

NOVA SCOTIA COURT OF APPEAL

Citation: *Nova Scotia (Community Services) v. T.G.*, 2012 NSCA 43

Date: 20120502

Dockets: CA 355869 and 375447

Registry: Halifax

Between:

Minister of Community Services

Appellant

v.

T.G. and R.C.

Respondents

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

Judge: The Honourable Justice Joel E. Fichaud

Appeal Heard: January 30 and March 22, 2012, in Halifax, Nova Scotia

Subject: *Children and Family Services Act* - procedural fairness - reasonable apprehension of bias - production and disclosure by the Crown.

Summary: A child's foster mother, T.G., and the adoptive mother of the child's sisters, R.C., each wanted to adopt the child. The Minister of Community Services preferred R.C. because R.C. shared the child's racial background, a factor under s. 47(5) of the *Children and Family Services Act*, and because the placement would allow the child to be in a family with his sisters. T.G. claimed that the Minister or Agency had pre-determined the choice before the Adoption Placement Conference, and that the Agency's decision should be set aside as a denial of T.G.'s right to procedural fairness. The judge of the Supreme Court (Family Division) issued an interim injunction against the removal of R. from T.G.'s foster care, ordered the Agency to produce all its file material, and ultimately set aside the Agency's decision as a violation of the Agency's duty of procedural fairness to T.G.. The Minister appealed to the Court of Appeal.

Issues: Did the Agency violate a duty of procedural fairness to the foster parent, T.G.? Did the judge's behavior evoke a reasonable apprehension of bias? Did the judge err in his Orders for Disclosure and production by the Crown?

Result: The Court of Appeal concluded that the Agency did not violate a duty of procedural fairness to T.G.. So the Minister's appeal from the Order on Judicial Review was allowed. The judge's behavior did not give rise to a reasonable apprehension of bias. The issues respecting Crown disclosure were moot.

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 83 pages.