

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: A. A. C. v. M. A. B. , 2006 NSSC 136

Date: 20060426

Docket: 1201-53441, SFH D 24160

Registry: Halifax

Between:

A. A. C.

Applicant

v.

M. A. B.

Respondent

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Judge: The Honourable Justice Beryl MacDonald

Heard: March 31, 2006, in Halifax, Nova Scotia

Written Decision: April 26, 2006

Subject: Child support for child over 19, spousal support, setting aside separation agreement.

Summary: The husband applied to vary a corollary relief judgement requesting that child support be made payable directly to a child who was then over 19 years of age and terminate upon her marriage. He also sought to be reimbursed for a period from May - August 2005 when the child lived with him. The wife requested that the husband continue to pay child support, spousal support and their separation agreement be set aside to permit an equal division of the husband's pension.

The parties had been married for 18 years but on the hearing date had been separated for 9. They had entered into a separation

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agreement which was later confirmed in the corollary relief judgement. By the time of the hearing the husband was paying the sum of \$300.00 per month for the support of the youngest daughter who was over 19 years of age and attending university. This daughter was to be married in July 2006.

In the parties separation agreement the wife had maintained her right to apply for spousal support but had acknowledged she did not at the time of the signing of the agreement or the granting of the judgement “require support or maintenance.”

The separation agreement signed by the parties had been negotiated after taking into consideration values upon which the parties agreed for all of the matrimonial assets. Both parties were represented by counsel when the agreement was negotiated.

Issues:

Would the parties daughter cease to be a dependent child upon her marriage? Should the wife reimburse the husband for child support she received from May - August 2005? Is the wife entitled to spousal support and if so in what amount? Should the wife’s right to apply for spousal support be terminated? Should the separation agreement be set aside or varied?

Result:

The parties youngest daughter would cease to be a dependent child entitled to receive child support upon her marriage. The wife was required to reimburse the husband for child support she received from the period May - August 2005. The wife was entitled to receive compensatory support in the amount of \$300.00 per month for one year.

The wife’s right to apply for spousal support at any time is terminated after the husband has made the final spousal support payment.

The separation agreement was not varied or set aside.

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