

IN THE FAMILY COURT OF NOVA SCOTIA
Citation: Annapolis County (Community Services) v. S.J.D.,
2008 NSFC 28

Date: August 21, 2008
Docket: 08D058052
Registry: Yarmouth

Between:

The Minister of Community Services (Annapolis County)

Applicant

v.

S.J.D. & B.C.J.B.

Respondent

LIBRARY HEADING

Revised Library Sheet: This library sheet has been revised on October 29, 2008 and replaces the previously distributed library sheet.

Judge: The Honourable John D. COMEAU
Chief Judge of the Family Court of Nova Scotia

Heard: Annapolis Royal, Nova Scotia, June 24, 2008
Digby, Nova Scotia, August 7, 2008

Decision Date: August 21, 2008

Summary: Protection Hearing, S. 40 CFS ACT

The child R. born February *, 2008 (*editorial note- date removed to protect identity*) was apprehended at the hospital. The child was found to be in need of protective services (based upon reasonable and probable grounds) at the interim hearing because of a turbulent domestic situation between the parents and the use of drugs by the father. Upon review of the interim order the court placed the child with the maternal grandmother. Counsel for the parents argued at the protection hearing the child was no longer in need of protection considering the child's circumstances at the grandmother's house. He sought dismissal because the grandmother had agreed to an order under the Maintenance and Custody Act giving her custody of the child.

Issue: Does the evidence support the allegation of in need of protection set out in the Notice of Hearing?

Should the court consider the circumstances of the parents or the third party placement?

Is the child in need of protective services?

Result: Considering the circumstances of the parents which continue to be a dangerous domestic situation the courts found the child to be in need of protective services. That the allegations set out in the notice of hearing were proved.

To argue the circumstances of the parents should not be considered and thus the role of the third party placement should be looked at would be contrary to public policy. It would undermine the foster parent system. The preamble to the act requires the court to accommodate the legal priorities of the family (parents) with a view to the least intrusive method and eventual return to the parents or parent.

Editorial Notice

Identifying information has been removed from this unofficial electronic version of the judgment.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***