

JM

6101-02510/94

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

ALEX LACROIX

Petitioner

- and -

NANCY JANE LACROIX

Respondent

MEMORANDUM OF JUDGMENT

This is an application by the Respondent for interim spousal support. There is also an application by the Petitioner for a divorce judgment.

Divorce Judgment

The divorce judgment will issue. Although the Petitioner's affidavit material is contradictory as to whether the daughter born February 25, 1976 is independent and therefore no longer a child of the marriage, I am satisfied that if she is a child of the marriage, reasonable arrangements are in place for her support. Section 11(1)(b) is therefore satisfied.

A divorce judgment will not, in any event, preclude the Respondent from seeking support for the daughter should she deem it necessary to do so as s.15 of the

Divorce Act permits a former spouse to apply for child support.

Interim Spousal Support

The parties were married in 1970. In May of 1994, the Respondent moved to Sudbury, Ontario to help care for her mother and attend school. During this time, she would live in her parents' home. This had been agreed upon by the parties. The Respondent expected the Petitioner to join her there. In October of 1994, he advised her that their marriage was over.

The Respondent continues to live in her parents' home rent-free. In her affidavit she deposes that she is a registered nursing assistant and that she was previously employed in Yellowknife on a casual basis. She did not continue with school after the separation and says that as a result of the separation she had a nervous breakdown in October-November, 1994, is on medication and is seeing a psychiatrist. She is on welfare and states that she has no present ability to support herself. She does not say why that is, nor has she presented any evidence in that regard. She states that caring for her mother is a full-time job.

The Respondent states that her current monthly expenses are \$504.00, and that her present lifestyle is unacceptable. She proposes a monthly budget of \$2,452.18 and seeks \$2,000.00 per month in interim spousal support.

No information was provided by the Respondent about the financial

circumstances of her parents, with whom she lives, or the extent to which they contribute to the household expenses. In her proposed budget, the Respondent would pay household expenses in lieu of rent.

The Petitioner states that his annual income is \$62,364.00 including benefits. He does not dispute the Respondent's assertion that he is co-habiting and that his partner is employed. He has provided no information about his expenses other than to say he is paying many "extras" for his daughter. He says that his wife is able to work and worked throughout most of the marriage. He does, however, acknowledge that she is in need of some support and proposes that he pay her \$400.00 per month for a limited period of time.

The Respondent has received a substantial portion of the assets, accumulated by the parties during their marriage. At the time of the separation, she took at least \$5,000.00 from a joint account. The matrimonial property claims will be dealt with at trial. At this time, it is necessary only to say that I do not think that it is reasonable to expect the Respondent to provide for her own support by means of sale of the art collection in her possession.

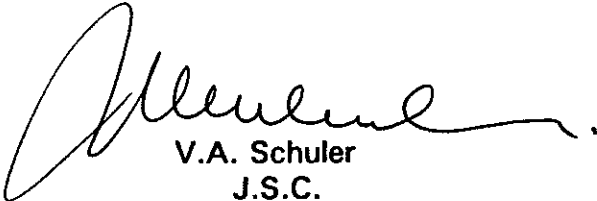
With reference to s.15(7) of the *Divorce Act*, counsel for the Respondent submits that his client has been economically disadvantaged by the marriage and its breakdown because of the parties' joint decision that she move to Sudbury and the consequent difficulty that left her in when the Petitioner announced his wish to terminate the marriage. I agree with that submission. I must also, however, keep in mind that s.15

provides that any order should promote the economic self-sufficiency of the spouses.

s.15 also requires that I consider the "condition, means, needs and other circumstances" of each party.

I am not satisfied on the evidence before me that the Respondent is completely unable to work and contribute to her own support. I am also not satisfied that her proposed budget is reasonable, taking into account her present circumstances. However, she clearly has some need and the Petitioner has the ability to pay.

Taking into account all of the circumstances, there will be an order that the Petitioner pay to the Respondent \$1,000.00 per month interim spousal support, with payments to commence February 1, 1996, and continue on the first of the month thereafter. There will be no costs payable to or from either of the parties with respect to these applications.


V.A. Schuler
J.S.C.