

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Mi'kmaw Family and Children's Services of Nova Scotia v. L.M.I., 2013 NSSC 399

Date: 2013-December-12

Docket: SFPA-CFSA-085127

Registry: Port Hawksbury

Between:

Mi'kmaw Family and Children's Services of Nova Scotia

Applicant

v.

L.M.I. and B.L.

Respondents

-AND-

Between:

M.M.I.

Applicant

v.

Mi'kmaw Family and Children's Services of Nova Scotia,

L.M.I. and B.L.

Respondents

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."

LIBRARY HEADING

- Judge:** The Honourable Justice Carole A. Beaton
- Date of Hearing:** November 25-26, 2013
- Date of Decision:** December 12, 2013
- Issues:** At a child welfare disposition hearing in September, 2013 all parties consented to a permanent care and custody order in favor of the Agency to be imposed effective November 25, 2013, contingent on permitting a continuation of the hearing on November 25-26, 2013 to allow the Court to receive evidence that might come forward regarding the issues of:
- (a) possible access by the Mother past the effective date of the permanent care and order, pursuant to s. 47 (2) of the *Children and Family Services Act*;
 - (b) an Application by a Family Member seeking leave to apply for and custody of the child, pursuant to section 18 of the *Maintenance and Custody Act*.
- Summary:** The Mother and the Agency agreed on access, which was endorsed by the Court. The evidence did not support granting leave to the Applicant to apply for custody of the Child who forms the subject of the child welfare litigation. To do so would be contrary to the best interests of the child.
- Keywords:** Child Protection; *Children and Family Services Act*; Family- access to children; Family-child custody; *Maintenance and Custody Act*; *Maintenance and Custody Act* -leave.
- Legislation:** *Children and Family Services Act*, S. N. S. 1990, C.5: ss. 42(1) (f); 47(2); 34(6)
Maintenance and Custody Act, R.S.N.S. 1998, c. 160: s. 18(2)
- Caselaw:** Nova Scotia (Minister of Community Services) v. S. S. 2012 NSSC 293

Children's Aid Society of Inverness/Richmond v. C.S.L.
D. R. and E. R. 2009 NSSC 207

Children's Aid Society of Halifax v. T.B. 2001, NSCA 99
C. (I.)

P .H. v. Nova Scotia (Community Services) 2013 NSCA 83

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