

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

BEFORE THE HON. THE CHIEF JUSTICE

CAUSE # 90 OF 1991

ON the 6th December 1991; 7th, 9th, 10th, 13th, 14th, 15th,  
16th, 17th, 20th, 21st January and 12th February 1992.

IN THE MATTER OF THE ADOPTION OF  
CHILDREN LAW (REVISED)

AND

IN THE MATTER OF AN APPLICATION BY  
C. G. AND N. G. FOR AN ORDER TO  
ADOPT A CHILD NAMED A.

BETWEEN	C.G.	FIRST APPLICANT
	and	
	N.G.	SECOND APPLICANT
AND	S.S.	RESPONDENT

Miss Brooks for first and second applicants  
Miss Conolly for the respondent  
Miss Dilbert for the Board

MALONE JUDGMENT

This case concerns the future of Alex, also known as Jason, who was born on the 20th October 1989. It is a contest between his natural mother, who is not married, and a married couple who, with the exception of 17 days, have cared for him since the 11th of September 1990 and in whose care he presently is. As in all such contests the decision I have had to make is one that has caused me anxiety as, subject of course to appeal, it may affect Alex throughout his life and cause anguish to one or other of the parties.

Alex's mother, Sharon, is a Jamaican aged 27. His father, Stephen, is a Caymanian aged 21. Sharon has another

child, aged 6, who lives in Jamaica with Sharon's mother, aged 47. Stephen has no other children. The relationship that existed between Sharon and Stephen at the time of Alex's birth has ended. According to Stephen, it had ended by the 25th September 1990. As it had begun on the 30th July 1987 and Sharon was away in Jamaica between the 30th December 1989 and the 25th September 1990 it was a short lived affair of about three years.

This case falls to be decided under the Adoption of Children Law ("the Law") which is largely based on the English Adoption Act 1958 ("the parent Act"). In such cases as Lord Hailsham L.C. stated in *Re W (an infant)* 1971 2 A.E.R. 49 at p 51:

"what is in issue is the parent-child relationship itself and in that relationship the parent as well as the child has legitimate rights."

Lord Hailsham further points out at p 51 that Parliament having made the parent-child relationship the issue, enacted for the protection of natural parents provisions:

"the normal effect of which is to enable the natural parent to veto an adoption order unless one of the exceptions which it (i.e. the parent Act) provides enables the court to dispense with parental consent."

In this case the argument revolves very largely round one of those exceptions. Namely the exception expressed by section 11 (i) (c) of the Law which permits the Court to dispense with any consent required by paragraph (a) of subsection (4) of section 10 of the Law if it is satisfied that the person whose consent is to be dispensed with is withholding his consent unreasonably. The relevant section of the Law is not in terms stated as I have stated it. In fact it is stated in terms which do not accord with grammatical English. I venture to think, however, that I have expressed the true meaning of the provision. I am the more

confirmed in that belief as the parties to these proceedings took the same view of the section. It is not in question in this case that Sharon is a person, whose consent is required by section 10 (4) (a) of the Law unless it is dispensed with by section 11 (1) (c). Nor is it in question that she is withholding her consent. The question is whether her

"consent is unreasonably withheld"

as those are the words of section 11 (1) (c) of the Law. The same issue arises with regard to Stephen if, as Miss Conolly claims, Stephen is a person whose consent is required by section 10 (4) (a). Accordingly as the application of the words "consent is unreasonably withheld" is of prime importance to this case I turn to consider that aspect of the case.

The test of reasonableness Lord Hailsham L.C. declared in re W (ibid) at p 55:

"..... is reasonableness and not anything else. It is not culpability It is not indifference. It is not failure to discharge parental duties. It is reasonableness, and reasonableness in the context of the totality of the circumstances. But although welfare per se is not the test, the fact that a reasonable parent does pay regard to the welfare of his child must enter into the question of reasonableness as a relevant factor. It is relevant in all cases if and to the extent that a reasonable parent would take it into account. It is decisive in those cases where a reasonable parent must so regard it.".

Conversely as Lord Hailsham said at p 56:

"In my opinion, besides culpability unreasonableness can include anything which can objectively be adjudged to be answerable.

It is not confined to culpability or callous indifference. It can include, where carried to excess, sentimentality, romanticism, bigotry, wild prejudice, caprice, fatuousness, or excessive lack of commonsense."

The burden of proving an unreasonable withholding of consent is on the proposed adopters and as Lord Denning M.R. said in *Ke L* (1962) 106 Sol. Jo. 611:

"the question whether she is unreasonably withholding her consent is to be judged at the date of hearing;"

Sharon presently is the holder of a work permit but at the time of Alex's birth and of the events that have led to these proceedings, her only right to be in the Cayman Islands was as a visitor. Because her status was that of a visitor Sharon has been obliged to leave these Islands from time to time. Her passport shows that she entered Grand Cayman on the 18th September 1989 just two days more than one month before the birth of Alex. She left Grand Cayman for Jamaica on the 30th December 1989. Just ten days more than two months after the birth of Alex. She returned to Grand Cayman on the 25th September 1990. Just five days short of nine months after leaving Grand Cayman on the 30th December 1989. She was here until the 6th February 1991 then left again for Jamaica where she remained for seven months and three days until the 9th September 1991 when she returned to Grand Cayman. As Alex from birth has always lived in Grand Cayman, Sharon had no contact with him when she was in Jamaica. A period all told of approximately one year, and four months. Alex has only been in Sharon's care and custody from his birth to the 30th December 1989. A period of two months and ten days. And from the 21st October 1991 to the 8th November 1991. A period of 17 days. But during the period of four months and twelve days from the 25th September 1990 to the 6th February 1991 and the period of one month and twelve days from the 9th September to the 21st October 1991, Sharon visited

Alex almost daily at the house of the proposed adopters, N and C. The latter, excluding the period commencing the 8th November 1991 have had Alex in their care and custody for a continuous period of approximately one year, one month and ten days. When Alex has not been in the care and custody of Sharon or of N and C, he has been in the joint care and custody of his father and paternal grandmother.

Over the period from the 20th October 1989 to the 8th November 1991 Alex who was born in the Grand Cayman General Hospital has enjoyed relatively good health and has developed normally. There was a spell of 7 days commencing the 20th of June 1990 when Alex who was then in the joint care and custody of his father and paternal grandmother was hospitalised. He had been diagnosed as suffering from bronchitis. But Dr. Johnstone's comment on his hospitalisation is that:

"to be hospitalised for 7 days is not unusual", and it is significant that he had been taken to the hospital on the 6th May and again on the 25th May 1990 for attention because of coughing. Alex's medical record also shows that he had a rash which had started in July 1991. Dr. Johnstone's study of the medical records led her to think that the rash was ringworm. Her comment on that is:

"many small children have that condition" and her comment on the medical record was that:

"The medical condition of the child appears to be alright".

To my mind the evidence proves that Alex has not been neglected.

Miss Brooks conceded there was no proof of abandonment of Alex by Sharon. I agree. Sharon went to Jamaica without Alex on two occasions and on each occasion was absent from Grand Cayman for several months. On the first occasion before leaving on the 30th December, 1989 Sharon entrusted Alex to the care and custody of Stephen and of Alex's grandmother and requested her friend Rena Hydes to keep an eye on

him. It is difficult to conceive of a more reasonable arrangement especially as it was understood that Sharon would be back in Grand Cayman in two or three weeks. The suggestion by the grandmother that she thought when Alex was laid on the bed by her side that Sharon was going to church is not credible. Living as she did in the same house with Sharon and Stephen, the grandmother must have been aware of Sharon's impending departure for Jamaica. With the benefit of hindsight it can now be seen that the grandmother was not the best of persons with whom to entrust Alex. She betrayed the trust Sharon had placed in her by giving Alex to N and C when Sharon was in Jamaica without even telling Sharon. But on the 30th December 1989 that was not apparent. On the second occasion that Sharon went to Jamaica Alex was in the care of N and C with the approval of Sharon who at that time was on friendly terms with N and C.

Sharon's long absence from Grand Cayman after going to Jamaica on the 30th December 1989 is fully explained by the evidence. It came about because Stephen did not live up to his promise to send her a ticket. Her absence on that occasion, cannot then suggest that Sharon had lost interest in Alex. Two further facts confirm that finding. The first is that Sharon on learning from the receipt of a letter from Rena Hydes that Stephen was not going to send her a ticket, took a job as a waitress to earn the airfare to Grand Cayman. The second fact is that she made enquiry after Alex by letter when in Jamaica and personally on her return on the 25th September, 1990 and thereafter regularly visited him at the home of N and C between the 25th September 1990 and the 6th February. Those visits must also dispel any impression of disinterest in Alex that may be created by the incident on the 27th September 1990. The common ground of that incident as related by the witnesses is that Alex was on that day taken by N to his grandmother to return him to her as on the 26th September 1990 Sharon had said she wanted him back. According to the grandmother what happened next was that she said:

"I cannot handle the baby. See the mother and father there"

Sharon to whom the baby was offered then said:

"I know what to do"

and walked out of the yard. N's evidence is that because it was her intention to give back Alex he was offered to Sharon but she said:

"No. I don't want him"

and walked out of the yard saying:

"I know what I am going to do"

Sharon's version is that the grandmother took Alex from N and cursed Sharon telling her she was not going to get back Alex and that she must leave the premises. Sharon said she was confused and left the premises. Of the three versions, I think Sharon's the closest to the truth as it accords with the impression I have formed of the grandmother. Having got rid of the child when Sharon was in Jamaica she was not going to risk having the child brought again into her house now that Sharon was back from Jamaica. The more was she so determined as by the 25th September 1990 the relationship between Stephen and Sharon had come to an end. Given the behaviour of the grandmother described by Sharon the latter may well have been confused, but I do not accept N's evidence, which stands alone, that Sharon said she did not want Alex. If even she did, her visits between the 26th September 1990 and the 6th February 1991 must, as I have said, dispel any suggestion the words may invoke of disinterest by Sharon in Alex. Miss Brooks, however, suggested that the visits did not have that effect overall as permitting N and C to have Alex:

"is not the attitude or behaviour of a caring mother; it is the attitude and behaviour of a person who has decided to use the child for their own ends not taking into account the welfare of the child as such, but using the child when it was convenient for them to meet their own ends."

That comment was made on the supposition that Sharon planned on or about the 27th September 1990 to use N and C as a means of getting an extension of her visitor's permit. The evidence, however, is that Sharon made no attempt to execute that plan, if it existed, when seeking to obtain extension of her visitor's permit in the period following her return from Jamaica on the 25th September 1990 and her departure for Jamaica on the 6th February 1991. The evidence of N is that she first attempted to obtain an extension of Sharon's visitor's permit after Sharon's return from Jamaica on the 9th September 1991. Those facts do not support Miss Brooks' comment. That is not to say that Sharon by permitting N and C to keep Alex may not have been using them for her own purposes. By the 27th September 1990 Sharon was on her own. The affair with Stephen having ended. Her relationship with Alex's grandmother was in disarray and Sharon herself was living with a friend in George Town. Realizing, as she did, that Alex was being well cared for by N and C and that she could visit him daily it seems to me likely that Sharon took advantage of the kindness and generosity of N and C to provide Alex with a comfortable home. Her attitude and behaviour towards N and C is open to criticism but it cannot be said to disclose an uncaring attitude towards Alex. I think it shows the reverse.

The circumstances in which Alex first came into the lives of N and C were related by Virginia Hydes as follows:

"She (i.e. the grandmother) said the child's mother had left to go and she had not seen her for three months. She (i.e. the grandmother) said she could not manage the child with the granddaughter she had. She wanted to find who she could give the child to. She also said Stephen had threatened to kill the child and blame it on her .....

Stephen also did not respond when she (the grandmother) said she was looking for someone

to give the child to.' Ruby Ebanks said:

'I know someone who will take the child'.  
Two weeks after this conversation the grandmother brought the child to me. I was alone. (The grandmother) had the child in her arms. Child was not frightened. I made a telephone call. N came and took the child".

These arrangements were made while Sharon was in Jamaica working to pay for her ticket. No responsibility can attach to her for the disposal of Alex.

When the following facts namely:

1. Sharon's acquiescence to N and C keeping Alex after the incident of the 27th September 1990;
2. the childlessness of N;

are coupled to the facts related by Virginia Hydes it is not surprising to find that between the 27th September 1990 and Sharon's return to Jamaica on the 6th February 1991 the adoption of Alex by N and C was discussed. From the evidence of both Sharon and N, it is clear that in the course of those discussions Sharon was promised that after the adoption she could visit Alex. Sharon in fact goes further as she says she was promised that she could have the child for a couple of days from time to time. On the 24th October, 1990, Sharon signed a form of "Consent of Parent or Guardian of Child" and a "Certificate of receipt of Memorandum" acknowledging that she had read a memorandum headed "Adoption of Children Law (Revised)" which she had received from the Adoption Board. Both the certificate of receipt of memorandum and the form of consent were witnessed by a notary public. Evidence was given by the Secretary of the Adoption Board that the signing of those documents took place after the effect of an adoption was explained to Sharon. In her affidavit of the 13th December 1991 the Secretary deposed as follows:

"At this time I explained to Sharon .....  
that, once she consented to the adoption she  
would no longer have any legal rights to the

child and that although N may allow her to see the child when she visited from Jamaica, the Immigration Department would not be obliged to automatically give her time, for in the eyes of the Law she would no longer be the child's natural mother. This is explained to all natural mothers in the same position; that adoption is for abandoned children and not generally where the natural parents wish to maintain contact with the child. I am certain I explained this to Sharon ..... at that time when I saw her."

Sharon denied having an interview with the Secretary. I think she did so to repudiate evidence which she saw as damaging to her cause. Further, the evidence of N like that of the Secretary contradicts Sharon as N not only saw the Secretary but saw Sharon speak to her. I believe both N and the Secretary. It is apparent, however, that the latter treated Sharon's case as one of abandonment and gave the impression that after an adoption a natural mother might be allowed by an adopter to see the child. The effect of the explanation in conjunction with the promises given by N with respect to visiting the child could cause Sharon to believe and I think did cause her to believe that the practice of visiting Alex more or less as and when she pleased would continue after adoption. Sharon is described by Rena Hydes as of average intelligence. From my observation of her she is no more than that. To such a person forms can be daunting. In the circumstances of Sharon understanding the explanation of adoption to accord with her on-going practice of regular visiting and with the promise that that practice would continue after adoption, I think she might sign the forms without reading them properly which is what she said she did. Having so found it is not necessary for me to examine the Memorandum relating to the certificate that she signed.

Sharon returned to Jamaica on the 6th February

1991, leaving Alex in the home of N and C on the understanding that she might visit him as she pleased when in Grand Cayman. In those circumstances there was no abandonment of Alex by Sharon. It was submitted, however, that a caring mother who had been through the trauma of the extended visit to Jamaica on the previous occasion would not have left her child in Grand Cayman. Rena Hydes thought so now as she said:

"Looking at it now I think it was unusual that she should go away without the baby but at the time I did not give it any real thought."

She said:

"I don't think I would have left my child either time".

Contrasted with the occasions when Sharon had left Alex with another this occasion is somewhat different. When she first went to Jamaica and had left Alex with her grandmother and father. She expected to be away two or three weeks. On this occasion she must have realised she might be in Jamaica for several months as she would have to earn the money to pay for her return fare. On the occasion when she had allowed Alex to remain with N and C after her return to Grand Cayman on the 25th September 1990, she was able to visit Alex daily if she so pleased. On this occasion it would not be possible to make such visits, as Alex would be in Grand Cayman when she was in Jamaica. Her decision to leave Alex in Grand Cayman on this occasion fortifies the comment I made earlier that advantage was taken by Sharon of the kindness and generosity of N and C to provide Alex with a comfortable home. But does her decision to leave Alex with N and C on the occasion of her second visit to Jamaica go beyond that? Does it show that Sharon is not devoted to Alex? In considering that question I think one must bear in mind that life is hard for Sharon. The economic condition of her homeland drives her to seek employment elsewhere. When she comes here she is faced with immigration problems. She has to fight her battles on her own. In taking

advantage of the kindness of N and C however it seems to me that she did so for the benefit of Alex and of her relationship with him. Consequently she exploits because of her love of Alex. A demonstration of that love is the telephone call she made from Jamaica to N to enquire about the agreement that would secure her visiting rights. It is a clear indication not only of her concern but of her intention to return to Alex and it confirms her understanding of the agreement with N and C. In that latter regard there is further evidence from Rena Hydes. She recounts a conversation she had with Sharon in 1991 before the 6th February 1991. Rena said:

"She (i.e. Sharon) told me she had signed an agreement to give the baby to the lady. I did not see the agreement. The lady, she said, would keep the baby. She seemed more or less to know what she had done. She said she would be able to visit the baby. I asked her what kind of paper it was she had signed. She said it was an OK for the lady to keep the baby. I said:

'You are sure about this? It isn't anything that has to go through a Court?'

She said:

'Yes it is an agreement. I don't have to go through the Court.'

I said:

'If you think the couple alright that's OK.'

On her return to Grand Cayman from Jamaica, Sharon resumed her visits to the home of N and C. That practice, however, ended with the removal of Alex from the home of N and C by Stephen on or about the 21st September 1991. For the next seventeen days after that event Alex was cared for by Sharon. Except to say that he did not remove Alex from N and C because Sharon had told him that they had not helped her to get an extension of her visitor's permit, Stephen did not explain why he removed Alex. He seems to have felt that Alex should be with Sharon and that Sharon was not really welcome at the

home of N and C. The impression I have formed from Sharon's evidence is that she wanted to have Alex back and solicited the support of Stephen. Sharon gave a reason for wanting to have Alex back. It was that she realised that N wanted Alex for herself. The fact which she ascribes to bringing about that realization is that N when asked about the agreement that would permit visits replied:

"I have not agreed that".

If true, the answer is radically different from the one given by her when telephoned from Jamaica as then she is reported by Sharon as saying tht the agreement was under preparation. Obviously, if Sharon has told the truth the conflict between the two replies might well cause her to realize that N:

"had gone back on what she had agreed".

Two days later Sharon met Stephen. She told him she wanted to have her baby back and, she says, Stephen said she would get the baby back.

The fact that there was an agreement conferring visiting rights is not in question. Nor is it in question that the agreement provided for the continuance of those rights after adoption. Sharon's telephone call from Jamaica and N's response to the enquiry Sharon then made is not in question. Nor is it in question that the agreement has never been reduced to writing. It has also been shown that the only other reason suggested for the change of Sharon's attitude, namely, the failure of N to obtain an entry permit extension is not a viable cause for the change in her attitude. Those circumstances cause me to believe Sharon. I accept Sharon's evidence for the break down of her relationship with N and C. But I would add that other factors though not the immediate cause may also have contributed to the breakdown of the relationship. Such other factors include:

- (1) N's return to Sharon of any small presents that Sharon brought for Alex;
- (2) N's objection to Sharon encouraging Alex to call her "mummy" although earlier in the relationship it was thought that Alex should know who was his natural mother before he learned it from casual

gossip;

- (3) the report to Sharon that N had told an officer of the Protection Board that she wanted N to lie on her behalf;
- (4) N's refusal to let Sharon enter her home the Monday evening of the week in which Stephen took Alex from N's house.

The four factors listed may all be explicable and the result of misunderstanding. For example N may genuinely have felt, as she stated, that Alex had all the toys he needed. Or that she refused Sharon entry to her house because Alex was asleep and N was holding a prayer meeting. Or that the report by the officer of the Protection Board was mischief making. Or that Sharon and N misunderstood each other on the issue of which of the two should be called "Mummy" by Alex and when he should know that Sharon was his natural mother. Because those factors are explicable is not of real significance. For once they are thought to exist they contribute to the destruction of that trust in one another which was so essential an element in an arrangement as delicately balanced as was this. The contention over who was to be called "mummy" illustrates that point more clearly than any other factor.

The delicate balance of the arrangement between the parties is a feature of some importance in this case. Clearly it was not Sharon's action that, in the first place, brought in N and C. They were brought in by the action of the grandmother and apart from an initial unfavourable reaction to their presence in the life of Alex they were accepted by Sharon until she had Alex taken from them. Neither side lays claim to the conception of the modus vivendi which they achieved though it seems that N initiated the discussions which led to it. In those circumstances, this is not a case of a natural mother placing her child for adoption and then subsequently withdrawing her consent. Indeed on the facts of this case and without questioning the validity of the consent given by Sharon on the ground that it should have been witnessed by a Justice of the Peace and not by a notary public, it might, I think, be successfully argued

that Sharon has not at any time consented to an adoption having the effect provided for by section 15 of the Law. Namely that:

"15 (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents or guardians of the child in relation to its future custody, maintenance and education, including all rights to appoint a guardian and to consent or give notice of dissent to marriage, shall be extinguished, and all such rights, duties, obligation and liabilities shall vest in and be exercisable by and enforceable against the adopter as if the child were a child born to the adopter in lawful wedlock; and in respect of the matters aforesaid the child shall stand to the adopter exclusively in the position of a child born to the adopters in lawful wedlock."

Nor despite her association with Stephen in the removal of Alex from the home of N and C is Sharon the party to the agreement who first put in question her promise to abide by the agreement. To my mind N was that party. Nevertheless, the absence of vacillation in Sharon's behaviour does not permit me to overlook the fact that Alex has been in the care of N and C for longer than he has been in the care of Sharon. One year, one month and 10 days as compared with two months and twenty-seven days. But as I have said earlier the difference is mitigated by the fact that for five months and twenty-four days of the one year, one month and ten days Sharon has visited Alex almost daily. In the circumstances it cannot be said that Sharon is a relative stranger to her child, even though Alex may have established strong bonds with N and C. Consequently despite the strength of the bond which by all report has developed between Alex and N and C, Sharon's behaviour does not close the door to continuance of contact.

The immediate future position of Sharon by her own reckoning is uncertain as she said that if she got a job in Grand Cayman and was allowed to settle here she would remain here but if not she would return to Jamaica with Alex. I think Miss Brooks has a point when she said that Sharon cannot offer a stable home. By contrast N and C appear to offer stability. Both have jobs and they have their own home in George Town. There is, however, a cloud that hangs over them. C is stricken with multiple sclerosis. He can pull himself up a staircase but normally he relies on a wheel chair to get about. The prognosis, as one would expect, is that his disease will be progressive. There is no evidence as to its probable rate of progress but it is more likely than not that the day will come when C will need assistance for the simplest of movements. C's family presented an impressive display of family unity. Speaking for the family, C's sister who holds a senior position of responsibility in the public service said:

"My family has decided that if my brother cannot support his family we will support him. Presently he occupies family property and pays no rent. So long as he can earn we think he should earn".

By contrast the only person who came forward to offer support to Sharon was Stephen who is not in my view a young man with a well developed sense of responsibility and whose mother is ill disposed to Sharon. On balance I find that N and C offer the greater stability now and probably for the future though, of course, the prediction as to the future is speculation.

Neither Sharon nor N and C are affluent persons. Nevertheless it is plain, I think, that if Alex remains with N and C, his prospects of enjoying the material, social, and financial aspects of life are superior, to those he would have if he were returned to Sharon. That last statement should be qualified to the extent that the conditions to which Alex would be exposed if he was taken to Jamaica are not really known. Judging however, from

Sharon's determined efforts to gain a foothold here it is improbable that the conditions are attractive. If even they were a factor which discounts them is that to Alex they would be strange conditions.

How to apply the correct test of reasonableness was explained by Lord Denning M.R. in *Re L* (1962) 106 Sol Jo 611 when he said:

"We must look and see whether it is reasonable or unreasonable according to what a reasonable woman in her place would do in all the circumstances of the case."

It is an objective test which has regard to the totality of the circumstances. In the words of Lord Sorn in *A.B. and C.B. v X's Curator* (1962) SC 124 the Court, having regard to all the circumstances:

"is to look at the matter from the point of view of the parent"

That is a parent, who in the words of Lord Hailsham in *Re W* (*ibid*) at p 55:

"does pay regard to the welfare of his child"

From Sharon's standpoint of a reasonable mother, she can rightly say on the facts I have found that she is devoted to Alex and has not neglected him nor abandoned him nor displayed an uncaring attitude. She has not vacillated between giving consent to his adoption and withholding her consent as she stood by the special arrangement she made with N and C until the 21st September 1991 when she had reason to believe that N did not intend to observe it. She can also say that she is no stranger to Alex. She must acknowledge, however, that she has helped to create a strong bond between N and C and Alex and that they can provide him now with greater stability and more of the material things than she can. Stability and Alex's welfare are important considerations but as Lord Hodson said in *Re W* (*ibid*) at p 72:

"withholding of consent could not be held to be unreasonable merely because the order, if

made, would conduce to the welfare of the child.".

In this case Sharon would not, in my view, be unreasonable in holding that those considerations are not decisive as there is a parent-child relationship between herself and Alex which should not be destroyed. In arriving at that conclusion I am aware it is contrary to the recommendations of the Social Welfare officers I regret that it is, as I respect the opinions of those officers but in this case I think they erred because they held the case to be one of abandonment. It is not surprising that they did so consider it, as until the complex facts are fully explored and, in particular, the evidence of the grandmother is carefully weighed, it has that appearance.

Miss Conolly, I noted earlier, submitted that Stephen is an individual whose consent is required for the adoption of Alex. That submission was not based on the ground that Stephen is the father of Alex as Miss Conolly conceded that the father of an illegitimate child is not a parent within the meaning of the Law. The submission is based on the ground that Stephen is a person who has agreed within the meaning of section 10 (4) of the Law to contribute to the maintenance of Alex. The evidence is that Stephen has declared an intention to make payments towards the maintenance of Alex whether Alex is in Grand Cayman or Jamaica. Neither the amount he will contribute nor the frequency of the contribution has been declared. Indeed the "agreement" to pay is dependent on whether he has the means at any given time to make a payment. I agree with Miss Brooks that Stephen's offer is too vague to constitute an agreement within the meaning of section 10 (4) of the Law. If, however, I am wrong in so holding, and Stephen's consent is required, I am of the view that in withholding his consent he is not doing so unreasonably. The reason being that he withholds his consent because he considers that Alex should be with Sharon. I would add that whilst I think little of Stephen's sense of responsibility I do not believe, as his mother alleges, that he ill-treated or threatened Alex or that he was a

party to the giving of Alex to N and C. Nor do I believe Stephen's mother that Stephen denied being the father of Alex. Those allegations are all attributable, I think, to the ill will the grandmother bears for Sharon and Alex.

For the foregoing reasons, the application for an adoption order is dismissed.

*Denis T. G. Malone*

Sir Denis Malone