

[1] **THE COURT:** I will indicate at the outset that these types of cases are some of the most difficult that judges have to deal with. These children have been severely traumatized because of other things that have happened before they got to this point. Living in , then coming back, the issues that arose from that.

[2] This is a hearing that arises to determine where the children should reside while the matters that are alleged by the Director are investigated. It is a very low threshold under the statute. The Director has raised concerns about the father's actions in disciplining the children and he has offered affidavit material and a different characterization of his discipline methods. As I look at the evidence that is before the court, it is not for the court at this stage to make findings of credibility or to make a determination as to whether the children are in need of protection or not. That happens at a later stage.

[3] I have to be satisfied, firstly, at this stage, that the removal was not arbitrary, that there was some basis for it. It is akin to a preliminary inquiry in criminal law. If there is some evidence upon which a trier of fact could find that the children are in need of protection, then that threshold has been met. It is a *prima facie* or balance of probabilities test, *prima facie* case that the Director has to present and it has to be dealt with at stage two, as to the strength of that case. If there is a conflict on the evidence at this stage, it must be

resolved in favour of the Director for a more thorough investigation at a full hearing.

[4] I am satisfied that the removal was not arbitrary, that there are issues that must be investigated. In the interim the children will remain with the Director. I trust that some suitable arrangements can be made for access in the interim. I know weather conditions have not been the best but that really is not an excuse. These children are entitled to see their father and likewise he is entitled to see his children. I trust that everything possible will be done to facilitate that. The order will go interim custody to the Director.

[5] This matter should be set for hearing as quickly as possible. I am alive to the issue of the children's activities. Fortunately or unfortunately, soccer season ends, I know, in the month of March, the beginning of March but these children need some stability and need to get on with their lives. This family unit needs to be restored in some fashion.

(ORAL REASONS FOR JUDGMENT CONCLUDED)