

LEGAL BULLETIN

Issue No. 42

Contempt of Court in Family Law: Parental Non-Compliance with Court Orders
J. M. v. D. P., 2024 ONSC 7071

Introduction

This case demonstrates the court's approach to enforcing compliance with family law orders and the consequences for parents who disregard judicial directives. In this case, the Ontario Superior Court of Justice heard a contempt motion in a high-conflict family law dispute. The applicant, J. M., alleged that the respondent, D.P., violated a court order by allowing their child, A, to be in the presence of a third party, J.I., despite an explicit prohibition in the final order issued by Justice Reid. The court's decision affirms the serious consequences of breaching family law orders and the standard of proof required for a contempt finding.



Case Background

Following their separation in 2020, J. M. and D. P. agreed to a shared parenting arrangement for their daughter, A. Concerns over D. P.'s relationship with J. I., who had a documented history of substance abuse and domestic violence, led to a final court order on April 4, 2023, prohibiting A from being in his presence. J. M. brought a motion for contempt, citing two specific breaches of this order. On July 12, 2023,

A was allegedly in J. I.'s presence at a neighbourhood park. Later, on December 23–24 and December 30–31, 2023, surveillance evidence showed J. I. present at a motel where D. P. and A were staying. D. P. contended that any exposure was unintentional and that she attempted to comply with the order. The court assessed whether her actions met the legal standard for contempt.

Legal Framework for Contempt

Under Rule 31 of the *Family Law Rules*,¹ an applicant must establish contempt by proving the following elements beyond a reasonable doubt:

1. There is a court order that is clear and unequivocal.
2. The respondent had knowledge of the order.

3. The respondent did or failed to do something that is contemplated by the order.
4. The respondent intentionally disobeyed the order.

The court relied on *Carey v. Laiken*,² and *Jackson v. Jackson*,³ in assessing whether D. P.'s conduct met these criteria.

¹ O. Reg. 114/99.

² 2015 SCC 17.

³ 2016 ONSC 3466.

Burden of Proof in Contempt Proceedings

Contempt proceedings in family law are quasi-criminal in nature, meaning that the burden of proof is high. The applicant must prove beyond a reasonable doubt that the respondent knowingly and intentionally breached the court order. This high threshold ensures that findings of contempt are not made lightly, given the potential

consequences, which can include fines, modifications to custody arrangements, or even incarceration in extreme cases. Courts must also consider whether alternative enforcement mechanisms, such as increased judicial oversight or compliance orders, would be more appropriate before imposing harsh penalties.

Findings

Regarding the July 12, 2023, incident, the court found that D. P. knowingly invited J. I. to the park while A was present. She provided inconsistent and contradictory explanations about the events, and photographic evidence confirmed J. I.'s presence with A. Based on these findings, the court concluded that D. P. intentionally breached the order by allowing A to be in J. I.'s presence. The December 2023 incidents further demonstrated D. P.'s disregard for

the court order. Surveillance footage confirmed J. I. was present at the motel when A was there on two separate occasions. D. P.'s claim that she was unaware of his presence was not credible. She planned for J. I. to leave before J. M.'s arrival to avoid detection, demonstrating deliberate disregard for the court order. These actions, taken together, led the court to find beyond a reasonable doubt that D. P. intentionally breached the order.

Consequences of a Contempt Finding in Family Law

When a court finds a party in contempt in family law cases, it has broad discretion to determine an appropriate remedy. Potential consequences include monetary fines, community service, orders compelling future compliance, and in severe cases, incarceration. Courts also have the discretion to modify parenting arrangements where non-compliance with orders affects the child's best interests.

In this case, the court scheduled a penalty hearing to determine the appropriate consequences for D. P.'s actions. This future hearing will assess whether additional safeguards should be placed on D. P.'s parenting time or whether further legal penalties are warranted. The court held that compliance with family law orders is not optional and that repeated breaches can result in progressively severe sanctions.

Conclusion

The court ruled that D. P. was in contempt of court for multiple violations of the parenting order. The decision affirms the importance of strict compliance with family law orders and the legal consequences of non-compliance. This case serves

as a critical reminder for parents in family law disputes that court orders must be respected, and that intentional breaches can lead to serious legal consequences, including findings of contempt and potential penalties.

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