

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

**ALICE JOYCE MANTLA**

Applicant

- and -

**FRANKIE CAMSELL**

Respondent

**MEMORANDUM OF JUDGMENT**

This matter was commenced by Originating Notice filed August 17, 1995. The Applicant, Ms. Mantla, applied for custody and guardianship of the child Rusty Steven Mantla, as well as child support for him in the amount of \$500.00 per month.

It appears from Ms. Mantla's affidavit sworn July 16, 1996, and from what I heard from counsel, that the Respondent, Mr. Camsell, initially disputed paternity. DNA testing was eventually done and the results of same were received in May of this year. The test results confirm that Mr. Camsell is the father of Rusty.

Custody was not disputed. The only issues presented for me to decide are the quantum of child support and whether support should be paid retroactive to and including the month in which this action was initially commenced, as requested in Ms. Mantla's Notice of Motion filed May 27, 1996.

In response to Ms. Mantla's affidavit filed August 17, 1995 with her Originating Notice, Mr. Camsell filed his affidavit sworn June 28, 1996.

In his affidavit, Mr. Camsell swears that during much of 1995, his common-law wife and two sons were away in Alberta visiting his wife's sick mother. While they were away, according to the affidavit, Mr. Camsell lived with his elderly mother in her house, while permitting his sister and her family to live in his house. While living with his mother, Mr. Camsell says, he paid rent and purchased groceries for her, while continuing to support his family. He then swears that his mother is now deceased and the home she lived in is not available to him.

Ms. Mantla swore and filed an affidavit in response. This is the affidavit sworn July 16, 1996 referred to above. In it, she says that Mr. Camsell's mother died ten or more years ago.

Counsel advised me when this matter was heard that they have not been able to resolve this discrepancy and urged me to ignore it, arguing that it is irrelevant for purposes of this application. In light of the fact that retroactive child support is being claimed, I would think that Mr. Camsell's expenses during 1995 are relevant. I note, however, that this is not the only conflict in the affidavit material.

In his affidavit, Mr. Camsell states in both paragraphs 6 and 7 that Ms. Mantla lives in a HAP house. He states that he, on the other hand, lives with his family in the motel in Rae, since his sister is still living in his house.

In her affidavit sworn July 16, 1996, Ms. Mantla states that she does not now, nor has she ever, lived in a HAP house. In fact, she says, since March of 1996, she has been living in a motel, the same motel as Mr. Camsell.

There is yet a further discrepancy concerning Mr. Camsell's use of his vehicle to drive to work. Mr. Camsell is claiming as one of his monthly expenses over \$900.00 relating to the vehicle. He swears in his affidavit of June 28, 1996, that he is employed with the Rae-Edzo School Society as a bus driver and works Monday to Friday on a full time basis. He swears that he requires the vehicle to drive to Edzo on a daily basis for his employment.

Ms. Mantla questions the foregoing and states in her affidavit that Mr. Camsell's vehicle was parked outside his unit, by which I take it she means his motel room, "all day, every day while he was at work in Edzo until the end of the school year" (paragraph 8).

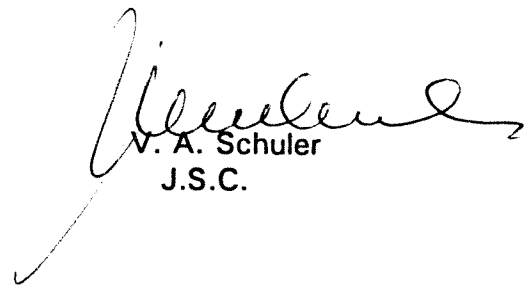
Mr. Camsell did not file any affidavit material in response to Ms. Mantla's allegations.

I do not think that I can simply ignore these conflicts. They are so blatant as to cause me great concern about the credibility of the parties upon whose sworn affidavits I am asked to decide this matter. This is especially important because I am being asked to make a final order.

Accordingly, I am going to direct that there be cross-examination on the affidavits of the two parties. The cross-examinations are to be completed and this matter brought back on before me prior to August 26, 1996. If the cross-examinations cannot, for good reason, be completed before then, counsel may see me about an extension of time. Based on the results of the cross-examinations, I will decide whether a trial of the issue of child support will be necessary. Ms. Mantla's request for a retroactive order will be dealt with at that time as well. In the meantime, Ms. Mantla will continue to have interim custody of Rusty and Mr. Camsell will pay to her the sum of \$500.00 per month for interim child support commencing July, 1996 and continuing monthly thereafter until

further order of the court. The July payment is to be made by August 15, 1996 and the August payment on August 15, 1996, following which all payments are to be made on the 15th day of each month.

Dated this 30th day of July, 1996.



V. A. Schuler  
J.S.C.

To: Elaine Keenan Bengts  
Applicant Counsel

Jill Murray  
Respondent Counsel

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**Memorandum of Judgment of the  
Honourable Mdm Justice V.A. Schuler**

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