

NOVA SCOTIA COURT OF APPEAL

**Citation: *G.M. v. Children's Aid Society of Cape Breton-Victoria*,
2007 NSCA 20**

Date: 20070214

Docket: CAC 272355

Registry: Halifax

Between:

G.M.

Appellant

v.

Children's Aid Society of Cape Breton-Victoria

Respondent

Restriction on publication: Pursuant to Section 94(1) of the Children and Family Services Act

Judge: The Honourable Justice M. Jill Hamilton

Appeal Heard: February 5, 2007

Subject: Family law, s.63(3) Children and Family Services Act, S.N.S. 1990, c.5, as amended (CFSA), child abuse register

Summary: The judge, who acted as counsel for the respondent prior to her appointment to the bench many years ago, found that the appellant had abused a child pursuant to s.63(3) of the CFSA. In doing so, the judge found that the testimony of the five victims was credible. The victims' evidence related to events that took place many years ago when they were children.

Issues:

1. Did the judge err in fact or in law in her assessment of the evidence and in her conclusion that the agency had met the statutory burden under s.63(3) of the CFSA?
2. Was the judge biased or does the conduct of the proceeding or the fact that the judge acted as counsel for the agency prior to her appointment to the bench give rise to a reasonable apprehension of bias?

3. Did the judge err in finding that the **Limitations of Actions Act**, R.S.N.S. 1989, c.258, did not apply to the appellant's s.63(3) application before her?

Result: Appeal dismissed. It is not the function of this Court to retry the case. There is nothing in the record indicating bias or anything that could give rise to a reasonable apprehension of bias. The **Limitations of Actions Act** does not apply to an application under s.63(3).

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 11 pages.