

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

B E T W E E N :

EYUKA NAQULAQ

Petitioner,  
(Respondent by Counter-Petition)

AND:

JOHNNY NAQULAQ, E3-696

Respondent,  
(Petitioner by Counter-Petition)

---

Trial Held at Coral Harbour, N.W.T., April 21, 1978.  
 Judgment of the Court filed May 29th, 1978.  
 Decree Nisi granted to be made Absolute in three months.  
 Custody of the infants Eva Naqulaq and Sussana Sarah Nakoolak  
 to the Respondent with reasonable access to the Petitioner.  
 Maintenance for the Petitioner in the amount of \$1.00 per year.  
 Counter-Petition abandoned at trial.

Reasons for Judgment by:

The Honourable Mr. Justice C. F. Tallis.

Counsel on the hearing:

Mr. David R. Geldreich for the Petitioner,  
(Respondent by Counter-Petition)

Mr. Robert M.E. Wilson for the Respondent,  
(Petitioner by Counter-Petition)

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

B E T W E E N :

EYUKA NAQULAQ

Petitioner,  
(Respondent by Counter-Petition)

AND:

JOHNNY NAQULAQ, E3-696

Respondent,  
(Petitioner by Counter-Petition)

Counsel on Hearing:

Mr. David R. Geldreich for the Petitioner,  
(Respondent by Counter-Petition)

Mr. Robert M.E. Wilson for the Respondent,  
(Petitioner by Counter-Petition)

REASONS FOR JUDGMENT OF THE HONOURABLE  
MR. JUSTICE C. F. TALLIS

In this action the wife petitions for divorce on the ground of cruelty on the part of the husband. At the divorce hearing which was held at Coral Harbour on April 21, 1978 the petitioner gave evidence which established the cruelty that was alleged on the part of the respondent husband.

At the divorce hearing in Coral Harbour the evidence indicated that the petitioner had not lived in the Northwest Territories for the period required under Section 5(1)(b) of the



Divorce Act. Under the circumstances I hereby grant leave to the petitioner to amend paragraph 4(g) of her Amended Petition of Divorce so as to plead that the respondent has been ordinarily resident in the Northwest Territories for a period of at least one year immediately preceding the presentation of the petition of divorce and has actually resided in the Northwest Territories for at least ten months of that period. I further grant leave to the petitioner to read the affidavit of the respondent as evidence in this action and based on this affidavit I am now satisfied that this court does have jurisdiction to hear the petition and decide the issues raised.

In this particular case I am satisfied that cruelty on the part of the husband has been proven and that a decree nisi should be granted.

The principal issue to be determined in this case centres around the question of access to Eva Naqulaq and Sussana Sarah Nakoolak who are children of the marriage. At the present time the children are living with their father. At the trial the petitioner abandoned her claim for custody and unfortunately the parties could not resolve the terms of access with the result that the court was asked to deal with the issue.

The petitioner presently resides at Frobisher Bay. She has no assets and her income is very limited.

The respondent lives at Coral Harbour where he is steadily employed as a janitor with the Ministry of Transport. He

is also able to earn additional income by hunting and trapping.

At this time the petitioner is not asking for maintenance for herself but in order to protect her position to apply for maintenance in the future I propose to make a nominal award.

The petitioner asks for access to her children on the following basis:

- (a) She would like to have the children with her for a period of three weeks during the month of July;
- (b) She would also like to have them with her for a period of one week during the Christmas holiday season and one week during the Easter holiday period;
- (c) She also asks that the respondent pay the cost of two of the three visits of each of her children.

Under the circumstances I am satisfied that the request of the petitioner is reasonable.

There Will Therefore Be Judgment As Follows:

1. There will be a decree nisi for dissolution of the marriage between the petitioner and the respondent, such to be made absolute at the expiration of three months, unless sufficient cause be shown why it should not be made absolute.



2. IT IS FURTHER ORDERED AND ADJUDGED that until further order of this court the custody of the persons of the infants Eva Naqulaq and Sussana Sarah Nakoolak and each of them, be and the same is hereby committed to the respondent.

3. IT IS FURTHER ORDERED AND ADJUDGED that the petitioner shall have access to and may take and keep the said infants Eva Naqulaq and Sussana Sarah Nakoolak or either of them with her during such period of twenty-one consecutive days as she may elect and designate in the period commencing on the 1st day of July A.D. 1978 and ending the 31st day of July, A.D. 1978; and thereafter for a like period of twenty-one consecutive days so to be designated by her within such period in each successive year. The petitioner shall notify the respondent on or before the 15th day of June in each year of the period she selects and elects to have the said infants or either of them for the said twenty-one day period in that year.

IT IS FURTHER ORDERED AND ADJUDGED that from twelve o'clock in the forenoon on the twenty-second day of December, 1978 until seven o'clock on the thirty-first day of December, 1978, and thereafter during the said hours in every alternate year, the petitioner may during the said hours take and keep the said infants, or either of them, with her. IT IS FURTHER ORDERED AND ADJUDGED that from twelve o'clock in the forenoon on the thirtieth day of December A.D. 1979 until seven o'clock in the afternoon of the 7th day of January, A.D. 1980, and thereafter during the said hours in every alternate year, the petitioner may during the said hours take the keep the said infants, or either of them, with her.

IT IS FURTHER ORDERED that in all the above cases the respondent shall pay any and all expenses incurred in taking and returning the said infants, or either of them, from and to the residence of the petitioner.

4. IT IS FURTHER ORDERED AND ADJUDGED that the petitioner shall have access to and may keep the said infants, or either of them with her for a period of one-half of the Easter school holidays, and the petitioner shall notify the respondent in writing at least seven (7) days in advance of the time that she elects to take them for the said period during the said holidays; provided, however, that all expenses incurred in taking and returning the said



infants or either of the, from and to the petitioner during the Easter holiday season shall be paid by the petitioner.

5. IT IS FURTHER ORDERED AND ADJUDGED that if and whenever the said infants, or either of them become ill, immediate notice thereof shall be given by the respondent to the petitioner, and the petitioner shall have full access at all reasonable times to the said infants, or infant, during the continuation of the said illness.

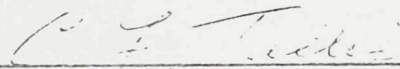
6. IT IS FURTHER ORDERED AND ADJUDGED that the respondent Johnny Naqulaq do pay to the petitioner Eyuka Naqulaq maintenance in the amount of \$1.00 per year with the said maintenance payments to commence on the 1st day of January, A.D. 1979.

7. Leave is hereby reserved to either party to apply further as they may be advised.

8. IT IS FURTHER ORDERED AND ADJUDGED that each party pay their own costs of the within action.

In view of the fact that the respondent required an interpreter when this petition was heard at Coral Harbour, I direct that a copy of this judgment be translated into the Inuit language and forwarded to him at Coral Harbour by the clerk of the court.

DATED at the City of Yellowknife in the Northwest Territories, this 29th day of May, A.D. 1978.

  
\_\_\_\_\_  
C.F. Tallis, J.S.C.

SC # 6101-00449

IN THE SUPREME COURT OF  
NORTHWEST TERRITORIES

---

B E T W E E N :

EYUKA NAQULAQ  
Petitioner  
(Respondent by Counter-

AND:

JOHN NAQULAQ, E3-696  
Respondent  
(Petitioner by Counter-

---

REASONS FOR JUDGMENT BY THE  
HONOURABLE MR. JUSTICE C.  
TALLIS

---

