

NOVA SCOTIA COURT OF APPEAL
Citation: *Campbell v. Brown*, 2004 NSCA 78

Date: 20040610
Docket: CA 214420
Registry: Halifax

Between:

Kevin Wayne Campbell

Appellant

v.

Patricia Alexandria Brown

Respondent

JUDGE: Bateman, J.A.

APPEAL HEARD: June 10, 2004

JUDGMENT DELIVERED: June 10, 2004

SUBJECT: Family Law - variation of child support - child of the marriage.

SUMMARY: The parties separated in 1988 and divorced in 1995. Their two daughters were born in 1982 and 1985. Ms. Brown applied to vary the child support on May 1, 2002, seeking support in the Table amount. The application did not come on for hearing until April 29, 2003. It was Mr. Campbell's position at that time, that both daughters had ceased to be "children of the marriage" and eligible for child support. Neither daughter was presently enrolled in a program of further education, however, the judge was satisfied that they were planning to continue their studies. Judge concluded

that both daughters, while preparing for independence, continued to be dependent upon their mother for support and were, therefore, children of the marriage. She ordered support in the Table amount for the younger daughter, and partial Table support for the older, taking into account that daughter's ability to contribute to her own support.

ISSUE: Did the judge err in finding the daughters to be children of the marriage?

RESULT: Appeal dismissed with costs. The judge's conclusion that the daughters are "children of the marriage" is directly linked to her factual findings and inferences from the facts found. We are not persuaded that the judge made a palpable and overriding error of fact or an error of law. Fact specific.

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 3 pages.