

NOVA SCOTIA COURT OF APPEAL
Citation: *Terry v. Francis*, 2004 NSCA 118

Date: 20041006
Docket: CA 213701
Registry: Halifax

Between:

Jennifer Ann Terry

Appellant

v.

Steven Alexander Francis

Respondent

Judge: The Honourable Justice Thomas Cromwell

Appeal Heard: September 27, 2004

Subject: *Application to vary child maintenance order*

Summary: Mr. Francis, who was in arrears under an order requiring him to pay child maintenance, applied to vary an order which he had applied to vary less than a year before. He failed to make the required financial disclosure and relied on a medical disability of which he had given no prior notice. Over the objection of counsel for Ms. Terry, the judge allowed the application to proceed and reduced the child maintenance obligation to \$1.00 per month. Ms. Terry appealed.

Issue: Did the judge err in principle in allowing the application to vary to proceed absent full disclosure?

Result: Appeal allowed. The judge's decision to allow the application to proceed was procedurally unfair to Ms. Terry and wrong in principle. Only in rare circumstances should a party applying to reduce a child support obligation be heard absent that party making full disclosure.

<p>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 4 pages.</p>
