

NOVA SCOTIA COURT OF APPEAL

Citation: *A.K.S. v. Nova Scotia (Community Services)*,
2007 NSCA 86

Date: 20070719

Docket: CA 279542

Registry: Halifax

Between:

Minister of Community Services

Appellant

v.

A.K.S.

Respondent

Restriction on Publication: Pursuant to s. 94(1) Children and Family Services Act.

Judge: The Honourable Justice M. Jill Hamilton

Appeal Heard: June 15, 2007

Subject: Secure treatment, s. 56(3) of the Children and Family Services Act.

Summary: The Family Court judge refused to place a 14 year old who was in the temporary care and custody of the Minister in secure custody for 30 days. There was no formal medical diagnosis before the judge relating the young person. Both parties took the position no formal medical diagnosis was required. The judge dismissed the Minister's application on the basis the evidence before her did not satisfy her that the youth was suffering from an emotional or behavioural disorder as required by s.56(3)(a) of the **Act**.

Issue: Did the judge err in holding that there must be a formal medical diagnosis by a psychologist or psychiatrist that the youth was suffering from a specific emotional or behavioural disorder before secure treatment could be ordered? Did the judge err by overlooking or giving no weight to material evidence?

Result: Appeal dismissed. The judge did not find that there was a prerequisite for a formal medical diagnosis. Nor did she make a palpable and overriding error by overlooking or giving no weight to material evidence.

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 9 pages.