

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *McCrate v. McCrate*, 2019 NSSC 204

Date: 20190626

Docket: 1201-67502

Registry: Halifax

Between:

Anne McCrate

Petitioner

v.

Bradley McCrate

Respondent

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Judge: The Honourable Justice Elizabeth Jollimore

Summary: Neither party ordered to pay costs to the other in child support variation application where success was divided.

Key words: Family, Costs

Legislation: *Nova Scotia Civil Procedure Rules, Rules 77.02(1), 77.03(3)*

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

ENDORSEMENT
McCrate v. McCrate, 2019 NSSC 204

June 26, 2019

Anne McCrate v. Bradley McCrate
1201-67502

- Kelsey E. Hudson for Brad McCrate
- Kay Rhodenizer for Anne McCrate

Brad McCrate seeks costs of \$6,000.00 and Anne McCrate asks that each party pay its own costs following a single day application to vary child support.

Decision:

Neither party shall pay costs to the other.

Reasons:

1. Brad McCrate applied to terminate child support for his oldest daughter after she left university during her second year. This would mean determining a new amount of child support for his younger two daughters who were in a shared parenting arrangement. In response, Anne McCrate claimed the oldest daughter remained entitled to support, so prospective support should be determined on the basis of a hybrid parenting arrangement. She also sought retroactive support.
2. The hearing required one day, and the decision is reported at 2019 NSSC 167.
3. Mr. McCrate failed to have child support for his oldest daughter terminated when she left university. It was terminated five months later. He also failed in having a terminal date placed on her entitlement to support if she did not return to university promptly. He sought to pay monthly child support of \$1,055.00 for his two younger daughters. He was ordered to pay \$1,634.00 monthly, a modest decrease in his prospective monthly payment of \$66.00. (The monthly reduction in 2018

was \$185.00 for nine months.) He was ordered to pay more than he sought to pay.

4. Ms. McCrate failed in her retroactive child support claim. The law relating to the entitlement of the parties' oldest daughter to retroactive support remains uncertain and the Supreme Court of Canada has granted leave to appeal in *Michel v. Graydon*, 2019 CanLII 42350 (SCC).
5. Civil Procedure Rule 77.03(3) provides that "Costs of a proceeding follow the result". Costs are in my discretion. A decision not to award costs must be principled.
6. Civil Procedure Rule 77.02(1) states that I "may, at any time, make any order about costs as [I am] satisfied will do justice between the parties."
7. The parties' success was mixed. There were no settlement offers. Having regard to the mixed success, I order that neither party pay costs to the other.

Elizabeth Jollimore, J.S.C.(F.D.)