

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Lamarche v. Lamarche, 2011 NSSC 72

Date: 20110223

Docket: SFHMCA-035030

Registry: Halifax

Between:

Shawn Lamarche

Applicant

v.

Kimberly Lamarche

Respondent

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Judge: The Honourable Justice Beryl MacDonald

Heard: February 2, 2011 in Halifax, Nova Scotia

Subject: Family- application to vary custody, primary care, child maintenance both retroactively and ongoing, and forgive child maintenance arrears; determination of income; imputing income.

Legislation: Maintenance and Custody Act, R.S.N.S. 1989, c. 160

Summary: Father requested a change to the custody and primary care provisions of a previous order and to the child maintenance provisions; Mother requested to be forgiven payment of child maintenance for the period of time when their son lived with his Father and requested that income be imputed to the Father for ongoing child maintenance.

Issue: Has there been a material change in circumstances justifying a variation of the previous order?

Does the court have jurisdiction to “forgive” arrears?

Result: There was no material change in circumstances justifying a variation to the
custodial and primary care provisions of the previous order. The Mother

was to pay child support to the Father for the six month period when their son had lived with him but this was set off against child support owed by the Father to the Mother as a result of the court imputing income to him. The court does not have jurisdiction to “forgive” arrears.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
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