

CASE NO.

VOL. NO.

PAGE

T. B.

- and -

**CHILDREN'S AID SOCIETY OF
HALIFAX and S. M. R.**

(Appellant)

(Respondents)

CA169315

Halifax, N.S.

SAUNDERS, J.A.

[Cite as: *T.B. v. Children's Aid Society of Halifax*, 2001 NSCA 99]

Editorial Notice

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

APPEAL HEARD:

May 17, 2001

JUDGMENT DELIVERED:

June 15, 2001

SUBJECT:

Children and Family Services Act, S.N.S. 1990, c. 5 - Onus on proponent seeking family placement. Statutory obligations of an agency and the court. Standard of appellate review. Degree of deference owed. Extension of time for final disposition.

SUMMARY:

Agency intervened to protect child and arrange for his continuing temporary care and custody three months after his birth. There then ensued a long string of proceedings culminating in a permanent care hearing held in November and December, 2000. The trial judge ordered that the child be placed in the permanent care and custody of the agency. Child's father appealed, arguing that trial judge erred by failing to consider placing the child with the appellant's half-sister and failing to appreciate that the agency had not taken appropriate steps to consider a family placement, all contrary to s. 42(3) of the CFSA.

Appellant also argued that less deference owed to this trial judge, given the variety of judges involved in the on-going proceeding.

HELD:

Appeal dismissed. Decision of this court in **Family and Children's Services of Kings County v. B.D.** (1999), 177 N.S.R. (2d) 169, neither varied nor added to an agency's responsibilities under the

CFSA. The statutory duty facing both the court and the agency is to assess the reasonableness of any family or community alternatives put forward seriously by their proponents. An onus of persuasion falls to the proponent of a family placement to present a reasonable alternative, that is to say a proposal that is sound, sensible, workable, well conceived and has a basis in fact. Only then can the court assess whether the proposed plan is well motivated and worthy of serious consideration.

Extensions beyond the statutory deadline for granting disposition orders should rarely be granted. In the circumstances here, the trial judge's reasons for granting a brief extension so as to allow proper consideration of the evidence and counsel's written submissions, was justified.

There was no error of law by the trial judge in his appreciation of the evidence, its application to the issues or his complying with the statutory requirements of the CSFA.

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 18 pages.