

**NOVA SCOTIA COURT OF APPEAL**

[Cite as: Martini v. Nova Scotia  
(Community Services), 2000 NSCA 47]

**Chipman, Freeman and Bateman, JJ.A.**

**BETWEEN:**

CARLO MARTINI	)	Appellant In Person
	)	
Appellant	)	
	)	
- and -	)	
	)	
COMMUNITY SERVICES, NOVA SCOTIA	)	Alexander Ikejiani
GOVERNMENT, ROYAL CANADIAN	)	for the respondents AGNS,
MOUNTED POLICE (COLE HARBOUR	)	Cameron, Cosman and
DETACHMENT), HONOURABLE FRANCENE	)	Community Services
COSMAN, MARK CAMERON, DAN POTTIE,	)	
STAFF SGT. RON NOSS, CPL. WAYNE	)	
LATIMERE, GORDON KELLY, KATHY LOVE	)	
AND CLARA BUCKLE	)	Stephen K. Mont
	)	for the respondents RCMP,
	)	Pottie, Noss and Latimere
	)	
	)	
	)	
	)	
Respondents	)	
	)	Appeal Heard:
	)	March 29, 2000
	)	
	)	Judgment Delivered
	)	April 7, 2000
	)	

**THE COURT:** Appeal is dismissed with costs including disbursements as per reasons for judgment of Freeman, J.A., Chipman and Bateman, JJ.A., concurring.

**Freeman, J.A.:**

[1] This is the second appeal brought by the appellant, a self-represented litigant, against decisions made in Chambers applications to the Supreme Court of Nova Scotia which have virtually eliminated a wide-ranging lawsuit he brought as the result of a custody dispute with his former common law wife.

[2] The present appeal is from Chief Justice Kennedy's judgment striking out the appellant's statement of claim in two applications under **Civil Procedure Rule 14.25**, one by the Royal Canadian Mounted Police (Cole Harbour Detachment), and individual members Dan Pottie, Staff Sgt. Ron Noss, and Cpl. Wayne Latimere, the other by Hon. Francene Cosman, former provincial minister of Community Services, and Mark Cameron, an employee of her department.

[3] The statement of claim had alleged the R.C.M.P. had failed to pick up the appellant's daughter, Carla Angela Martini, or protect her against her mother, Clara Buckle, who was named as a defendant but not served. Other allegations involved failure to respect court orders, obstructing justice and failing to protect the daughter's life. Ms. Cosman was accused of ignoring evidence that Mark Cameron had filed false documents in courts, obstructed justice and failed to protect the daughter. Mr. Martini had claimed damages of \$100,000,000.

[4] Chief Justice Kennedy found the statement of claim deficient for failing to disclose a cause of action because "it fails to plead specific material facts which . . .

when assumed to be true for purposes of an application of this nature, could constitute a sustainable claim against any of these defendant/applicants.”

[5] At the time of the application before Chief Justice Kennedy in March, 1999 an appeal by Mr. Martini was pending from the dismissal of his application for an extension of time to file particulars which had been demanded respecting his statement of claim. The appeal, which did not stay proceedings, was subsequently dismissed. At the same time, this court dismissed Mr. Martini’s appeals from dismissal of Chambers motions to sever the actions against the various defendants, to remove the solicitor for the department of justice for conflict of interest, and from the dismissal of the action against the defendant, Gordon Kelly. Claims against Community Services and the Nova Scotia Government had also been dismissed in Chambers.

[6] The evidence disclosed that Clara Buckle, the appellant’s common law wife, removed the couple’s infant daughter, Carla Angela, to the Province of Quebec on October 28, 1997. At that time no custody order was in effect. On October 31, 1997, Mr. Martini was granted an order for interim custody in the Nova Scotia Family Court on an **ex parte** application. A Quebec court later appeared to assume jurisdiction over the child by granting interim custody to Ms. Buckle after a hearing while the child was present in that province.

[7] Mr. Martini had sought advice from Darrell Dexter, M.L.A., in his capacity as representative of Mr. Martini’s constituency. Stephen Mont, Mr. Dexter’s law partner,

was counsel for the R.C.M.P. and the individual officers. Mr. Martini applied to have him removed because of conflict of interest. Chief Justice Kennedy heard evidence that there was no solicitor-client relationship between Mr. Dexter and Mr. Martini, and that no confidential information had been passed to Mr. Mont. The Chambers judge did not find it necessary to rule on this matter because the statement of claim was deficient on its face.

[8] In considering the standard of review in appeals from interlocutory judgments of a discretionary nature, Justice Flinn reviewed the authorities in **Ross v. The Town of Springhill et al**, 1999 NSCA 133, and concluded that:

...since the order of the trial judge is a final order, which dismisses the appellants action, the decision of the Chambers judge is not given the same deference usually afforded by this court when dealing with interlocutory matters involving the exercise of discretion.

[9] Even applying this higher standard, a review of the evidence and the submissions does not disclose reversible error on the part of Chief Justice Kennedy. While Mr. Martini's concern for his daughter is laudable, he has chosen inappropriate means which are potentially abusive of the processes of the courts. The remedies he desires would be better sought through the facilities of the family courts, where the paramount concern is the best interests of the child, and related support agencies. I

would dismiss the appeal with costs which I would fix at \$800 including disbursements to be divided equally between the two applications.

Freeman, J.A.

Concurred in:

Chipman, J.A.

Bateman, J.A.