

CANADA / JUDGMENT

J.M.D. v. R.M.J.D.

2011 BCSC 1386

COURT

Supreme Court of British Columbia

DECIDED

17 October 2011

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2011 BCSC 1386 J.M.D. v. R.M.J.D. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: J.M.D. v. R.M.J.D., 2011 BCSC 1386 Date: 20111017 Docket: E050301 Registry: Vancouver Between: J.M.D. Plaintiff And R.M.J.D. Defendant Before: The Honourable Mr. Justice Harris
Supplementary Reasons to: Supreme Court of British Columbia, September 29, 2011, J.M.D. v. R.M.J.D., 2011 BCSC 1295, Docket #E050301 Supplementary Reasons for Judgment Counsel for the Plaintiff: Richard A. Fayerman Counsel for the Defendant: Catherine M. Brink Written Submission of the Plaintiff: October 07, 2011 Written Submission of the Defendant: October 11, 2011 Place and Date of Judgment: Vancouver, B.C. October 17, 2011

- [1] In my Reasons for Judgment indexed at 2011 BCSC 1295, I concluded that the eldest daughter, A.M., of the parties had ceased to be a child of the marriage on the completion of a business course at Kwantlen Polytechnic University in June 2011. The evidence about the course A.M. had been enrolled in and her current status was unclear. Her father had sworn that he believed she had completed the course in June 2011. This is consistent with her mother's evidence of July 26, 2001 that A.M. had earned a business diploma recently, but was now working toward a Human Resources Degree. A.M.'s evidence simply said she was a full-time student.
- [2] As a result of this lack of clarity, I extended the following invitation to counsel:
- [58] If I have misapprehended the evidence and A.M. did not complete her course at Kwantlen in June 2011, counsel are at liberty to make a brief submission in writing to clarify the facts so that the date she ceased to be a child of the marriage can be adjusted.
- [3] I have received additional submissions which assert facts that were not in the record before me and which are not entirely consistent with that record. The plaintiff now says that A.M. did not complete her course in June 2011 and did not take a diploma in June 2011, although she is eligible to apply for one. Rather, it is asserted that since June 2008, she has been enrolled in what is ordinarily a four year Bachelor of Business Administration course in Human Resources Management. It is also said that A.M. suffers from a disability that prevents her completing the course in four years and that she will require another two to three years to complete it. I have not been provided with any documentary record confirming that A.M. was enrolled in the Bachelor of Business Administration course from

June 2008 rather than the two year Business Administration Diploma.

- [4] None of this was in the record when this matter came before me initially. It is not supported by affidavit. I am told that an affidavit can be provided to support the facts asserted in the submission.
- [5] The father relies on the evidence in the record. He accepts, however, that A.M. has now decided to pursue the Human Resources programme and that she can use the credits she received for her Business Administration Diploma in this new programme. He says that A.M. is taking bridging courses for entry into year three of the Bachelor of Business Administration course in the Human Resources programme. As I see it, he disputes that his daughter has always been enrolled in the four year programme. He has provided the course description of the two year Business Administration Diploma which shows that graduates of the programme are entitled to entry into the third year of Kwantlen's Bachelor of Business Administration Degree taking bridging courses if necessary. This is what he says A.M. is doing.
- [6] The father says that there is no reason to disturb the conclusion I reached originally that A.M. ceased to be a child of the marriage on completion in three years of her two year programme. He says there is no medical evidence that A.M cannot take a full course load and that by taking only a partial load she can earn money to contribute to her own expenses. In essence, he says that his daughter is embarked on a new course of study, in effect a second degree, and she is no longer a child of the marriage.
- [7] In my view, had I been informed that A.M. was enrolled in a four year programme or had enrolled in a two year programme intending to enrol in a related two year programme that incorporated the credits from the first programme, I would not have concluded that A.M. ceased to be a child of the marriage in June 2011. Accordingly, I do not think the differences between the parties on the exact status of A.M.'s enrolment are material to the decision. I have concluded that I can resolve this matter on the basis of the submissions before me.
- [8] I am satisfied that I would have regarded A.M. to be a child of the marriage during the completion of a four year course of studies whether or not she was originally enrolled in a four year course or was completing a two year preliminary course before enrolling for a further two years.
- [9] One factor I took into account in setting child support at two thirds of the table amount was that A.M. was working part-time. I was aware that by doing so it would take her longer to finish her course.
- [10] Accordingly, I find that A.M. continues to be a child of the marriage. I expect that she will complete the remaining part of the course within three years, but by no later than June 2014. Child support payments will continue as directed in my previous Reasons until June 2014 or the completion of the Human Resources programme, whichever occurs earlier.

[11] The plaintiff also sought some additional clarification in respect of the defendant's 2010 Guideline income. I agree with the defendant that that matter was dealt with in my Reasons and has been dealt with in the defendant's submissions. "Harris J."

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