

NOVA SCOTIA COURT OF APPEAL

Citation: *G.L. v. Children's Aid Society of Cape Breton-Victoria*,
2003 NSCA 112

Date: 20031021

Docket: CA 203933

Registry: Halifax

Between:

G.L.

Appellant

v.

The Children's Aid Society of Cape Breton - Victoria

Respondent

Editorial Notice

Identifying information has been removed from this electronic version of the library sheet.

JUDGE: CHIPMAN, J.A.

APPEAL HEARD: October 17, 2003

JUDGMENT DELIVERED: October 21, 2003

SUBJECT: Family Law - Children and Family Services Act, S.N.S. 1990, c. 5 - placing child in permanent care and custody of Minister of Community Services

SUMMARY: A judge of the Supreme Court, Family Division, made an order placing the appellant's child in the permanent care and custody of the Agency. The child born August *, 1999, had been placed in

the temporary care and custody of the Agency on October 26, 2001, and on March 19, 2002, a consent order of the court provided that the child was in need of protective services pursuant to s. 22(2)(b) of the **Act**. Since that time the child resided with a foster family through the arrangement of the Agency.

The appellant suffered from borderline personality disorder and post traumatic stress disorder which could not be cured but could, with appropriate medication and support, be managed. Following the order respecting protective services the Agency made various attempts to reintegrate the child with her mother but these failed. Various support provided to the appellant resulted in no improvement in her parenting ability. The Agency concluded that although it was prepared to work with a plan for extended family members which had not so far been successful, the child should be placed in the permanent care and custody of the Agency with no provision for access. The application for permanent care was heard in the Family Division on April 14 and 15, 2003. At the conclusion of the hearing the court rendered its decision that the child should be placed in the permanent care and custody of the Minister of Community Services. The mother appealed to the Court of Appeal.

ISSUES:

1. Whether the trial judge erred in placing weight on some of the evidence only and the weight she attached to the various requirements in the **Act**.
2. Whether the trial judge erred in giving weight to and, in effect, giving judicial notice to writings of an author when no evidence was before the court respect his writings.
3. Whether the trial judge erred in denying access on the part of the appellant to the child.

RESULT:

The Court of Appeal reviewed the evidence, the decision of the trial judge and the relevant provisions of the **Act** and found that the trial judge had made no error in the fact-finding process. In the circumstances, the weight of the evidence was for her to assess and

she made no error in so doing. Although the writings of the author should not, in the circumstances, have been referred to and relied on, there is no evidence that they had any significant effect upon the result. The trial judge's decision was amply supported by the evidence. Moreover, the trial judge made no error in denying access to the appellant when making the permanent care and custody order. The appeal was dismissed.

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 7 pages.