

NOVA SCOTIA COURT OF APPEAL

**Citation: *S.U. v. Family and Children's Services of Yarmouth County*,
2005 NSCA 76**

Date: 20050429

Docket: CA 236928

Registry: Halifax

Between:

S. U.

Appellant

v.

Family and Children's Services of Yarmouth County

First Respondent

- and -

J. U.

Second Respondent

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

JUDGE: The Honourable Justice M. Jill Hamilton

APPEAL HEARD: April 8, 2005

SUBJECT: Child protection, **Children and Family Services Act**, S.N.S.
1990, c. 5

SUMMARY: A child was apprehended at birth because of her mother's long involvement with child protection agencies involving her five older children who were taken into care and her father's conviction of sexual assault of his stepdaughter. The trial judge found that it was in the best interests of the child to be placed in the permanent care and custody of the agency.

ISSUE: Did the trial judge err in law by: (1) placing too much weight on trivial matters; (2) referring in his decision to the possibility of a review in three or four months time, when such a review would be unlikely to succeed in light of s. 48 (4) and (6) of the **Act**; (3) not adjourning the disposition hearing to give S.U. more time to improve herself so she would have a better chance of regaining the care and custody of E.U.; (4) making a decision given the limited evidence before him; and (5) accepting affidavit evidence of the agency rather than *viva voce* evidence. Should the judge's decision be set aside because her trial counsel's representation of her was incompetent?

RESULT: Appeal dismissed.

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 11 pages.