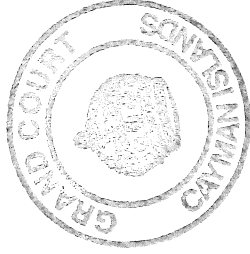


5/6/96

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN
CAUSE NO. D20 OF 1995



BETWEEN: RUPERT LISIMACO WHITTAKER PETITIONER

AND: VIOLETA BOWIE WHITTAKER RESPONDENT

FOR THE PETITIONER: Mrs. Eileen Nervik

FOR THE RESPONDENT: Mr. Steven Roy

RULING

These are proceedings for ancillary relief under the Matrimonial Causes Law.

Unfortunately the wife entertains suspicions that the husband is concealing assets. She has been unable to produce any hard evidence of this and the husband, who was presented for cross-examination stoutly denies it. I accept that denial, and that he has done all he can to comply with the court order dated 7th December 1995 relating to his bank accounts. There has been some controversy on the circumstances in which the order was obtained. All the evidence satisfies me that the parties are people of modest means, as disclosed

in their affidavits.

The wife, who is a teacher at Triple C School, has set her heart on the four children of the marriage remaining there, and on the husband paying the fees, which amount to nearly \$6,000 per year. He simply cannot afford it.

The respective means of the parties are set out in their affidavits. I accept their respective accounts as truthful. The main issue is the maintenance and education of the children. The parties have been living apart since 1992. The wife says that her earnings, including those from an evening cleaning job which is soon to be put out to tender, and which she is in consequence at some risk of losing, are \$1,731.80 per month. In addition, the petitioner pays \$160 per week for the maintenance of the children, or \$693.33 per month. So the wife's gross income is \$2,425.13.

The petitioner is paid on an hourly basis - \$11 per hour. His working hours vary somewhat but I accept his estimate of average earnings of \$1,906.66. Both parties have about \$5,000 in their respective bank accounts but the husband has no other significant assets. He owns no land, nor a car.

The wife, on the other hand, has managed to purchase a plot of land, albeit with the help of a bank loan. She lives with her parents and the four children and contributes \$300 per month as rent. She shows her total outgoings as \$1,625 per month. This includes \$50 for a

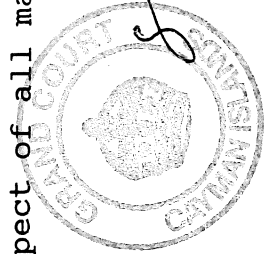
correspondence course, \$90 for tap dancing lessons for one of the children and \$462 for loan repayment and maintenance costs relating to her land.

The wife is better off than her husband. The payment of the school fees is an impossible burden on him. He has offered to pay half, but the wife has said she cannot afford the other half. I make an order that for so long as any of the children remain at Triple C School the husband shall pay half of the school fees of that child. It is obviously desirable, in my judgment, that the children, who have Caymanian status, transfer into the free Government education system as soon as possible, but I make no order to that effect. How long they stay at Triple C will depend on payment of half the fees by the wife. The husband will continue to pay \$40 per week in respect of each child until that child reaches the age of 17 or concludes its full time education and will pay half the reasonable medical, dental and optical expenses of each.

There will be no order for any periodic maintenance or lump sum payment for either party, other than a nominal order of \$1 per year maintenance for the wife with the liberty to apply in the event of changed circumstances.

Custody, care and control of the children will be with the wife with reasonable access to the husband. Liberty to apply as to the working out of this order in respect of all matters relating to the children.

Dated 5th June 1996



G. E. Harre

G.E. Harre
Chief Justice