

CASE NO.

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1969

S. C. No. 15048

IN THE SUPREME COURT OF NOVA SCOTIA
APPEAL DIVISION

BETWEEN:

DOROTHY JOY McKIM

[Petitioner]
Respondent

- and -

LARRY ANDREW McKIM

[Respondent]
Appellant

HEARD

at Halifax, Nova Scotia, before the
Honourable Chief Justice McKinnon,
the Honourable Mr. Justice Coffin and
the Honourable Mr. Justice Copper of
the Appeal Division, April 6, 1970

OPINION

April 17, 1970

COUNSEL

G. H. MacNeill, Esq.

Appellant

W. J. Grant, Esq., Q.C.

Respondent

access and maintenance

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[Petitioner]
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- and -

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[Respondent]
Appellant

McKINNON, C.J.N.S.:

This is an appeal from an order by Pottier, J., whereby corollary relief to a decree nisi was granted at Amherst, in the County of Cumberland, on or about October 28, 1969.

The appeal is limited to that part of the said order which granted corollary relief, as follows:

(1) That for a period of one year the appellant would have access to see the child on one day per month.

(2) That the appellant would pay to the petitioner the sum of three hundred dollars per month for the support and maintenance of the petitioner and the said infant child, and that the appellant would carry out the terms of an agreement between the parties whereby he would make the mortgage payments and provide clothing for the infant child, John Robert McKim. The appellant would also provide groceries.

During the proceedings before this Court, counsel for both parties agreed that the order for corollary relief to the decree nisi, respecting support and maintenance, would be varied as follows:

(1) That the respondent-appellant would pay to the petitioner the sum of \$275.00 per month, commencing April 1, 1970, and on the first day of each month thereafter; the initial April payment to be made during the month of April, 1970, but all other such payments to be on the first day of each succeeding month.

(2) That the grocery bills and the bills for the son's clothing would be paid by the appellant up to and until March 31, 1970, and thereafter the petitioner would be responsible for the payment of such accounts.

(3) That the appellant would undertake the obligation of causing the release of \$3,000.00 worth of securities belonging to the petitioner, which securities are presently held by a bank as security to cover an indebtedness of the appellant.

(4) That all arrears of taxes would be the responsibility of the petitioner.

(5) That any order pursuant to this appeal, including these provisions of agreement, would be open to review if a change in the living circumstances of either party so warranted.

(6) That there would be no award of costs on this appeal.

The order for corollary relief to the decree nisi respecting support and maintenance will be varied in accordance with the terms of the provisions agreed to by counsel for the parties herein.

That part of the order for corollary relief to the decree nisi which directed that for the period of one year the appellant-respondent would have access to see the child on one day per month should be varied as follows:

That the appellant-respondent will have access to see the child on each Saturday or Sunday between the hours of 3 p.m. and 3 p.m., every second week; that the appellant shall have the right of access to see the child, which includes the right to have the child with him, for the last two weeks of July in each year, during summer vacation, and for three days from December 27 to December 29, during Christmas vacation in each year. The times allowing for access as set forth here, as well as access to see the child at other times, may be varied or provided for by agreement between the petitioner and the appellant.

The appeal is, therefore, allowed in part without costs.

C. J. N. S.

Halifax, Nova Scotia

April 17, 1960