

Ontario couple's religious beliefs at centre of dispute with children's services agency

The Justice Centre for Constitutional Freedoms (JCCF) has warned an Ontario child services agency it could face legal action for discriminating against a Christian couple.

The centre has a legal precedent in its favour, after a win last March before the Ontario Superior Court in the so-called Easter Bunny case involving a Derek and Frances Baars, a Christian couple who lost the children under their care because they refused the Children's Aid Society of Hamilton instructions regarding the Easter Bunny.

"The precedent created in that Hamilton case states that the child welfare agencies cannot discriminate against prospective foster and adoptive parents on the basis of religious belief, which is what the Hamilton Children's Aid Society did with the evangelical couple that was not prepared to tell their foster children the Easter Bunny was real, based on their convictions," said John Carpay, president of the JCCF.

The JCCF sent a legal demand letter Jan. 22 to the Simcoe Muskoka Child, Youth and Family Services on behalf of another Ontario couple, who wish to remain anonymous, saying the agency "unlawfully dismissed L. and A.'s application, not due to any legitimate deficiency in their qualifications, but solely to Child Service's prejudice and bias against the religious beliefs of the [last name redacted]."



The JCCF's counsel Jay Cameron advised the agency the decision infringed upon the charter's religious freedom provisions, and requested Simcoe Muskoka Child Services "reverse its religious discrimination" against the couple or face legal action.

"Child services has displayed a marked bias against L. and A. on the basis of their religious beliefs and an underlying animus in particular toward their religious beliefs regarding sexuality," Cameron wrote.

It compared the discrimination to that in the Easter Bunny case, describing the rejection of L. and A.'s application as "exclusively due to negative stereotypes concerning their religious beliefs," and consequently an infringement on their rights of religious freedom.

"Child Services has imposed an unwritten, subjective 'values test' that prospective foster parents must meet before they may be approved," the demand letter said.

"The result is that prospective foster parents are required to discard their sincerely-held religious beliefs, even though there is no evidence that these beliefs would negatively affect foster children."

"This is a violation of Child Services' duty of neutrality and is unconstitutional," the letter said.

During interviews last spring, the agency's interviewer told the husband L. prospective parents would only be approved if they agreed not to spank the foster children or their own children, the letter said.

Though L. considered this an "overreach," he agreed not to spank either his own or the foster children. The man had only ever spanked his own children twice, according to the letter. Later in the interview, the agency representative questioned L., who is a pastor, about his religious beliefs.

"She asked him if his church was a 'fundamental' church that 'still believes in some of the more outdated parts of the Bible,'" the letter said. L. said "his church believes and adheres to all the parts of the Bible."

The interviewer told him her son is 'gay' and "that he had been told by churches in the past that homosexuality is a 'sin.'"

L. responded that while "the Bible does identify homosexual behavior as 'sin', he believes all people are created in the image of God and are worthy of respect, dignity and honor, and that, in accordance with their beliefs, him and his wife would provide any child in their care with unconditional love, respect, and compassion regardless of the child's sexuality."

While the interview with A. involved questions that were “less prejudicial,” the couple felt afterwards “their sincerely-held religious beliefs were odious” to the interviewer, the letter said.

The couple did not hear back from Child Services until October 2018, even though the interviews were completed in May. In a letter dated Oct. 1, the agency told them it was closing the couple’s file.

“We also wanted to let you know that we feel that the policies of our agency do not appear to fit with your values and beliefs and therefore, we will be unable to move forward with an approval for your family as a resources home.”

In a follow up phone call, the interviewer raised the issue of spanking, telling the couple she “did not expect L. and A. to honour their commitment” because “most families who spank their children are unable to cease doing so.”

She also raised the issue of homosexuality, saying Child Services had an “anti-oppressive” policy, the demand letter said.

The Baars, the couple at the centre of the Easter Bunny case, have since moved to Edmonton and faced the tarnishing of their record due to Children’s Aid abruptly shutting down their foster home. They continue to hope to serve as foster and adoptive parents.

The court ordered the Hamilton Children’s Aid Society to “fully apprise” any agency inquiring about the Baars of its ruling.

“Due to privacy, we are unable to discuss specific situations or cases involving individuals interacting with our agency,” said Melanie McClearn, director of communications for Simcoe Muskoka Child, Youth and Family Services.

“We have a rigorous process of assessment, training and studies that we follow in order to approve new foster homes,” she said. “In Ontario, all foster care applicants must complete the following requirements to provide foster care: a SAFE (Structured Analysis, Family Evaluation) home study and PRIDE (Parent Resources for Information, Development, and Education) pre-service training.”