

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Nova Scotia (Community Services) v. K.H., 2009 NSSC 71

Date: 2009 03 10

Docket: SFHCFSA- 055303
1201-56166 (SFHD-012607)

Registry: Halifax

Between:

Minister of Community Services

Applicant

v.

K. H., S. J. and G. G.

Respondents

AND

Petitioner

G. J. G.

v.

K. E. H.

Respondent

LIBRARY HEADING

Editorial Notice

Identifying information has been removed from this electronic version of the judgment.

Restriction on Publication: Publishers of this case please take note that s. 94(1) of the *Children and Family Services Act* applies and may require editing of this judgment or its heading before publication. Section 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 relative of the child."

Revised Library Sheet: The name of one of the counsel was omitted. This library sheet replaces the previously distributed library sheet.

Judge: The Honourable Justice Leslie J. Dellapinna

Heard: January 19, 20, 21, 22, 2009 in Halifax, Nova Scotia

Counsel: J. Underhill counsel for the Minister
Jennifer Schofield counsel for G. G.
Tanya Jones counsel for K. H.
S. J., Self-represented
Peter Katsihtis, counsel for S.W., g.a.l.

Subject: An application to terminate a proceeding under the *Children and Family Services Act* as well as a divorce proceeding between the parents.

Summary: It was agreed at a pre-trial conference that the final review of an application under the *Children and Family Services Act* and a divorce proceeding between the parents of the children subject to the CFSA proceeding would be heard at the same time. The parents separated in February 2001 after eight years of marriage. They have a daughter now age 12 and a son age 9. The Minister's application under the CFSA was filed in October 2007 with a protection finding made on January 14, 2008. Various services were provided to the family (including the mother's common-law partner with whom she lived).

The Minister sought to terminate its application. The husband petitioned the wife for divorce. The primary issue between them was the custody of the children.

Issue: What parenting arrangement was in the best interests of the children?

Result: Joint custody was ordered with primary care granted to the father. The mother's relationship with her common-law partner was unpredictable and marred by arguments and separations including one episode of domestic violence. Granting primary care to the father placed the children in a safer and more stable and more predictable environment. Generous access was given to the mother. The Minister's application under the CFSA was terminated.

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