

**SUPREME COURT OF NOVA SCOTIA**  
**(FAMILY DIVISION)**

**Citation:** *Nova Scotia (Community Services) v. BM*, 2015 NSSC 145

**Date:** 2015-05-12

**Docket:** Sydney No. 87124

**Registry:** Sydney

**Between:**

Minister of Community Services

Applicant

v.

BM, NL and WM

Respondent

And

**Docket:** Sydney No. 78726

**Between:**

WM

Applicant

v.

BM and NL

Respondents

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Theresa Forgeron

**Heard:** December 1, 4 and 5, 2014; and January 2, 6, 16, and 21;  
February 18 and 20; March 5, 24, and 30; April 8, 23 and 27; and  
May 12, 2015 in Sydney, Nova Scotia

**Oral Decision:** May 12, 2015

**Written Decision:** May 13, 2015

**Subject:** Child Protection and Supervised Access

**Issues:**

- (1) Permanent Care
- (2) Reliability of Motherisk Lab Results
- (3) Supervised Access under *MCA* Order

**Decision:** ➤ The child was found not to be in need of protective services, despite the disturbing and extensive child protection history

of the parents which spanned from 2007 until 2013. Since the court rendered its last decision, the father was able to effect permanent lifestyle changes. The concerns respecting violence, substance abuse, and relationship issues had been resolved by the father. Although the mother had also made monumental changes, they were insufficient. The father was therefore granted sole custody and the mother was granted supervised access. The *CFSA* application was dismissed.

- The court assigned no weight to the news release from the Ontario government which directed all children's aid agencies to stop using or relying on hair strand or alcohol testing, out of an abundance of caution, and in the context of the Lang Review of the Motherisk lab. In the news release, the Attorney General of Ontario announced the expansion of the scope of the review to include testing from 2010 to 2015. The review was also examining whether Motherisk adhered to internationally recognized forensic standards. The court held that it was unable to speculate as to the outcome of the review. The court was required to base its decision on the facts, and not speculation.

**That s. 94(1) of the Children and Family Services Act applies and may require editing of this judgment or its heading before publication. S. 94(1) provides:**

**No person shall publish or make public information that has the effect of identifying a child who is a witness at or a participant in a hearing or the subject of a proceeding pursuant to this Act, or a parent or guardian, a foster parent or a relative of the child.**

1990, c. 5

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***