

CASE NO.

VOL. NO.

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Cite as: Children's Aid Society v. B.S., 1997 NSCA 191

THE CHILDREN'S AID SOCIETY
OF CAPE BRETON

- and -

B. S. and
J. N.

Appellant

Respondent

C.A. No. 140513

Halifax

ROSCOE, J.A.

Editorial Notice

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APPEAL HEARD:

December 3, 1997

JUDGMENT DELIVERED:

December 12, 1997

SUBJECT:

FAMILY LAW - CHILD WELFARE - MOOTNESS

SUMMARY:

Two young children were found to be in need of protective services pursuant to s. 22(2)(b) and (g) of the **Children and Family Services Act**. Several months later, after a disposition hearing, the Family Court judge ordered that the parties take part in counseling and that access by the male respondent be suspended in relation to one of the children and restricted in relation to the other child. The agency appealed alleging that the trial judge erred by not making a finding at the first hearing that the male child was also in need of protection pursuant to s. 22(2)(a).

ISSUES:

Whether the issues raised were moot.

RESULT:

Appeal dismissed. The Court of Appeal held that since the appellant had been successful at the disposition hearing, it had already won the day. No order of the court could affect the rights of any of the parties. There were no special circumstances calling for the court to exercise its discretion to hear the matter on its merits. Applied **Children's Aid Society of Halifax v. L.H.** (1994), 133 N.S.R. (2d) 314 and **Borowski v. Attorney General of Canada**, [1989] 1 S.C.R. 342.

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