

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Gilby v. Edwards, 2008 NSSC 185

Date: 20080620

Docket: 1201-42012

Registry: Halifax

Between:

Gregory Vincent Gilby

Applicant

v.

Kelly Lynn Edwards

Respondent

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Judge: The Honourable Justice Deborah Gass

Heard: May 12, 2008 in Halifax, Nova Scotia

Subject: Application to terminate child maintenance; Application to retroactively vary child maintenance to remove tax treatment.

Summary: Parties' order predated Child Support Guidelines and changes in *Income Tax Act* removing tax implications. Both parties ceased claiming child maintenance after May 1, 1997. In 2006 when the variation application was commenced, the Applicant was required to file financial disclosure and as a result, he filed or re-filed his tax returns for 2003, 2004 and 2005, claiming the support payments as tax deductions. As a result, the Respondent was reassessed and billed over \$8,000 in taxes on previous years of child support payments, including \$10,000 in arrears which the Applicant paid between 2003 & 2005.

Result: Order varied retroactively to May 1, 1997 to remove the tax treatment, reflecting the parties' understanding during the relevant time.

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