

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Nova Scotia (Community Services) v. B.F.*, 2003 NSCA 119

**Date:** 20031112

**Docket:** CA 202056

**Registry:** Halifax

**Between:** Minister of Community Services

Appellant

v.

B.F., B.W. and Mi'Kmaq  
Family and Children's Services of Nova Scotia

Respondents

---

**Judge:** Fichaud, J.A.

**Appeal Heard:** October 17, 2003

**Subject:** *Family Law - Children and Family Services Act*

**Summary:** The Minister sought permanent care and custody of the respondent's four children. The Family Court Judge had ordered a continued supervision order for six months, extending past the maximum date for supervision orders in the **Act**, to be followed by dismissal of the Agency's application and return of the children to the parents. The parents had not demonstrated the ability or the willingness to obtain on their own initiative the extensive services required for the special needs of their children.

**Issue:**

1. Did the Family Court Judge err in extending the continuous supervision order past the maximum length of time permitted by the Statute?

2. Did the learned trial judge err in discounting the Agency's plan because the plan gave no particulars of the proposed adoption?
3. Did the learned trial judge err in basing his factual analysis on a report which was not admitted into evidence or commented upon by the parties at the hearing?
4. Based on the findings of fact of the trial judge, did the trial judge commit an error in the definition of the standard of the children's best interests by ruling that the children should remain with the parents after the conclusion of the supervision?

**Result:** Appeal allowed. The trial judge erred in extending the continuous supervision past the maximum date in the Statute. The trial judge erred in excluding consideration of the Agency's plan. The trial judge erred in using a report not admitted into evidence as the basis for his factual analysis. The findings of fact of the trial judge, applied to the appropriate standard under the **Act**, justified an order that the children should be placed in the permanent care and custody of the Agency.

**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 37 pages.**