

CASE NO. VOL. NO. PAGE

S.E.L. and L.M.L.

- and -

**MINISTER OF
COMMUNITY SERVICES**

[appellants]

[respondent]

CA160889

Halifax, N.S.

Chipman, J.A.

[Cite as: *Nova Scotia (Community Services)*
v. *S.E.L.*, 2000 NSCA 55]

APPEAL HEARD:

March 30, 2000

JUDGMENT DELIVERED:

April 27, 2000

SUBJECT:

Family Law - Children and Family Services Act - Hearing Pursuant to S. 40 - Finding that child was in need of protective services.

SUMMARY:

A judge of the Supreme Court found following a hearing pursuant to s. 40 of the Act that a child of the appellants was in need of protective services pending a disposition hearing. Some two months before the birth of the child and some eight months before the finding that the child was in need of protective services, a judge of the Family Court had ordered that six other children of the appellants be placed in the permanent care and custody of the respondent Minister. The appellants appeal to the Nova Scotia Court of Appeal pursuant to s. 49 of the Act, submitting that the trial judge erred: (1) in extending the time limit provided by the Act for holding the protection hearing; (2) in shifting the burden of proof to the appellants by reason of the fact that they did not appeal the earlier decisions of the Family Court judge respecting the six other children; and (3) in basing his decision on the earlier decisions.

ISSUE:

Whether the trial judge erred as alleged.

RESULT:

The Nova Scotia Court of Appeal dismissed the appeal. The court found that the trial judge had not erred in exercising his discretion to extend the time for holding the hearing. The trial judge had not in fact shifted the burden of proof which rested upon the respondent to show that the child was in need of protective services. The trial judge did not base his decision on the earlier judgments, but upon all of the evidence properly before him, including additional evidence from expert witnesses.

**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.**