

6101-01460

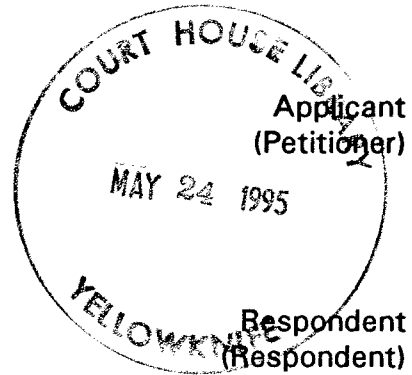
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

SHAUNA MAY WILSON

- and -

DOUGLAS ALAN WILSON



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Qualification of the order made on April 3rd 1995 to include conditions as to calculation of taxes.

Heard at Yellowknife on March 7th 1995

Judgment filed: April 25, 1995

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SUPPLEMENTARY REASONS FOR JUDGMENT OF  
THE HONOURABLE MR. JUSTICE M.M. de WEERDT

Counsel for the Applicant: Ms. Lucy K. Austin

Counsel for the Respondent: Ms. Karen Shaner

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

SHAUNA MAY WILSON

Applicant  
(Petitioner)

- and -

DOUGLAS ALAN WILSON

Respondent  
(Respondent)

SUPPLEMENTARY REASONS FOR JUDGMENT

Counsel have raised a question as to the working out of the order expressed in my reasons for judgment filed on April 3rd 1995.

The question is whether the amounts of child support ordered are to be grossed up for income tax purposes.

Whereas the *Levesque* formula is based initially upon the total gross income of the parents before any deductions for income taxes or other statutory obligations, and the Supreme Court of Canada has yet to pronounce upon the impact, if any, of the *Income Tax Acts* (of Canada and, presumably, of all the provinces and territories) on child support payments, this question remains fraught with uncertainty pending that court's decision on the point.

In this case, the applicant sought an order varying upwards the amount of child support to be paid to the mother by the father without stating the amount sought.

At the hearing, it was argued that the monthly total of \$600.00 being then paid (without any adjustment for income tax) should be increased to \$1200.00. Mention was made by counsel for the mother of \$900 as the monthly amount which would have been appropriate had the mother remained in her previous employment at Yellowknife. At that point in the discussion, no mention was made of any adjustment for income taxes. The need for any such adjustment was left until the end.

5 Quite apart from the *Levesque* formula, this is a case in which, as I have mentioned, the amount required to support the children is not disputed by the father. That amount is based on figures provided by the mother without reference to the formula. That amount is, quite clearly, what is required in after-tax dollars.

6 The amounts mentioned in the order made on April 3rd 1995 are therefore to be expressed as subject to gross-up for income tax purposes and, if necessary, corrective adjustment in due course in the event that income tax is ruled upon by the Supreme Court of Canada as being non-payable in respect of child support.



M.M. de Weerd  
J.S.C.

Yellowknife, Northwest Territories  
April 25th 1995

Counsel for the Applicant: Ms. Lucy K. Austin

Counsel for the Respondent: Ms. Karen Shaner

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