

NOVA SCOTIA COURT OF APPEAL

Citation: *Dassonville-Trudel v. Nova Scotia (Community Services)*,
2004 NSCA 82

Date: 20040616

Docket: CA 181270

Registry: Halifax

Between:

Dominique Dassonville-Trudel, an Infant, by her
Guardian Ad Litem, Joyce Lorraine Dassonville, and
Joyce Lorraine Dassonville

Appellants

v.

The Department of Community Services and
The Minister of Community Services

Respondents

JUDGE: BATEMAN, J.A.

APPEAL HEARD: May 17, 2004

JUDGMENT DELIVERED: June 16, 2004

SUBJECT: Judicial review

SUMMARY: Mother of autistic child challenged, inter alia, the Department of Community Services decisions not to fund certain expenses under the “In-Home Treatment Program”, seeking *certiorari* and *mandamus*. Challenged, as well, was the family’s exclusion from the Program because their income exceeded the maximum

prescribed by the Program Guidelines. Chambers judge dismissed the applications finding that the decisions met a standard of reasonableness. Mother appealed asserting that the decisions should have been held to a correctness standard, but, in any event, were not reasonable.

ISSUES:

1. What was the appropriate standard of review?
2. Did the Chambers judge err in concluding that the decisions were reasonable?

RESULT:

Appeal allowed in part. While an argument could be made that the Department's decisions attracted the most deferential standard of review, patent unreasonableness, the Minister took the position that the judge did not err in applying the reasonableness standard. While the use of Guidelines to assist in decision-making is not *prima facie* unlawful, here, the rigid application of the Program Guidelines, to the exclusion of a consideration of the family's circumstances amounted to an unreasonable exercise of discretion, in effect, a failure to exercise any discretion. Matters of funding and family's eligibility for the Program remitted to the Department for reconsideration.

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 27 pages.