

NOVA SCOTIA COURT OF APPEAL

Citation: *Finck v. The Queen*, 2004 NSCA 133

Date: 20041105

Docket: CAC 230452

Registry: Halifax

Between:

Lawrence R. Finck and Carline A. VandenElsen

Applicants/Appellants

v.

Her Majesty the Queen, Central Nova Scotia
Correctional Facility and Minister of
Community Services

Respondents

- and -

Attorney General for Nova Scotia

Intervener

Judge: Fichaud, J.A.

Application Heard: November 4, 2004, in Halifax, Nova Scotia, In Chambers

Held: Dates given for setting down hearing of appeal.

Counsel: Applicants in person
Kenda Murphy, for the respondents Nova Scotia Correctional
Facility and Minister of Community Services and for the
Intervener, Attorney General of Nova Scotia
Pamela MacKeigan for the Children's Aid Society

Decision:

[1] In Chambers today I set down this appeal for hearing on February 9, 2005. The appellants asked that I give written reasons for this order.

[2] After hearing the representations of the appellants and of counsel for the respondents, it appears that more than one-half day may be required for the hearing of this appeal. The nearest available full day on the Court of Appeal's docket is February 9, 2005. So I scheduled the appeal for that date.

[3] The appellants state that this appeal will determine the custodial disposition of their child and, therefore, I should find some way to schedule the hearing on an earlier date.

[4] This appeal will not determine the custodial disposition of their child. This is an appeal from a decision of Justice MacAdam who has determined certain procedural or jurisdictional issues on a proceeding brought by the appellants. Justice MacAdam did not conduct a disposition hearing under the *Children and Family Services Act*. The child was taken into care and custody of the Children's Aid authorities under the *Children and Family Services Act*. There is a disposition hearing for the child currently proceeding under the *Children and Family Services Act*, before Justice Smith of the Family Division of the Nova Scotia Supreme Court. This appeal is not from any decision of Justice Smith and is not an appeal from any final or interlocutory order in any disposition hearing under the *Children and Family Maintenance Act*.

[5] This appeal was set down for the nearest available date on the court's docket.

Fichaud, J.A.