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

**Citation:** *Minister of Opportunities and Social Development v. C.L.*, 2025 NSSC 427

**Date:** 20251106
**Docket:** Tru SFT CFSA - 133735
**Registry:** Truro

**Between:**

Minister of Opportunities and Social Development

Applicant

v.

C.L. and M.I.

Respondents

and

Alderville First Nation

Third Party

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**LIBRARY HEADING**

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| **Judge:** | The Honourable Justice Terrance G. Sheppard |
| **Heard:** | November 6, 2025, in Truro, Nova Scotia<br>January 6, 2026, in Truro, Nova Scotia |
| **Oral Decision:** | November 6, 2025 |
| **Written Decision:** | February 27, 2026 |
| **Subject:** | Granting party status and extending the statutory timeline in a child protection proceeding |
| **Summary:** | S.R.L. is the child at the centre of this child protection matter. He is a member of the Alderville First Nation. Alderville First Nation was granted party status and the statutory timeline was extended by 3 months to allow them time to find a culturally |

appropriate place for S.R.L. under a Customary Care Agreement.

**Issue:**

(1) Should Alderville First Nation be granted party status?

(2) Should the maximum timeline be extended?

**Result:**

(1) Alderville First Nation was granted party status.

(2) The maximum timeline was extended by 3 months.

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

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**Restriction on Publication: s. 94(1) of the C*hildren and Family Services Act***

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| **Oral Decision:** | November 6, 2025 |
| **Written Release:** | February 27, 2026 |
| **Counsel:** | John Snow for the Minister of Opportunities and Social Development on November 6, 2025 and Sarah Lennerton on January 6, 2026<br>Sheila McDougall for the Respondent, C.L.<br>M.I. unrepresented<br>Stefanie Rudd for Alderville First Nation on November 6, 2025 and Sarah Clarke and Jamie Forte, Articled Clerk, on January 6, 2026. |

Restriction on publication: Pursuant to s. 94(1) *Children and Family Services Act*, S.N.S. 1990, c. 5.

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: 94(1) 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.

**By the Court:**

**OVERVIEW**

[1] November 6, 2025 was the statutory deadline for concluding this child protection matter. On that date, I heard two motions by Alderville First Nation: first, to add them as parties and, second, to extend the statutory timeline for the conclusion of this child protection matter. I gave an oral decision granting both motions and extended the end date to conclude the matter to February 5, 2025. This would allow an additional 3 months for Alderville First Nation to find a long term placement in their community pursuant to a Customary Care Agreement.

[2] The next court date was scheduled for February 5, 2026 but, in the meantime, the Minister of Opportunities and Social Development filed a motion for an early review hearing which was scheduled for January 6, 2026. I incorrectly assumed that a placement had been found by Alderville First Nation; however, as it turned out, the Minister was requesting that they be granted permanent care and custody. Essentially, the Minister was asking me to overrule my earlier decision granting the extension. I gave an oral decision on January 6, 2026, declined to overrule myself, and dismissed the Minister's motion.

[3] These are my written reasons on these motions.

**BACKGROUND**

[4] S.R.L. is the child of C.L. (mother) and M.I. (father) and is three years old. The mother is a registered member of Alderville First Nation.

[5] S.R.L. was taken into care the day after his birth. He remained in care until December 14, 2023, when he was placed back into the care of his mother and father, subject to supervision. The child protection proceeding terminated on February 15, 2024 with the child remaining with his mother and father.

[6] S.R.L. was again taken into care on May 8, 2024, just a few months after the previous child protection proceeding terminated. The matter proceeded through all the required steps and first disposition was granted on November 6, 2024. That made the outside deadline to resolve the matter November 6, 2025.

[7] S.R.L. has some special needs. He is being followed by an optometrist for amblyopia. He was referred to early intervention and occupational therapy. He is waitlisted for a hearing and speech consult. Additionally, it is anticipated that he will be referred for an autism assessment as he gets older as he is suspected to have Autism Spectrum Disorder.

[8] The parents' participation in services and attendance at parenting time had been sporadic and by the first review of disposition on February 6, 2025, it was

clear that the mother was not going to be able to put forward a viable long-term plan to parent S.R.L. Her parenting time with the child was suspended in March of 2025 because of consecutive missed visits and it was never reinstated. The random drug testing was also suspended in March of 2025 after three missed collections.

[9] By the next review hearing on May 1, 2025, the father was doing much better, engaged in services, had obtained an apartment with his brother and the Minister was reporting that the matter was proceeding in a positive trajectory with the hopes that S.R.L. may be placed in the care of the father.

[10] Unfortunately, on August 25, 2025, the father indicated to the Minister that he is unlikely to be able to provide full-time care for S.R.L. and was supportive of him being placed with the Alderville First Nation under a Customary Care Agreement.

[11] Alderville First Nation attended each court appearance since the interim hearing. They have the ability to place S.R.L. in their community under a Customary Care Agreement. A Customary Care Agreement is not something available under the Nova Scotia child welfare system. Customary Care takes children out of the mainstream child welfare system, places them in a home that supports and integrates the customs and traditions of their First Nation. Customary

Care placements are supported and supervised by Child and Family Services Agencies (in this case, by the Dnaagdawenmag Binnoojiiyag Child and Family Services), and the Ministry of Child, Community and Social Services provides funding to the customary caregivers. There is a separate pot of money that provides funds to transport the parents back and forth to see their children.

[12] There are no timelines with Customary Care and children can be reunited with their families if the parents complete their healing journey. A Customary Care Agreement is not possible once a child is placed in the permanent care and custody of the Minister. Both parents must agree to the Customary Care Agreement.

[13] The matter proceeded to a review hearing on September 11, 2025, and the Minister's plan was to continue to work with the father to see if he could put together a viable long-term plan.

[14] The matter was brought back early for an update on October 16, 2025. It was clear by then that the father could not put forward a long-term plan for S.R.L.'s care and both parents supported the placement with Alderville First Nation under a Customary Care Agreement. Alderville First Nation was actively seeking a long-term placement for the child within its community. The matter was brought back for November 6, 2025. The plan was to have a long-term placement within the

Alderville First Nation by that time. Alternatively, Alderville First Nation would be asking the court to first, be added as a party, second, extend the timeline.

[15] The matter returned on November 6, 2025. Unfortunately, Alderville First Nation had not been able to identify a long-term placement by that date. The matter proceeded to a hearing on Alderville First Nation's request to be added as a party and to extend the timeline.

**ISSUES**

[16] The two issues before me are:

a) Should Alderville First Nation be granted party status?

b) Should the statutory deadline be extended?

**ANALYSIS**

**Party Status**

[17] The mother and father agreed with Alderville First Nations' motion to be added as parties. The Minister took no position. Given the consent of the parents, lack of opposition from the Minister, and the relevant caselaw, I grant Alderville First Nation party status.

[18] There is a three-part test for deciding whether to add a party to a child protection proceeding:

i. Whether the non-party seeking standing has a direct interest in the proceeding's subject matter;

ii. Whether the non-party seeking standing has a familial, or other, relationship with the children; and

iii. Whether there is a reasonable possibility, when comparing it to other alternatives, that the child's welfare may be enhanced by granting the non-party standing and hearing the relevant evidence.[1]

[19] Justice MacLeod-Archer recently added a fourth part to the test: are there alternative processes available to the applicant?[2]

*Direct Interest*

[20] Alderville First Nation has a direct interest in ensuring that all First Nations children be placed in a culturally appropriate placement. They are uniquely situated to do so for S.R.L., who is a member of their community.

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[1] See Justice Jollimore's decision at ***Nova Scotia (Minister of Community Services) v. S. (S.)***, 2012 NSSC 293 at paragraph 19 and our Court of Appeal decision in ***S.(S.) v. Nova Scotia (Minister of Community Services)***, 2016 NSCA 4 at paragraph 6.

[2] ***Nova Scotia (Community Services) v. S.W.***, 2024 NSSC 349 at paragraph 13.

*Familial, or some other, relationship*

[21] Alderville First Nation does not have a familial connection to S.R.L., except in the very broad definition of that term. However, they have a cultural connection. This cultural connection is entrenched in the FNIM which requires courts to consider the views and preferences of First Nations when making decisions that effect their people. See FNIM at s.9(3)(d).

[22] The factors that I must consider when determining the best interest of a First Nations child include, "any plans for the child's care, including care in accordance with the customs or traditions of the Indigenous group, community or people to which the child belongs." See FNIM at s.10(3)(f).

*Alternative Processes*

[23] Most persons making an application to be added as a party to a child protection matter would be grandparents, or other family members, who would usually have the option of applying for leave under s.18 of the *Parenting and Support Act* R.S.1989, c.160. That option is not open to Alderville First Nation as they are not seeking decision-making responsibility, parenting time, etc. with S.R.L. but rather to have him placed with a culturally appropriate home who will then have decision-making responsibility, parenting time, etc.

*Child's Welfare Enhanced*

[24] It is clearly in S.R.L.'s best interest to grant Alderville First Nation party status. The court needs to know the relevant information from Alderville First Nation. Adding Alderville First Nation as a party provides me with more options to protect S.R.L. from harm, promote the integrity of the family, and assure S.R.L.'s best interest.[3] I also need their input to comply with the FNIM's requirement to keep First Nations children out of the child welfare system and, wherever possible, reunite them with their families and communities.[4]

[25] At the present time, it is not possible to have S.R.L. reunited with his parents; however, with the additional evidence provided by Alderville First Nation regarding the possibility of a Customary Care Agreement, I am better informed about the possibilities for him.

[26] For all the above reasons, I grant Alderville First Nation's motion to be added as a party.

*Statutory Deadline*

[3] See s.2 of the *Children and Family Services Act*, S.N.S.1990, c.5.
[4] See the preamble to an Act Respecting First Nations, Inuit and M tis Children, Youth, and Families, S.C.2019, c.24.

[27] S. 45 of the *Children and Family Services Act*, S.N.S. 1990, c. 5, requires that the total duration of all disposition orders, for children under the age of 14 years, be no longer than 12 months. I find that this is one of those rare and unusual circumstances where the best interests of the child demand that there be a short extension to the statutory deadline.

[28] On November 6, 2025, the Minister's position was that, to preserve jurisdiction, I needed to have a *pro forma* start to the permanent care and custody hearing and then set trial dates. In the meantime, Alderville First Nation can continue to look for long-term placements for the child and the Minister will review those when they are received. The Minister points out that the timelines can only be extended in "rare circumstances." Part of the reason the Minister requested the *pro forma* start was so they could fully brief me on the extension issue. I note that on October 16, 2025, it was clear that Alderville First Nation would likely be making a motion to extend the timeline. Alderville First Nation managed to file an affidavit and a brief a full week before the November 6, 2025 date. The Minister chose to provide nothing.

[29] A unique feature of this case is that the Minister filed a Notice of Motion for Review of Disposition Hearing on December 24, 2025, and the matter was docketed for January 6, 2026. The Minister's motion was to have me reconsider

my earlier decision from November 6, 2025 and requested that S.R.L. be placed in their permanent care and custody immediately, or if a trial was required, to set trial dates without delay. Ms. Lennerton, on behalf of the Minister, advised on January 6, 2026, that they had not yet been updated on Alderville First Nation's efforts to find long-term placement for S.R.L.

[30] The Minister did file an affidavit and full brief but no new information relevant to the issue of extending the timeline was provided in the affidavit of Leeann MacDonald sworn December 19, 2025. The Minister provided a fulsome brief on the issue of extending the timeline. None of the information was new to me and I declined to overrule myself.

[31] The parents take the position that the timeline ought to be extended for all the reasons put forward by Alderville First Nation. Both parents have agreed to sign a Customary Care Agreement once a long-term placement for S.R.L. has been found.

[32] Alderville First Nation is located in South Central Ontario and is a thriving community rich in heritage, culture, tradition, and language. For centuries it has been home to the Mississauga Anishinabeg and the Ojibway Nation.

[33] At the time of the November 6, 2025 hearing, Alderville First Nation and DBCFS had identified two potential Customary Care homes in their area. Both homes were already approved as licenced foster care homes and had confirmed their willingness to be a Customary Care home for S.R.L. Both homes were experienced in providing care to indigenous children.

[34] The interplay between the *CFSA* and an *Act respecting the First Nations, Inuit, and Métis children, Youth, and Families*, S.C. 2019, c. 24 has been considered by the Nova Scotia courts.[5] Alderville First Nation argues that S.R.L., as a First Nation child, is entitled to a unique protection afforded to First Nation children under FNIM. The Minister in her brief for the January 6, 2026 review hearing argues that they have complied with s.12(1) of FNIM by providing notice to Alderville First Nation and s.13 of FNIM because Alderville First Nation has been able to make representations throughout this proceeding, and in fact has done so.

[35] With respect to the Minister, FNIM is about much more than providing First Nations, Inuit, and Métis notice and the ability to make representations. It is about the history of residential schools in this country. It is about the Sixties Scoop and

[5] See, for example, Justice Marche's decision in Mi'kmaw Family and Children Services of Nova Scotia v. R.D., 2021 NSSC 66 and Justice Cromwell's decision in Mi'kmaw Family and Children Services of Nova Scotia v. A.K., 2023 NSSC 113.

the Millennium Scoop. It is about making sure that First Nation, Inuit, and Métis children are not removed from their communities unless there is absolutely no alternative.

[36] The Minister points out that FNIM, at s.4, states that nothing in the Act effects the Provincial legislation and regulations to the extent that there is no conflict with those Provincial legislation and regulations. I agree with the Minister. Further, there is no conflict between FNIM and the *CFSA*. The *CFSA* requires the Minister to be mindful of a child's culture in a number of sections.[6]

[37] Alderville First Nation cites two Ontario cases for their proposition that FNIM argues against a strict adherence to timelines set out in child protection legislation.[7] The Minister's point is well taken that Ontario's legislation, like most other Provinces, but unlike Nova Scotia, explicitly provides for extensions of timelines. This point was made by Justice Van den Eynden in ***K.F. v. The Minister of Community Services and C.N.***, 2021 NSCA 81 at paragraph 42.

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[6] See sections 47(5), 47A, 44(1)(c), 39(8)(c), 20(d), 9(i), 3(2)(g), and the following recitals, "Whereas the preservation of a child's cultural, racial and linguistic heritage promotes the healthy development of the child;" and "Whereas the cultural identity of Mi'kmaq and aboriginal children is uniquely important for the exercise of the child's aboriginal and treaty rights."

[7] Native Child and Family Services of Toronto v. K.M., 2025 ONCJ 545 at paragraph 44 and H.C.F.S. v. B.M., 2025 ONSC 4862.

[38] While Nova Scotia's distinct treatment of extensions in child protection matters must be kept in mind, that does not relieve the court from recognizing that:

> "As a result of generations of dislocation and isolation, many First Nation, and Inuit and Métis communities are fractured, with members dispersed all over Canada. Many communities have members who struggle every day with social problems such as poverty and addictions, brought on by generations of assimilative harm and discrimination."[8]

[39] Our Court of Appeal's decision on ***K.F. v. Minister of Community Services and C.N.***, *supra*, is the most recent decision on extending timelines under the *CFSA*. The language used there, and in other decisions, is that extensions should only be granted in "rare circumstances."[9] The Court of Appeal goes on to say that children have a very different sense of time than adults, as is noted in the recitals to the *CFSA*. As the Court of Appeal stated in ***L.L.P. v. Nova Scotia (Community Services)***, 2003 NSCA 1 at paragraph 24, the courts must defer and respect the child's sense of time.

[40] Here, we are dealing with a three-year-old child who has a very different sense of time than an adult, or even an older child. For children fourteen years of age or older, the *CFSA* allows for disposition orders up to eighteen months; however, for children under fourteen, the maximum timeline is much shorter,

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[8] ***H.C.F.S. v. B.M.***, *supra*, at paragraph 22.
[9] ***K.F. v. Minister of Community Services and C.N.***, *supra*, at paragraph 42.

twelve months. This speaks to the much different sense of time that younger children have.

[41] Our Court of Appeal in ***T.B. v. Children's Aid Society of Halifax***, 2001 NSCA 99 also uses the language of "rare circumstances" but goes on to say that timelines are only extended when the best interest of the child "so demand". The court goes on to say that extending the statutory timeline was a "rare, unusual, and unsatisfactory event."

[42] The Court of Appeal in ***K.F. v. Minister of Community Services and C.N.***, *supra*, at paragraph 47 summarizes the case law to say that it is "rare and unusual circumstances where the best interest of a child demands an extension."

[43] The Court of Appeal goes on at paragraph 48 to recognize that extensions have been granted when necessary to complete the disposition hearing outside of the statutory timeline. However, the court is clear that this should be the "exception and not the norm." However, it seems to have become more the norm than the exception to have a *pro forma* start and then to schedule the actual permanent care and custody trial. Sometimes this is because the Minister did not start permanency planning early enough in the process. Sometimes it is because parents did not start addressing the protection risks quickly or diligently enough.

[44] In saying this, I want to distinguish this case. In this matter, I am not at all critical of the Minister. The matter progressed and the Minister gave opportunity for the parents to engage. It became clear very early in the process that the mother was not going to be able to address the underlying issues. The Minister then turned to the father and, as they were statutorily obligated to do, gave him every opportunity to put forward a long-term plan for the child. For a time, it looked like he was going to be able to do this but very late in the process it became clear that he was not going to be able to address the underlying issues. To the father's credit, he realized he was not in a position to be a full-time caregiver but very much wants to be a part of S.R.L.'s life.

[45] Similarly, Alderville First Nation has been involved since the very start of this proceeding. They have done everything to find a placement but have been hampered because they needed to see if either of the parents were able to offer long-term placement for S.R.L.

[46] As well, the court case managed this matter on a rigorous basis to make sure we were moving toward a successful conclusion while respecting the mandates of the *CFSA*. The decision to seek permanent care and custody was made very late in the day and only after it became clear that neither of the parents were able to be a long-term placement and Alderville First Nation did not have a Customary Care

home in place. To be fair to the Minister, although they only asked for permanent care and custody at the last minute, it was certainly mentioned throughout this proceeding as an alternative should the parents not be able to address the underlying concerns.

[47] I do not accept the Minister's submissions that I would lose jurisdiction unless there was a *pro forma* start to the final disposition hearing. In this case it is a particularly artificial way to get around the timeline under s.45 of the *CFSA*. The reality is it likely would be a very unusual disposition hearing in the sense that the Minister would be urging permanent care and custody, but at the same time be looking to Alderville First Nation to come up with a Customary Care home. If neither the mother nor the father put forward their own plan, they would both urge me to give Alderville First Nation time to find a Customary Care home. In that case, at the trial, we would be in the exact same position we were on November 6, 2025, where Alderville First Nation would be urging me to extend the timeline and the Minister would be urging me to place the child in their permanent care and custody.

[48] Of course, if there were no Customary Care home available, the mother and father may reconsider their earlier positions and argue that they can, in fact, put

forward a long term plan for S.R.L.'s care. That would be more of a traditional permanent care and custody hearing and would take much longer.

[49] As of November 6, 2025, it was not possible to complete a permanent care and custody trial of any length prior to the end of the year, even if other non-child protection matters were rescheduled. Further, I would want to provide the parents and Alderville First Nation an appropriate amount of time to prepare for that hearing. Since the January 6, 2026, review hearing, I understand that Alderville First Nation had received the entirety of the file in June of 2025. However, it is a very extensive file with several hundred pages of documents from the previous proceeding being admitted into evidence.

[50] I appreciate that all the parties have had the materials but the focus has been, first, on the parents and then on allowing Alderville First Nation the opportunity to find a Customary Care home for S.R.L. If the permanent care and custody trial were going to be anything other than a repeat of Alderville First Nation requesting an extension, I would need to give all the parties time to assess their options.

[51] The question before me is whether this is one of those rare and unusual circumstances where the best interest of the child demand that I extend the timeline. Alderville First Nation's position is that FNIM implores me not to order

permanent care and custody until there has been a fulsome exploration of culturally appropriate placement for the child. The Minister recognizes that it is their mandate as well to find a culturally appropriate placement for the child; however, they acknowledge that there are no guarantees and the court cannot grant permanent care and custody with conditions. However, it is the whole point of a Customary Care Agreement to place the child in a culturally appropriate home.

[52] The unique circumstances in this case are that within a few months it is very likely there will be a culturally appropriate placement for the child under a Customary Care Agreement. This will not only guarantee a culturally appropriate placement but will allow for the possibility of S.R.L. maintaining a connection with his parents with funding for this to take place. It is questionable whether the mother will reengage with the process, but the father has been at almost every court appearance and very much wants to be involved with S.R.L. even if he cannot be his full-time caregiver. While there is a possibility for S.R.L. to continue to have contact with his parents under a permanent care and custody order, there is no guarantee of that. Whereas this is one of the primary purposes of a Customary Care Agreement.

[53] As of November 6, 2025, there were two possible Customary Care homes with the parents indicating they were willing to take on S.R.L.

[54] I find that this is one of those rare circumstances that demand that there be a short extension to allow Alderville First Nation to complete their work in finding a Customary Care home for S.R.L. This is not a case where an extension is being sought to permit the delivery of services or to permit a parent more time to address the underlying protection risks. While the Court of Appeal did not foreclose the possibility of an extension for these reasons, it is clear from their decisions that this would only be done in a clear and convincing case where the delivery of services, or the extra time, would be able to address the underlying protection risks.

[55] The best interest of S.R.L. demands that there be a short extension to the timeline. Circumstances demand that Alderville First Nation have an opportunity to complete this permanency planning. It is in S.R.L.'s best interest to be placed in a culturally appropriate home and have the possibility of contact with his parents in the future with funding available for that possibility.

[56] Even if the permanent care and custody trial could be completed by the end of the year, as urged by the Minister, that is only a difference of five weeks from the extension Alderville First Nation is requesting. So, when comparing the alternatives of having a *pro forma* start and completing the hearing by December 31, or extending the timeline to February 5, it makes far more sense to extend the timeline. To complete the hearing by the end of the year, another matter or matters

would have to be rescheduled. Those other rescheduled matters involve children whose parents have likely waited several months for their hearing and will now wait several more months.

[57] I have made it clear to Alderville First Nation that, while not prejudging anything, they must understand how rare and unusual it is to grant this extension and they will face a steep, uphill climb to convince me to extend it yet again.

**ADDENDUM**

[58] On February 5, 2026, the parties appeared before me again. Alderville First Nation had found a Customary Care Home for S.R.L. that was an extended family member of his. The parent is a pillar of the community. She has two sons living with her, one of whom is close to S.R.L.'s age. She holds undergraduate and graduate degrees and is an Anishinaabemowin language teacher. She raises children through clan-based teachings, land-based activities, and immersion in Anishinaabemowin and culture.

[59] The mother had signed the Customary Care Agreement and the father confirmed his consent on the record. Given this, I readily granted the Minister's motion to terminate the *CFSA* proceeding.

Sheppard, J.