

**NOVA SCOTIA COURT OF APPEAL**

**Citation: *J.C. v. Children's Aid Society of Cape Breton-Victoria*,  
2005 NSCA 161**

**Date:** 20051213

**Docket:** CA 251964

**Registry:** Halifax

**Between:**

J. C. and A. C.

Appellants

v.

Children's Aid Society of Cape Breton-Victoria

Respondent

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

**Judge:** The Honourable Justice Jamie W. S. Saunders

**Appeal Heard:** November 23, 2005

**Subject:** *Children and Family Services Act*, S. N. S. 1990, c. 5, as amended. Permanent care and custody. Parents with significant cognitive deficits and intellectual challenges. Standard of Review. Allegations of bias and incompetence. Adequacy of reasons.

**Summary:** The parents appealed from the trial judge's decision which placed their two young children in the permanent care and custody of the Children's Aid Society complaining that the trial judge misapplied the CFSA; ignored or failed to give sufficient weight to important evidence; and failed to ensure that the trial proceedings were fair in light of the appellants' personal circumstances. Appellants' counsel also obliquely questioned the impartiality of the trial judge and the competence of the lawyer who represented the appellants at trial.

**Held:** Appeal dismissed. The allegations of bias on the part of the trial judge and incompetence on the part of trial counsel far exceeded the permissible bounds of advocacy, found no support whatsoever in the record, and were highly inappropriate.

This was a most difficult case and the trial judge was alive to the unique and unfortunate circumstances surrounding the appellants. They were both developmentally delayed adults with significant cognitive deficits that impaired their ability to understand and respond as parents to the burgeoning emotional, intellectual, safety, health and developmental needs of their three year old daughter and infant son. These special and serious problems triggered the Agency's sustained but ultimately unsuccessful efforts to keep this family together. The parents' lack of understanding and nurturing skills had already compromised their daughter's development and justified fears about the newborn's future. The trial judge's finding that there was no prospect for improvement was well supported on the record. No merit to the complaint that the judge misapplied the legislative scheme when exercising her discretion; or ignored important evidence; or that the appellants did not receive a fair trial.

In his decision Saunders, J.A. went on to comment specifically on the adequacy of the trial judge's reasons and to offer detailed constructive suggestions for a systemic approach in organizing and articulating reasons for judgment as a way to improve the ease with which reasons may be expressed and understood.

On this aspect of the decision Cromwell and Oland, J.J.A. disagreed indicating that in their view it was neither necessary nor desirable to address the subject as it had no bearing on the disposition of this appeal.

**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 30 pages.**