.

[12] I want to thank the lawyers for their thorough cross-examination and the written submissions which were filed well in advance of today's hearing, which have assisted me to understand the legal matters which counsel on behalf of the applicant has pointed the Court's attention to be drawn to.

[13] Finally, thank you to [Ross]'s grandfather, Mr [Samuel Conway], who has been present as a support person throughout these proceedings. I thank him not only for what he has done today but also for what he will do immediately after this hearing and in the future in terms of supporting Mr [Conway] to accept and understand the decision that has been given by the Court and the reasons behind it.

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Judge C Doyle

Family Court Judge | Kaiwhakawā o te Kōti Whānau

Date of authentication | Rā motuhēhēnga: 06/12/2024