

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 HOLDEN AT GEORGE TOWN

9-12-11

Cause No: FAM 137/2010

6 BETWEEN:

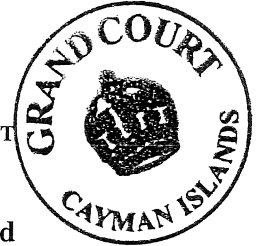
7 F M N

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9 PETITIONER

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11 AND:

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14 RESPONDENT



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17 Appearances:

Mr. David McGrath of Samson and
McGrath for the
Respondent/Applicant

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21 Mr. Shaun McCann and Mr. Gary
22 Hendrikse of Campbells for the
23 Petitioner
24

25 Before:

The Hon. Mr. Justice Charles Quin

26 Heard:

8th December 2010

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28 **Preamble**

29 *This Ruling is distributed on the strict understanding that in any report of this*
30 *kind no persons other than the counsel or the attorneys instructing them (and*
31 *other persons identified by name in Ruling itself) may be identified by name or*
32 *location and, in particular, the anonymity of the children and the adult members*
33 *of the family must be strictly preserved.*

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35 **EXTEMPORE RULING**

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38 1. This is my decision on the Respondent's Summons filed on the 29th November
39 2010 seeking an Order for the following relief:

- 1 i. That the Respondent shall have access to DL on the weekend of
2 the 11th December 2010 from 7 a.m. on Saturday the 11th
3 December and return him to school on Monday the 13th
4 December.
- 5 ii. That the Respondent shall have access to DL on the weekend of
6 the 17th December from 2:30 p.m. on the 17th December until 9
7 a.m. on Sunday the 19th December.
- 8 iii. That during the Christmas holidays the Respondent shall have
9 access to DL from lunchtime on the 24th December until
10 lunchtime on the 25th December, and from 3 p.m. on the 26th
11 December until the evening of the 2nd January 2011.
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- 13 2. The Respondent's Summons is grounded by his Second Affidavit, dated the 7th
14 December 2010 and opposed by the Respondent's Eighth Affidavit, also filed on
15 the 7th December 2010.
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- 17 3. Having heard from counsel on behalf of both parties it is clear that both the
18 Applicant and the Petitioner take firm positions on the question of access to the
19 child of the marriage over the Christmas season.
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- 22 4. I note that the Respondent/Applicant has not had a full weekend with DL since
23 the 20th and 21st November 2010, and that he last saw DL on the 29th November
24 2010. I also note that he wishes to take DL to Miami on the weekend of the 11th
25 and 12th of December 2010, to spend some time together, and also to buy some
26 warm clothes for their trip to the United Kingdom, which is scheduled for some
27 time after Christmas. The Respondent/Applicant, not only wishes to spend time

1 with his son, but genuinely feels that it is in his son's best interest to spend more
2 time with him.

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5 5. On the other hand, the Petitioner, has already made the plans for DL for the
6 weekend of the 11th and 12th of December 2010 here in Cayman and emphasises
7 that there are three important engagements for DL on that weekend. First, he is to
8 attend a "Breakfast with Santa" at Cayman Prep School, which I understand only
9 takes place on the 11th December. Second, the Petitioner wishes DL to attend the
10 "Parade of Lights" at Camana Bay. Thirdly, it is DL's last Sunday school class
11 for the year on Sunday the 12th December 2010.

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13 6. Both parties cite s.19 of the Matrimonial Causes Law in support of their
14 respective positions and both genuinely believe that they are acting in the best
15 interests of DL.

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18 7. The parties have presented the Court with a difficult decision. It is common
19 ground that the welfare of DL must take paramount importance and, in my view,
20 these engagements detailed by the Petitioner, which only come at Christmas, are
21 important to a child of seven, going on eight years of age. Also, on balance, I
22 think it is important that DL is able to attend them. The school's "Breakfast with
23 Santa" and DL's last Sunday school class are, in their own way, important
24 appointments, and ones which, I can fully understand, any child would want to
25 attend. Equally, I recognise that the child wishes to spend the weekend with his
26 father.

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1 8. However, taking into account all the submissions presented on behalf of both
2 parties, and looking at all the circumstances, and whilst acknowledging that it
3 will be disappointing for the Respondent not to be able to take DL to Miami as he
4 had planned, I find that it is in the child's interests to let him stay with the
5 Petitioner over the weekend of the 10th and 11th December 2010, so that he can
6 attend those three events. I consider that these are special Christmas events which
7 are not only important to DL, but also important for his friendships at school and
8 Sunday school.

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11 9. Again, having considered the submissions of counsel for both parties, and the
12 contents of the parties' Affidavits, I order that the Respondent/Applicant will
13 have access to DL on the weekend of Friday the 17th December 2010, from 2:30
14 p.m., until 9 a.m. on Sunday the 19th December.

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16 10. In addition, I order that during the Christmas holidays the Respondent shall have
17 access to DL from lunchtime on the 24th December 2010 until lunchtime on the
18 25th December 2010, and from noon on the 26th December 2010 until the evening
19 of the 2nd January 2011.

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22 11. I find that it is in the best interests of DL to be able to spend uninterrupted time
23 with his father, and therefore, I am not acceding to the Petitioner's request to
24 have DL join her for one or two hours on Christmas Eve.
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1 12. It is, of course, open to the parties to vary and or adjust this Order by consent and
2 agreement.

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10 **Dated this the 9th December 2010**

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14 **Mr. Justice Charles Quin**
15 **Judge of the Grand Court**

