

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *K.E.O. v. Nova Scotia (Community Services)*, 2008 NSCA 12

**Date:** 20080205

**Docket:** CA 287466

**Registry:** Halifax

**Between:**

K.E.O.

Appellant

v.

Minister of Community Services

Respondent

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**Restriction on publication:** pursuant to s. 94(1) Children and Family Services Act.

**Judge:** The Honourable Justice Nancy Bateman

**Appeal Heard:** January 29, 2008

**Subject:** Child protection

**Summary:** Two children were taken into care. They are the biological children of W.M., who is married to K.O., and V.T., who is K.O.s daughter of a previous relationship. At trial W.M. and K.O. supported placement with the paternal grandparents. The paternal grandparents were joined as parties at trial. V.T. opposed that plan and supported permanent care. The judge found that the children could not be suitably protected in the home of the paternal grandparents and ordered permanent care. The grandmother, K.O., appealed alleging that the judge erred in not placing the children with the paternal grandparents. No other parties appealed.

**Issues:** Did the judge err in not considering the paternal grandparents to be “parents” within the meaning of s.3(1)(r) of the **Children and Family**

**Services Act**, S.N.S. 1990, c. 5 (“**CFSA**”); in failing to place the children with the paternal grandparents; and in referring in the narrative in his decision to prior proceedings in the United States wherein the appellant’s first three children were placed in permanent care.

**Result:** Appeal dismissed. The paternal grandparents did not assert at trial that they were “parents” but sought joinder as “other persons” under s. 36(1)(f) of the **CFSA**. There was no procedural or factual basis upon which the judge would conclude that they were “parents”. Nor was it material to the result whether they were “parents” or “other persons” under the **CFSA**. The record fully supported the judge’s conclusion that the children would not be adequately protected in the care of the paternal grandparents. The judge did not err in his brief reference to the appellant’s history in the United States, nor did it play any role in the result.

**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 12 pages.**