IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)
Citation: : A.D.B. v. S.A.M., 2006 NSSC 201

Date: 20060623
Docket: SFH D 005693, 1201-54663
Registry: Halifax

Between:

B.(A.D.)

Applicant

v.

M.(S.A.)

Respondent

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Judge: The Honourable Justice Beryl MacDonald

Heard: May 23, 2006, in Halifax, Nova Scotia

Written Decision: June 23, 2006

Subject: Family Law, variation of child support, imputing income to a U.S. resident, access

Summary: Both the father and the mother requested a variation of a previous consent order varying their corollary relief judgement. The father was a U.S. resident who, after application of the relevant exchange rate, earned less income than the amount disclosed in the consent order. He requested a variation both prospectively and retroactively based upon his actual total income. The mother requested that income be imputed to the father because he lived in a country with a substantially lower income tax rate. She requested a variation prospectively and retroactively based on his increased total income from the date of the consent order.

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The corollary relief judgement required the father, or other adult suitable to the parties, to accompany the child during her travel from Nova Scotia to the fathers place of residence which was now in Minnesota, U.S.A. The father sought to vary this provision so that the child could travel under the unaccompanied minor program offered by the airline.

Issue: Must a change be "material" before a variation in made to the table guideline amount required pursuant to the federal child support guidelines?

Did the husband live in a country that had a substantially lower income tax rate than the rate in Canada?

Was it in the best interest of the child that she travel with the assistance of the unaccompanied minor program?

Result: The only change required for a prospective variation of the child support to be paid pursuant to the federal child support guideline table is the change required pursuant to Sec. 14 (a) of the guidelines. The change does not need to be "material". For the purpose of varying chid support paid pursuant to Sec. 14 (b) the change must first be found to be "material".

No income was imputed to the father. He was not residing in a country that had a substantially lower income tax rate than the rate in Canada. Child support was varied prospectively and a partial retroactive variation was awarded.

Due to uncertainties relating to the unaccompanied minor program, the age of the child and the distance to be travelled the parties were to continue to abide by the terms of the corollary relief judgement in respect to the child's accompaniment when travelling but the wife was to share, proportional to income, the cost of the flights for the adult person to accompany the child. If

there was an unaccompanied minor program that would meet the child's needs by the summer of the year when she will become twelve years of age the father may use this program to make her travel arrangements. He is to pay the entire cost for the child to travel as an unaccompanied minor.