

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: C.S. v. V.T., 2005 NSSC 315

Date: 20051116

Docket: 1201-57808, SFH D 25658

Registry: Halifax

Between:

C. S.

Applicant

v.

V. T.

Respondent

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Judge: The Honourable Justice Beryl MacDonald

Heard: September 16 and 29, 2005, in Halifax, Nova Scotia

**Final Written
Submissions:** November 16, 2005

Subject: Custody, access, retroactive variation of child support, imputing income, extraordinary educational expenses, extraordinary extracurricular expenses

Summary: The parties had entered into a consent order placing the child in the primary care of the mother, defining how access with the father, who at the time lived in another province was to occur, requiring consultation in respect to significant changes in the child's life and establishing child support at a table amount higher than the amount actually earned by the father. The mother had enrolled the child in private school without consultation with the father. The mother did not want the husband's new partner to be in the presence of the child when the husband exercised his access.

Issue: Did the father's change in income justify a retroactive variation of the child support payment? Should income be imputed to the father? Should the father be required to pay the proportional share of fees for private school and after school care? Should the father's access be restricted in any way?

Result: Retroactive variation denied. Ongoing child support to be calculated at present income received. No additional was imputed. Private schooling was not proven to be necessary and reasonable. Expenses for extracurricular activities were not extraordinary. No restrictions were placed on the father's access.

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