

CASE NO.**VOL. NO.****PAGE****ANDREW NEIL MONTGOMERY**

- and -

HELEN CHRISTINE MONTGOMERY

(Appellant)

(Respondent)

CA157080

Halifax, N.S.

PUGSLEY, J.A.

[Cite as: Montgomery v. Montgomery, 2000 NSCA 2]

APPEAL HEARD:

November 23, 1999

JUDGMENT DELIVERED:

January 5, 2000

SUBJECT:**Child Support Guidelines - application to vary existing order -
reduction of income to serve articles****SUMMARY:**

The appellant agreed to pay \$1,864.23 monthly as combined spousal and child support (four children) pursuant to a corollary relief judgment resolved by agreement in October, 1997. He held a managerial position with a salary of approximately \$60,000.00 per annum. He graduated from the part-time LL.B. program at Dalhousie Law School in May, 1999. He commenced articles on June 1, 1999, at a salary of approximately \$20,000.00. On his application for elimination, and reduction, in his support payments, the Chambers judge determined the request for a voluntary change in the income situation was not a reasonable one, and if the change were to be made, income would be imputed to the appellant to satisfy and continue the payments required under the order.

RESULT:

Appeal dismissed.

Section 19(1) of the Child Support Guidelines does not establish any restriction on the Court to impute income only in those situations where the applicant has intended to evade child support obligations or, alternatively, recklessly disregarded the needs of his children in furtherance of his own career.

It is only the reasonable educational needs of the spouse which should be taken into account. The issue of reasonableness should not be confined to an examination of the circumstances surrounding the applicant alone, but of all the circumstances, including the financial circumstances of the children, in order to ensure that they receive a

fair standard of support as set out in the objectives to the Guidelines.
The Chambers judge made no error of law.

The further ground of appeal that the reasons provided in the judgment of the Chambers judge disclosed a reasonable apprehension of bias was without merit and his conclusions were fully supported by the facts.

**This information sheet does not form part of the court's judgment.
Quotes must be from the judgment, not this cover sheet. The full court
judgment consists of 14 pages.**