

SUPREME COURT OF NOVA SCOTIA

(Family Division)

Citation: Nova Scotia (Community Services) v. K.C., 2016 NSSC 280

Date: 20161025

Docket: SFSNCFSA 094029

Registry: Halifax

Between:

Nova Scotia (Community Services)

Applicant

and

K.C-S. and C.T.

Respondent

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Judge: The Honourable Associate Chief Justice Lawrence I. O'Neil

Heard: February 10, 11 and 12, 2016; June 21 and 22, 2016; and July 12, 2016 in Sydney, Nova Scotia

Issue: Is a person, not deemed a parent by the Minister of Community Services, entitled to notice of a child protection proceeding and therefore, an opportunity to challenge the Minister's conclusion in this respect?

Summary: A person believed to be the father of a child involved in a child protection proceeding was not served notice of the proceeding. The Minister was of the view that he did not meet the definition of parent or guardian as defined by s.3(1) of the *Children and Family Services Act*, S.N.S. 1990 c.5. The Court held that a person so identified must be given notice of the child protection proceeding so that the adult may have the opportunity to be heard on the issue of whether he falls within the meaning of a parent or guardian in the *CFSA*. The Court held this is a positive duty on the Minister. Should the Minister be unable to serve that person, the Court should be so advised.

Keywords: parent; service; notice of child protection

Legislation: *Children and Family Services Act*, S.N.S. 1990 c.5

Cases Considered: -*Re: Adoption of I.F.M.* 2016 NSSC 83
-*Re: Adoption of Child D.F.T. and D.M.T.* (1978) NSJ 683
-*Children's Aid Society and Family Services of Colchester County and --T.(D.) and T.(L.) Respondent and the Department of Attorney General and adopting parents intervenor Respondents* [1992] NSJ 289
-*Children's Aid Society of Cape Breton Victoria v. S.W., J.F. and K.B. and K.B. v. S.W.R.*, 2010 NSSC 104
-*Nova Scotia (Minister of Community Services) v. J.O.Y.*, 2009 N.S.J. 325
-*New Brunswick (Minister of Health and Community Services) v. G.(J.)*, [1999] 3 S.C.R. 46
-*Bellefontaine v. Slawter* [2012] N.S.J. 251
-*Waterman v. Waterman* [2014] N.S.J. 652
-*Manitoba (Director of Child and Family Services) v. H.H. and G.G.* 2016 MBQB 138

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