

NOVA SCOTIA COURT OF APPEAL

Citation: *J.F. v. Children's Aid Society of Cape Breton (Victoria)*,
2005NSCA101

Date: 20050629

Docket: CA 341201

Registry: Halifax

Between:

J.F.

Appellant

v.

Children's Aid Society of Cape Breton (Victoria)

Respondent

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

Judge: The Honourable Justice Nancy J. Bateman

Appeal Heard: June 15, 2005

Subject: *Child Welfare*

Summary: Children found to be in need of protection and ordered into the permanent care of the Society. Proceeding had extended well beyond the statutory time frames, by consent. Children very young and had been in temporary care for 18 months with multiple care-givers. Mother had ongoing mental health difficulties but felt she was on the mend. Father not participating in appeal. Mother appealed alleging error by judge in declining to order post-permanent care access.

Issue: Did the judge err in declining to award post-permanent care access?

Result: Appeal dismissed. An access order here would amount to an indefinite extension of the statutory time periods, double the maximum time having already elapsed. This would run counter to the clear intent of the statute that such proceedings respect the child's sense of time. Whatever the meaning of "special circumstance" in s. 47(2)(d), it cannot be interpreted so as to circumvent the clear maximum times mandated by the **Act** unless the best interests of the child so requires. An order for access prevents adoption placement. The judge was satisfied the children required security and stability with their best hope of achieving this being adoption. This conclusion, which is not reflective of error and is not directly challenged on appeal, is inconsistent with the granting of access.

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 8 pages.