

NOVA SCOTIA COURT OF APPEAL

Citation: *D. C. v. Children's Aid Society of Cape Breton Victoria*, 2004 NSCA 146

Date: 20041207

Docket: CA 225832

Registry: Halifax

Between:

D.C. and L.L.A.

Appellants

v.

Children's Aid Society of Cape Breton Victoria

Respondent

Restriction on Publication: pursuant to s. 94(1) of the **Children and Family Services Act**

Judge: The Honourable Justice David R. Chipman

Appeal Heard: November 29, 2004

Subject: *Costs - Whether Costs Should be Ordered Against a Children's Aid Society on an Application under s. 32 of the Children's and Family Services Act which was not pursued*

Summary: The respondent Agency brought an application before the Family Division of the Supreme Court with respect, inter alia, to children of the appellants. Shortly after it was commenced, the Agency determined that the proceedings should not be continued, and so advised the Court. Before the form of an order dismissing the proceedings was settled, the appellants applied for costs against the respondent Agency. Wilson, J. of the Family Division reviewed the nature of the proceedings, and determined that costs should not be awarded against the Agency as it was not inappropriate in the circumstances for it to have made the application. The appellants appealed to the Nova Scotia Court of Appeal.

Issue: Whether the trial judge erred in declining to award costs.

Result: The Nova Scotia Court of Appeal reviewed the principles relating to an appeal from an award respecting costs and, in particular, the principles governing awarding costs against the Children's Aid Society. The appeal was dismissed.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 4 pages.