

NOVA SCOTIA COURT OF APPEAL

Citation: *J.L.T. v. Nova Scotia (Community Services)*, 2017 NSCA 68

Date: 20170714

Docket: CA 458919

Registry: Halifax

Between:

J.L.T.

Appellant

v.

The Minister of Community Services and K.A.D.

Respondents

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

Judge: The Honourable Justice Cindy A. Bourgeois

Appeal Heard: May 19, 2017, in Halifax, Nova Scotia

Subject: Child protection

Summary: The appellant is the father of a male child, now age 16. The child has significant intellectual difficulties. Due to a number of concerns, the child has been in the temporary care of the Minister of Community Services since September 2012. The appellant has had regular access with his son. After the completion of a number of services, the appellant and the Minister agreed to a joint plan to have the child returned to his father's care, subject to supervision. At a review hearing, the trial judge determined that the joint proposal was not in the best interests of the child, and ordered that he remain in temporary care, with supervised access with the appellant to continue. The trial judge found that the

appellant had, over the course of a number of years, regularly sexually assaulted his step-daughter. She also determined that the appellant demonstrated a lack of insight and minimization of the other concerns which had prompted the child being taken into care.

- Issues:**
- (1) Did the trial judge err in finding that the appellant had sexually abused his step-daughter?
 - (2) Did the trial judge err by refusing to allow the child to return to the care of the appellant absent evidence of risk to the child?

Result:

Appeal dismissed. With respect to the first issue, there was ample evidence, if accepted by the trial judge, which could lead to the finding made by her. The appellant's arguments amounted to a request for this Court to re-weigh the evidence presented, which is not our function.

With respect to the second issue, again, the appellant was seeking a re-weighing of the evidence advanced at trial. The trial judge found that the child would be at risk if returned to his father's care given the finding of significant sexual abuse against the step-daughter, as well as the lack of insight in relation to other protection concerns. There was no demonstrable error in the trial judge's reasons or conclusion that justified appellate intervention.

<p><i>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 21 pages.</i></p>
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