

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Nova Scotia (Community Services) v. J.M.*, 2018 NSSC 31

Date: 2018-02-14

Docket: *Sydney* No. 105311

Registry: Sydney

Between:

Minister of Community Services

Applicant

v.

JM and RR

Respondents

Library Cover Sheet

Judge: The Honourable Justice Theresa M Forgeron

Heard: November 23, 2017; December 11, 18, 19, 2017; January 15, 16, 2018;
and February 14, 2018 in Sydney, Nova Scotia

Oral Decision: February 14, 2018

Written Decision: February 16, 2018

Issue: Is the Director of the Capital Health Authority's toxicology lab qualified to provide expert opinion evidence about the results of urine testing from samples taken from a father during a child protection proceeding?

Summary: The Director's opinion was found not to be reliable where the lab is not designated as a forensic lab, where the lab is not subject to external proficiency testing or oversight, and where the lab's adherence to international standards is uncertain. The Director was not qualified as an expert in forensic and analytical toxicology; his opinion about the test results was excluded.

Key words: Child Protection; Expert Evidence; Admissibility of Evidence; Qualification of Expert; Framework for Admissibility; Role of Relevance; Gatekeeper Function; Cost-Benefit Analysis.

Legislation: *Children and Family Services Act*, S.N.S. 1990, c. 5.N.S. 1989, c. 240

Case Law: **Catholic Children’s Aid Society of Toronto v RM**, 2017 ONCJ 661.
Catholic Children’s Aid of Toronto v RM, 2017 ONCJ 762.
Nova Scotia (Minister of Community Services) v CP, 2016 NSSC 46.
R v Abbey, 2009 ONCA 624 (Abbey No 1).
R v Abbey, 2017 ONCA 640(Abbey No 2).
R v Mehl, 2017 BCSC 1845.
R v Mohan, [1994] 2 SCR 9.
White Burgess Langille Inman v Abbott and Haliburton Co, 2015 SCC 23.

***THIS INFORMATION SHEET DOESN’T FORM PART OF THE COURT’S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***