

6101-02535

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

MARCIA JEAN HUNTER

Petitioner

- and -

GREGORY CHARLES HUNTER

Respondent

MEMORANDUM OF JUDGMENT

These divorce proceedings were commenced in January of 1995. Since that time there have been nine appearances in chambers dealing with interim matters but without the case coming close to a trial. The parties have now agreed on terms of a Corollary Relief Order. The only outstanding issues to be resolved are (a) the amount of accumulated arrears of child support and (b) the disposition of certain funds held in court as a result of the sale of the former matrimonial home. The parties are content to have these issues decided on the basis of affidavit evidence so as to finally bring these proceedings to a conclusion.

On February 20, 1995, an order was issued granting interim custody of the three children of the marriage to the applicant and requiring the respondent to pay interim child support of \$600.00 per child per month. This was based on a reported annual gross income

of approximately \$68,000.00 for the respondent. Almost immediately thereafter the respondent left his employment and moved to Ontario where his family was located. He says that he had been intending to leave Yellowknife for some time but the precipitating event for his immediate departure was the fact that the petitioner had obtained employment with the same employer and thus he felt he could no longer stay there.

The respondent was unable to secure employment and he entered a retraining programme. During that time, from September, 1995, until March, 1996, one-half of his U.I.C. payments went to his support obligations. He then contracted diabetes and left the retraining programme. Since then he was employed only sporadically. Just recently, however, he has started new employment at a salary of \$24,000.00 per year.

The accumulated child support arrears are in excess of \$33,000.00. Counsel for the petitioner acknowledges that, even on the basis of the guiding principles set out in such cases as *Haisman v Haisman* (1994), 7 R.F.L. (4th) 1 (Alta. C.A.), and *Biggin v Censner*, [1996] N.W.T.R. 272 (S.C.), there should be some reduction in the arrears (especially in light of the agreement reached as to ongoing support).

The sum of \$16,135.93 is currently standing in court to the credit of this action. This amount represents one-half of the proceeds realized on the sale of the former matrimonial home. The other half was paid out to the Petitioner, unconditionally, as a result of an order made by this court on November 15, 1996. Petitioner's counsel suggests that

the amount in court can be used to offset the arrears of child support. The respondent's counsel agrees and seeks only to have something less than the full amount so allocated so as to satisfy outstanding legal costs.

It seems to me that the most important thing to do now is to take a practical approach and get what funds are available in the hands of the petitioner for the benefit of the children and to set up a scheme where there is every encouragement to continue the payments agreed to by the parties.

I therefore order as follows:

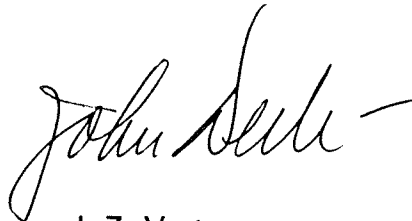
1. A divorce judgment will issue in the usual terms.
2. The petitioner shall have the sole care and custody of the three children of the marriage.
3. The respondent shall have liberal and generous access to the children upon such terms as the parties may agree to from time to time.
4. The respondent shall pay child support in the sum of \$250.00 per month per child, such payments to commence on March 15, 1997, and continue on the 15th day of each month thereafter.
5. The accumulated arrears of child support are hereby reduced to the total amount of \$14,700.00.

6. Of the funds presently standing in court to the credit of this action, the clerk shall pay out as follows:

- (a) the sum of \$14,700.00 to the petitioner in care of her solicitor in satisfaction of the outstanding arrears;
- (b) the sum of \$1,435.93 to the respondent in care of his solicitors; and,
- (c) any amount accrued as interest shall also be paid out to the petitioner as interest on funds due to her.

7. There will be no costs of these proceedings.

Dated this 24th day of February, 1997.



J. Z. Vertes
J.S.C.

To: Jill A. Murray,
Counsel for the Petitioner

James D. Brydon,
Counsel for the Respondent

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

