

CASE NO.**VOL. NO.****PAGE**CHILDREN'S AID
SOCIETY OF HALIFAX

- and -

B. M. J. and
T. S. M.

CA 167724

Halifax, N.S.

FLINN, J.A.
(IN CHAMBERS)

[Cite as: Children's Aid Society of Halifax v. B.M.J., 2000 NSCA 144]

APPEAL HEARD:

December 7th, 2000

JUDGMENT DELIVERED:December 15th, 2000**SUBJECT:****Stay of Execution Pending Appeal - Children and Family Services Act -
Application by Agency****SUMMARY:**

The trial judge dismissed the appellant Agency's application for an order for permanent care and custody of the respondents' two children following a Disposition Hearing under the **Children and Family Services Act**. The trial judge ordered that the children be turned over to the mother's custody, subject to supervision and subject to certain other conditions. The Agency has appealed the decision of the trial judge, and applies for a stay of the trial judge's order pending the hearing of the appeal.

RESULT:

Application dismissed.

The test which is applied in considering this application is:

The Agency must demonstrate, with evidence, that there are circumstances of a special and persuasive nature which warrant a stay.

There was no evidence before the Chambers judge of any material change in circumstances since the trial, no evidence that any of the conditions which the trial judge imposed as part of her order have not, or will not be met; and there was no evidence from which the Chambers judge could conclude that any harm is likely to come to the children if they are turned over their mother in accordance with the trial judge's order.

This information sheet does not form part of the court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 28 pages.