

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

NATHALIE CHIDOWE

Petitioner

- and -

WILLIAM NGONI CHIDOWE

Respondent

MEMORANDUM OF JUDGMENT

This is a review of the quantum of interim child support as required by my order of March 4, 1996.

The petitioner seeks to increase the interim support payments from \$350.00 to \$750.00 per month per child. The respondent claims that he can afford no more than what he is currently paying because of the financial obligations he has incurred with the purchase of his business.

I am not satisfied that accurate or reliable information has been presented by the respondent for a number of reasons:

1. The respondent says in his most recent affidavit that the terms of his business purchase agreement require that all commissions earned by the vendor would be kept by her so that the company's share would be paid to her to satisfy the purchase price. The

purchase agreement exhibited to the respondent's earlier affidavit reflects that 70% of the company's share would be used to pay off the purchase price. The other 30% is still retained by the company.

2. Even with the arrangement with the vendor, the respondent is still entitled to keep the commissions he personally earns. Exhibit D-2, entered on his examination for discovery on May 31, 1996, shows that the respondent had gross commissions of just over \$113,000.00 in 1995 and he said he would have made from that somewhere in the range of \$60,000.00 in net commissions. This income is not being diverted to satisfy the purchase agreement.

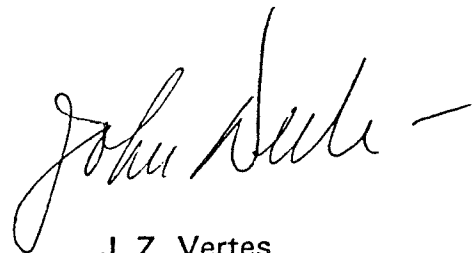
3. In his most recent affidavit, the respondent says that of his commission income of \$60,000.00 he had to pay expenses incurred in earning that income. He is not yet in a position to say accurately what those expenses amount to and how they are calculated.

4. As with many self-employed businessmen, the respondent is in the advantageous position of being able to categorize income and expense items to suit his own financial and accounting requirements. For instance, he says that he paid expenses out of his commission income but yet took draws from the company to pay purely personal expenses (such as his home mortgage payments and child support obligations). He is, however, in the unique position of controlling not only his personal finances but also those of his business since he is the sole owner. I note that the respondent has purchased shares on the stock market for his personal account using the company's line of credit.

If the petitioner thinks this is too little, or if the respondent thinks it is too much, then I can only suggest that they move as quickly as possible to a trial of the issue so that a final order, on complete evidence, can be put in place.

Costs of this application will be, as before, left to the discretion of the trial judge.

Dated this 5th day of July, 1996.

A handwritten signature in cursive script, appearing to read "John Vertes", followed by a horizontal line.

J. Z. Vertes
J.S.C.

To: Sheila M. MacPherson
Counsel for the Petitioner

Elaine Keenan Bengts
Counsel for the Respondent

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Memorandum of Judgment of the
Honourable Mr. Justice J. Z. Vertes

