

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

**Citation:** Nova Scotia (Community Services) v. A.B.,  
2013 NSSC 101

**Date:** 20130201

**Docket:** Sec. 26(2) CFSA

**Registry:** Halifax

**Between:**

Minister of Community Services

Petitioner

v.

A.B.

Respondent

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**LIBRARY HEADING**

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**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."

**Judge:** The Honourable Justice Mona M. Lynch

**Heard:** February 1, 2013 in Halifax, Nova Scotia

**Written Decision:** March 12, 2013

**Subject:** Children and Family Services Act, section 26(2)

**Summary:** An individual who acted in a volunteer capacity with an older sibling of the child was found in possession of child pornography. An agent of the Minister of Community Services (MCS) requested a joint police/social worker interview with the child. The mother of the child requested that either she or the child's therapist be present for the interview. The MCS would not agree to the mother's conditions as it might compromise the investigative process. The MCS applied to the court for an order allowing the agent of the MCS to enter premises where the child resided to remove the child and conduct a joint police/social worker interview.

**Issue:** Should the court grant the order requested?

**Result:** Section 26(2) requires the MCS to prove on a balance of probabilities that: (1) an agent has been refused access to a child or entry to premises where a child resides or is located; (2) there are reasonable and probable grounds to believe that the child may be in need of protective services; and (3) it is necessary to (a) enter specified premises, (b) interview the child, (c) remove the child and attend with the child for an interview to determine whether the child is in need of protective services. The court was not satisfied that the mother refused access to the child or entry to premises or that there were reasonable and probable grounds to believe the child may be in need of protective services. The application was dismissed.

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