

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
DONALD WILLIAM VICKERS (Appellant)	- and -	SHARON ANN VICKERS (Respondent)
CA 166904	Halifax, N.S.	Oland, J.A.

[Cite as: Vickers v. Vickers, 2001 NSCA 96]

APPEAL HEARD: March 26, 2001

JUDGMENT DELIVERED: June 12, 2001

SUBJECT: **Child support - Canada Pension Plan child benefit payments - Nominal spousal support.**

SUMMARY: The parties divorced after an 18 year marriage. The respondent mother, who had been employed during most of the marriage, is unable to work and receives a Canada Pension Plan (CPP) disability pension. The appellant father, who was granted custody of the three children of the marriage, receives a monthly CPP child's benefit for the two younger children. The oldest child who is over the age of majority and in university receives that benefit directly.

In calculating child support, the trial judge considered that the CPP child's benefits were payments made "on behalf of" the respondent and included them in calculating the child support payable by her. He also ordered the appellant to pay the respondent spousal support of \$1.00 annually.

ISSUE:

1. Whether the trial judge erred in including the CPP child's benefits in calculating the child support payable by a CPP disabled contributor.
2. Whether the trial judge erred in ordering nominal spousal

support.

RESULT:

Appeal allowed. While payment of the CPP child's benefits may arise on account of the disabled contributor's circumstances, payment is not made by or on behalf of that contributor. Rather, the child's benefit belongs to the child. The analysis of the legislation in **Corkum v. Corkum** (1998), 166 N.S.R. (2d) 329 (N.S.S.C.) was endorsed. The Guidelines must be applied to determine child support and none of the circumstances wherein a court is to take a child's resources into account were raised in this proceeding. The respondent is to pay child support in the table amount under the Guidelines.

Generally, an award of spousal support requires a finding of current need. There was no finding that the respondent needed such support, or that while she did not have a present need she was likely to have a future one. As the respondent was never financially dependent on the appellant during their marriage, this was not a case where the support obligation might arise from the marriage relationship itself. There was no basis for an award of nominal spousal support.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 10 pages.