

NOVA SCOTIA COURT OF APPEAL
Cite as: Bennett v. Bennett, 1993 NSCA 2

BETWEEN:

JOHN KIRK BENNETT)	Robyn Elliott
)	for the Applicant
)	
- and -)	
)	D. Peter Mancini
)	for the Respondent
MARY JO-ANN BENNETT)	
)	
)	
Respondent)	
)	
)	
)	

BEFORE THE HONOURABLE DOANE HALLETT IN CHAMBERS

HALLETT, J.A.

The appellant has applied for a stay of execution of the order of Judge Ryan dated July 16, 1993 pursuant to which he is required to pay \$200.00 a month for the support of the child of the marriage. I have reviewed the written submissions of counsel and have considered their oral arguments as well. The appellant has failed to persuade me that the stay should be granted. The balance of convenience favours the refusal of the application. It is more important that the support payments be made for his child than his making payments on his debts at the level at which he is presently paying off the same. If the appellant's circumstances have changed since the trial date and that such change would warrant a variation of the support it is always open to apply with or without counsel for a variation of the support order; that is the appropriate way to deal with a change of circumstances.

The application for a stay of execution is refused; as the respondent is represented by Legal Aid there will be no order for costs.

Doane Hallett

