

IN CHAMBERS
IN THE GRAND COURT OF THE CAYMAN ISLANDS

Libson
12/12/2007

CAUSE NO: D19 of 2005 *Civil.*

BETWEEN:

SKE ALICE **WRIGHT-WOOLERY**

Petitioner

AND:

CHRISTOPHER HORATIO WOOLERY

Respondent

BEFORE: The Honourable Madam Justice Levers

APPEARANCE:

Ms. K. Reid of McKinney Reid for the petitioner

Ms. V. Allard of Brooks & Brooks for the respondent

HEARD: 4th December 2007

RULING



LEVERS, J.

This an application by the Respondent, Christopher Horatio Woolery
for the following relief:

- (1) That a declaration be made that the minor children Azeem
Burton and Ayana Pia Amoy Woolery are children of the
marriage;

- (2) That the Petitioner and the respondent do share joint custody of the two children of the marriage, with the Petitioner having day to day care and control, and the Respondent having access to both children every other weekend, beginning the weekend after the date of the order made herein;
- (3) That neither child of the marriage is to be removed from the Cayman Islands without the prior written consent of both parties;
- (4) That this Honourable Court do make orders in relation to maintenance in respect of the children as it deems just, in light of the circumstances;
- (5) That this Honourable Court do make such orders in relation to the matrimonial home as it deems just;
- (6) Such further or other relief as this Honourable Court deems just; and
- (7) Such order as to costs as deemed just.

As a result of hearing submissions on the affidavit evidence filed, the Court made the following Order:

- (1) Joint custody of Ayana Woolery;
- (2) Care and control to the mother of Ayana Woolery;
- (3) Generous access to the father, but the minimum is to be every other weekend – Saturday's from 8:30am to 7:00pm and the same on Sundays. Should the other child, Azeem Burton, wish to go with his sister, Ayana Woolery, then he could be allowed to do so. This order will be explained in the body of the judgment;
- (4) Maintenance of \$500 per month stayed for 2 months and reviewed thereafter, such maintenance for the said Ayana Woolery;
- (5) The matter reserved to Justice Levers for review;
- (6) Properties to be distributed as follows:
 - (1) matrimonial home to wife solely;
 - (2) business and all liabilities to the father;
- (7) Matter set for hearing on the 28th February, 2008 for review;
and
- (8) Legal aid granted to Mrs. Woolery backdated to 1st September 2007;

(9) Judgment reserved as a written judgment will be required for certain of the orders made.

I now give the reasons for the Orders made. A background to the matter is a useful exercise for purposes of the reasoning.

The parties were married on 23rd November 2000. There is one child of the union Ayana Pia Amoy Woolery born on the 9th March 2004. There is another child Azeem Delano Burton born to the Petitioner, Mrs. Woolery prior to the marriage but was brought up as a child of the family and is fond of the Respondent. However, his father is maintaining him from abroad and the mother has sole custody of that child. Let me say at the outset, although the relief asks for a declaration as to custody and access to that child, this Court has no jurisdiction to do so as the father maintains him and although the Respondent treated him like a son, he cannot be said to be a child of the family in the true sense over which this Court could have jurisdiction to make an order for custody care and control.

I have limited access to Ayana Woolery only but express a desire to have the brother join the sister to visit with the Respondent should the child so desire. The reason maintenance was limited to Ayana Woolery alone is evident from the above. It would appear that the Respondent filed his summons without appreciating the fact that once the child's father has acknowledged him and maintains him, the Court really has little or no jurisdiction over a child such as this, albeit that within the short period of the marriage the child was cared for by the Respondent, as a result of living in the same home. I have no evidence before me to say that he became truly a child of the family.

The marriage was a short one and apparently it was fraught with violence and domestic problems. Indeed, the Respondent has just faced a serious charge of attempted murder and he was in custody for period of time during the marriage. Although he was acquitted of the charge and is now a freeman, he contributed little or nothing to the maintenance of the family during the time spent in custody. This is entirely understandable.

It is alleged by the Respondent that in computing the proceeds of the matrimonial assets I would take into account the fact that the Petitioner sold the boat owned by him in August 2006 for the sum of CI\$7500. I accept the Petitioner's version of how that money was spent. \$2200 was paid towards the Respondent's company and its liabilities. \$300 dollars was paid as legal fees. \$300 dollars was sent to his children in Jamaica and she maintained herself and Ayana with the rest. Against that background, I now turn to the question of the matrimonial assets.

There is a home in which the couple live but it is owned solely by the wife. I accept the fact that she brought it into the home. She paid all the deposit and she paid all the mortgage. The Petitioner herself worked at the bank and therefore got some generous terms. The Respondent started a business with the wife as a Caymanian partner and he wishes the business to be shared 50:50 and the matrimonial home to be shared 50:50. If this Court was to do that, it would certainly be acting unfairly. The business has only liabilities and no income or assets. The matrimonial home was never contributed to by the Respondent. He alleges that he did some repairs and that he

paid the utility bills while living in the matrimonial home and that he hired someone to clean up after Ivan. This is contested and I accept the word of the Petitioner that the respondent did little or nothing to clean up or rebuild the place himself but in fact hired somebody and that she paid everything towards the matrimonial home.

The Petitioner got an injunction against the Respondent in August 2005. It is clear therefore that this marriage did not last long and that the respondent was hardly the epitome of a responsible father or husband. This court believes that justice demands that the matrimonial home be given solely to the wife and that the business be given solely to the husband who ran and controlled it.

I have stayed the maintenance for two months, due to the fact that Mr. Woolery has just come out of prison having been acquitted of the criminal charge of attempted murder. He has yet to settle down and find employment. The matter should be reviewed by me in or about 28th February 2008. I have set out these reasons in writing as I have taken the unusual step of giving the matrimonial home to the wife solely and also not granted the order for access to the child Azeem

who although would appear at first glance to be a child of the family.
It is my view that he is not, in fact, properly termed a child of the
family albeit he lived with the mother and the Respondent for some
three years. No order as to costs.

Dated this 12th December 2007



Judge of the Grand Court

