

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Wawin v. Wawin, 2008 NSSC 316

Date: 20081029

Docket: SBWD 057623

Registry: Bridgewater

Between:

Rebecca Anne Wawin

Petitioner

v.

Paul George Wawin

Respondent

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Judge: The Honourable Justice Glen G. McDougall

Heard: September 8 and October 3, 2008, in Bridgewater, Nova Scotia

Subject: Divorce; child support; retroactive child support; special or extra-ordinary expenses, both retroactive and future; imputing income.

Summary: After separating in 1997, the parties entered into a Separation Agreement. They each had legal advice. They agreed to joint custody of their four dependent children. The husband assumed primary care and control of the oldest child while the wife maintained primary care and control of the other three. Based on the Federal Child Support Guidelines, the husband paid child support to the wife until 2002. They also equally shared the cost of the children's extra-curricular activities. The husband ceased making child support payments after June 2002 but continued to share the added expense of the children's extra-curricular activities until 2007. Neither party sought to enforce the Separation Agreement until the wife filed for a divorce in April, 2008. By then the husband had decided to quit his job and return to university to study medicine. There were still three remaining dependent children, two of whom were in university with the third scheduled to join them in the Fall.

Issue:

- (1) Child support both retroactive and on-going;
- (2) Special / extra-ordinary expenses both retroactive and ongoing;
- (3) Should income be imputed to the husband who decided to quit his work to attend medical school at the age of 52?

Result: A divorce was granted based on separation for a period exceeding one year. The three remaining children were found to be dependent. After imputing income to the husband comparable to what he had earned in 2007, the Court ordered child support in the regular monthly amount under the Guidelines, reduced to 50% of the regular amount when the children were away attending university. The husband was ordered to pay 25% of the estimated cost to enable the three dependent children to complete an undergraduate degree. This amount along with child support for the period from July 1, 2008 to August 31, 2009 was ordered paid from the proceeds of sale of the husband's house which was put on the market when he left to attend medical school in the Caribbean.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***