

NOVA SCOTIA COURT OF APPEAL

**Citation: *G.M. v. Children's Aid Society of Cape Breton-Victoria*,
2008 NSCA 114**

Date: 20081211

Docket: CA 298122

Registry: Halifax

Between:

G.M.

Appellant

v.

Children's Aid Society of Cape Breton-Victoria

Respondent

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

Judge: The Honourable Justice Nancy Bateman

Appeal Heard: November 14, 2008

Subject: Child welfare - permanent care.

Summary: In 2006 five children of four fathers were apprehended from the care of their mother, D.M., after years of Agency involvement. D.M.'s father (the children's grandfather) had joint custody with D.M. of the two oldest children but had not resided with D.M. since 2001 when it was discovered that he was alleged to have sexually abused five nephews, while they were young children. The appellant initially supported return of the children to D.M., but in the alternative, proposed that he be custodian. The judge held a hearing on the past sexual abuse allegations and found that the appellant had abused his nephews and posed a risk to abuse his grandchildren (s. 22(2)(d) **Children and Family Services Act**. S.N.S. 1990, c. 5). Notwithstanding the judge's finding on the protection hearing,

the appellant maintained that he had not abused the nephews. The judge ordered the children be placed in the permanent care of the Agency without access by the appellant.

Issue: Did the judge err in concluding that the Agency was not obliged to provide services to the appellant?

Did the judge err in declining to order access?

Result: Appeal dismissed. In view of the appellant's continued denial of the past abuse and consequent failure to take steps to remediate, the judge did not err in finding that he was not a suitable custodian nor in denying access, despite the children's attachment to him. The Agency was not obliged to provide services to the appellant in the face of his denial of the past abuse nor did the appellant request services.

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 14 pages.