

NOVA SCOTIA COURT OF APPEAL

Citation: *L.I. v. Mi'kmaw Family and Children's Services of Nova Scotia*,
2011 NSCA 104

Date: 20111123

Docket: CA 351902

Registry: Halifax

Between:

L.I. and B.L.

Appellants

v.

Mi'kmaw Family and Children's Services of Nova Scotia
and Minister of Community Services

Respondents

Restriction on Publication: Pursuant to s. 94(1) Children and Family Services Act.

Judge: The Honourable Justice Linda Lee Oland

Appeal Heard: October 21, 2011, in Halifax, Nova Scotia

Subject: Permanent Care and Custody; Post-Permanent Care Access;
Children and Family Services Act, S.N.S. 1990, c. 5, s. 47(2)

Summary: The appellant mother appealed orders granting the Agency permanent care and custody of her children. No access was ordered. At the beginning of the final disposition hearing, the judge had refused a motion supported by all the parties for an adjournment to allow for preparation of an update of parental capacity assessments of the parents. After hearing evidence regarding, among other things, courses and counseling and access visits, the judge concluded that the appellant still lacked judgment and insight.

Issues: Whether the judge erred in refusing the adjournment, in appreciating the evidence before her, or in refusing to grant post-permanent care access to the appellant.

Result:

Appeal dismissed, except in regard to access. In exercising her judicial discretion regarding the adjournment in the particular circumstances before her, the judge made no error in principle nor was the result so clearly wrong as to amount to an injustice. There was no palpable and overriding errors in her appreciation of the evidence that would change the outcome and would warrant appellate intervention. Where the judge's decision did not contain any analysis on the issue of access, she erred in principle. That issue is remitted to the same judge for rehearing.

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 15 pages.