

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Family Division

2024/FAM/div/00077

B E T W E E N

T.K.D. (nee K)

Petitioner

AND

P.D.

Respondent

AND

A.N.

Co-Respondent

Before: The Honourable Justice C.V. Hope Strachan

Appearances: Yolanda K.J. Rolle for the Petitioner

Ranard E. Henfield for the Respondent

**Hearing date: 9th May 2024, 11th June 2024, 30th September 2024, 12th February
2025. 29th May 2025, 17th September 2025.**

*divorce and matrimonial proceedings, ancillary matters, custody, access, and maintenance of
children of the marriage*

RULING

C.V.H. STRACHAN, J

Background Facts

[1.] This decision is a determination of the issues of custody, care and control, access and maintenance of Two (2) children of the marriage of the Petitioner, TKD (nee K) (“the wife”) and the Respondent, PD (“the Husband”). A Decree Nisi was granted to both parties on the grounds that they had both been cruel to each other on 30th January, 2024.

[2.] The couple are the parents of JD, a male child born on 24th July, 2011, and PZD, a female child born on 5th December, 2018. They are now aged 14 years and 6 years old respectively. Presently, they make their home with the wife. The wife is admittedly involved in a sexual relationship with a female. They live together in the house with the children. The husband resides between the islands of Eleuthera and Abaco, given his job responsibilities as a boat captain, but has obviously established roots in Abaco, where he either lives with or is involved with the woman named in these proceedings, and they have a child together. The wife is an Administrative Assistant employed as a Ships Master.

[3.] The wife wants a joint custody order giving her care and control of the children, with access to the husband. The husband wants a joint custody order with care and control, giving access to the wife. Custody care and control is the main bone of contention between the parties. Whether a sum should be awarded to either of the parties is also in dispute.

[4.] Pursuant to these ancillary issues, the wife filed a Notice of Intention to Proceed with the Ancillary Matters on 20th March, 2024, followed by a Notice of Adjourned Hearing filed on 9th May, 2024. The wife filed Affidavits in relation to the notices on 25th January, 2024, and a Supplemental Affidavit on 10th June, 2024, and a Further Supplemental Affidavit on 25th July, 2025.

[5.] The husband filed an Affidavit in Support of the Ancillary Matters on 11th July, 2024.

[6.] The respective affidavits of the parties reveal much about their approach to parenting the two (2) children. It is clear that there is a distinct difference in how the children are treated, particularly as it relates to the husband. In this vein, I will deal with the children separately. The husband expressed concern that his Five (5) year-old daughter is being exposed to the LGBTQ lifestyle by her mother and her lover. He says that the mother’s lifestyle does not provide a morally, physically, or emotionally safe environment. That was the end of what he had to say about his daughter.

[7.] By contrast, the wife spoke to every element of their daughter's life, including the following:

- PZD, while living with her, is enrolled in preschool
- She is enrolled in ballet classes
- Wife provides all educational expenses
- Provides structure
- PZD taken on vacation trips
- PZD returned from visitation with father with hair fungus from husband's neglect. The fungus had to be treated medically by her.
- Expenses PZD is included in:
 - i. grooming
 - ii. lunch money
 - iii. clothing

She emphasizes how the husband and his parents in Long Island disregard PZD and show deference to JD in an obvious way. When contrasted with the lengthy exposé of the son by the husband and the wife, it is clear who consumes most of the couple's energy, but that may well be the result of the issues that they both speak about in their respective affidavits.

The Husband's Assertions About JD

[8.] The husband asserts that Long Island, where his parents live, is the best environment for JD. He lived there with him previously around 2019, where he excelled at school and became the head boy of the school. He won the Spelling Bee, was student of the year, he was a finalist in the National Student of the Year competition. He won a scholarship of \$2,000.00 and went to the Bahamas Games. He says it all ended when he returned to Nassau.

[9.] The husband continued that when JD returned to Nassau, the wife enrolled him in a fee-paying school that the couple ultimately could not afford. He had to be withdrawn as a result. Upon his withdrawal, he had to be enrolled in a government school and was involved in an incident riding the bus to and from school, which ended with him being struck in the head with a bottle. He describes Nassau as a hostile environment for his son to be in and prefers for him to return to Long Island. The son's behaviour has deteriorated, and he took a photograph holding a gun, which the wife admitted belonged to her family member.

[10.] The husband continued that he disapproves of the wife's LGBTQ lifestyle and that it has a negative and detrimental impact on JD's moral and spiritual compass and is not good for his emotional and mental state. Moreover, he said that the son has no extra-curricular activities in Nassau as compared to Long Island, and JD has expressed to him that he is depressed.

[11.] The husband contends that the wife wants to have care and control of the children because she is only interested in obtaining maintenance for them from him. That she lives above her means as she has admitted in her Affidavit, and that it is filled with lies, and she fails to account for household expenses paid by her lover. Her expenses are inflated.

[12.] Notwithstanding that the husband admits that he lives and works on Eleuthera, and also travels to Abaco for days out of the week. He asserts that he wants the children to go to Long Island to live. He is willing to uproot and move to Long Island, should the court order him to have custody of the children. He talks about the support that his parents and family members could provide should he and the children move there.

[13.] The husband submits that he earns a salary of \$52,000.00 per year and an additional \$300.00 per day whenever he works a side job for another motor vessel. The suggestion being that he is more than capable of looking after the children financially, and upon going to live in Long Island, this is bolstered by the support of his family. He puts his monthly expenses at \$1,945.00 per month.

The Wife's Assertions About JD

[14.] The husband wants to send the children to live with his parents in Long Island for them to be solely responsible for them on a day-to-day basis. She is doubtful that husband would give up his job as a boat captain between Eleuthera and Abaco to go and live in Long Island, where he will be unemployed and totally dependent upon his parents.

[15.] The wife says that the husband was the cause of the breakdown of the marriage. He was involved in an adulterous relationship then, and he still is involved in that same relationship. He is in no position to challenge her morality. She insists that despite the sexual relationship with a woman, she is always respectful around the children, provides them with a structured and loving environment. Her partner participates in activities with the children and helps to support them financially, making up for the neglect of the husband towards maintaining the children.

[16.] The wife laments that the son has developed psychological problems, which have manifested in some negative behavior. The disruptive behaviour became apparent while JD was in Long Island with the husband's parents. It was at that time that JD wrote suicidal notes, and the grandparents never alerted the wife to this until months after. In fact, there was no communication from them with the wife. The son admitted to actually attempting suicide using a kitchen knife.

[17.] The wife continued that the husband exposed JD to an altercation between him and the woman named in Abaco, which led to the child having to leave the Island, and, due to circumstances, he slept in the airport. She argued that the husband exposed him to miscarriage and an abortion, to sex toys and masturbation, and frequent engagement in explicit sexual conversations with other children at school. He witnessed domestic abuse in Abaco while with the husband.

[18.] The wife further describes how JD lied about the bus incident, where he supposedly got hit in his head with a bottle, and that he was caught vaping.

[19.] The wife attributes much of JD's declining behaviour to the lack of interest and participation by the husband in the children's lives. He fails to turn up for JD's games as promised. She speaks of sending them to Abaco in July 2023. They were supposed to be there with the Husband until 20th August, 2023. However, he returned them on 11th August 2023 after telling them that he needed to spend time with his girlfriend and he had to get their child ready for school. It was at their return that the wife discovered the fungus in PZD's hair.

[20.] The wife indicates that the fiasco with JD's schooling and having to withdraw him from the fee-paying school was because the husband refused to assist with the payment of the fees. He threatened to send them back to Long Island.

[21.] The wife recounted an incident where the husband ignored a call to collect JD from school when he was unwell, and the wife had to leave her job to do so. She accounts for all of the actions she has taken to help her son with his behavioral issues and his psychological problems.

- i. She has enrolled him with doctors and psychiatrists after learning of his suicidal attempts.
- ii. She sought assistance from the Dean of the High School he was attending in Nassau after the incident.
- iii. She enrolled him in the Gentleman's Club.
- iv. She engaged the Guidance Counselor at his school so that she would be aware of the problem.
- v. She has blocked his phone from possibly viewing sexual content.
- vi. Took both children on a fun trip to The Berry Islands
- vii. Stays active and involved with his school and enrolls him in the Defense Force Rangers
- viii. Arranged a Discovery Flight with BLUE since JD aspires to be a pilot one day.
- ix. Is responsible for his enrollment in the National Spelling Bee.
- x. Enrolled in Beach Soccer

So far, the husband has done nothing to help JD and his psychological and emotional challenges. In fact, he and his parents concentrate solely on the fact that he gets good grades in school.

[22.] As it relates to the financial situation for the wife and children, the husband's contribution is very little, and even that is sporadic. Even since the court made the Interim Order for him to contribute Five Hundred Dollars (\$500.00) monthly, he has neglected to do so and has fallen into arrears. The wife reiterates that she relies on her family and her live-in lover to help take care of the children. She admits that on a monthly basis, she spends more money than she makes due to all of the expenses, and not due to a lavish lifestyle as her husband suggests.

[23.] The wife earns Two Thousand Dollars (\$2,000.00) per month. She lists her monthly expenses, inclusive of herself and the children, at \$3,833.71. Annual expenses she lists as One Thousand Four Hundred and Thirty-five Dollars \$1,435.00. Even she admits that she spends beyond her income. However, in the Three Affidavits that she has filed, she has not prayed for the husband to pay a specified sum of money towards the children's maintenance. She has repeatedly stated that the parties should be equally responsible for the children while they are in their respective custody, and she wants him to pay half of the children's expenses. Since she has failed to separate the children's expenses from her own, it is impossible to know how much that will amount to in any event. The husband has accordingly prayed that there be no specified order for maintenance.

The Social Services Report

[24.] The Department of Social Services (DSS) were engaged to investigate and prepare a Report to assist the court in reaching a determination of the issue of custody of the two (2) children. The DSS recommended that the parties be awarded joint custody. That the children remain in the care and control of the wife. That the husband would have liberal access to the said children due to his work schedule and his residence on Eleuthera. Further, the expenses of the children should be shared equally between the husband and wife. This recommendation is largely in keeping with the wife's stated proposal mentioned in her Affidavits and ostensibly the position of the husband.

The National Parenting Programme

[25.] The husband and wife, at the recommendation of the court, also attended Parenting Sessions with the National Parenting Programme during June 2025. A Report was produced therefrom. At the conclusion of the sessions, the welfare officer and the Assistant Director wrote that "Mr. PD and Mrs. TD had both indicated that the parenting sessions were beneficial for them. It is hoped that the information learnt by both parents will continue to be implemented in co-parenting the children effectively."

The Law

[26.] Pursuant to the prayer in the wife's Petition, the court has been asked for there to be a Declaration pursuant to s. 73 1(b)(ii) of the Matrimonial Causes Act (MC). Section 73. (1) provides that:

"The court shall not make absolute a decree of divorce or of nullity of marriage, or grant a decree of judicial separation, unless the court, by order, has declared that it is satisfied —

- *s. 73 (1) that the only children who are or may be children of the family to whom this section applies are the children named in the order and that —*
- *s.73 (1) (b) (i) arrangements for the welfare of every child so named have been made and are satisfactory or are the best that can be devised in the circumstances; or*
- *s.73 (1)(b) (ii) it is impracticable for the party or parties appearing before the court to make any such arrangements."*

It is important to note at this juncture that the prayer in the petition must be erroneous. As neither of the parties has, through their evidence, alluded to it being impractical for the court to make an order for the maintenance of the children. I am of the view that, through their evidence, both have demonstrated the need for the court to make arrangements for the children, albeit based on their respective desires. In those circumstances, I am of the view that the Declaration being sought really falls under the more appropriate provisions of s.73(1)(b)(i).

[27.] This court is also empowered by s. 73 (6) MCA to make orders for the welfare of the children, which include determining which of the parties shall have custody of the children, directions as to their education, and making provision for their financial maintenance.

"s.73(6) provides "In this section, "welfare", in relation to a child, includes the custody and education of the child and financial provision for him.

s. 73 (6) is buttressed by S. 74 (1), which provides that the court may make such order as it thinks fit for the custody and education of any child of the family who is under the age of eighteen —

(a) in any proceedings for divorce, nullity of marriage or judicial separation, before or on granting a decree or at any time thereafter (whether, in the case of a decree of divorce or nullity of marriage, before or after the decree is made absolute."

[28.] The approach of this court is the welfare of the two (2) children of the marriage pursuant to the statute. This has led me to compare and contrast the living conditions of the respective parties. The instability of the husband's living situation is difficult to ignore. As a boat Captain,

he lives between Two (2) islands, Eleuthera and Abaco. The fact that he determines that if the court awards him custody, he would move to Long Island with the children. He emphasized that a move to Long Island would afford him the advantage of having his family, particularly his parents, there to assist him with the children. While the “village” raising the children is a noble concept and is no doubt beneficial in most cases, I get the impression that the family will be used more as a crutch since the nature of the husband’s job would keep him away from the children most of the time. My response to that premise, the husband might say he intends to quit his job as a boat captain, but the question then is how will he maintain the children financially on Long Island, particularly since he mentioned no option for employment there?

[29.] Then, there is every indication that JD suffered some form of emotional or psychological trauma, which manifested while staying with the grandparents on Long Island. Neither of the parties alluded to JD having psychological issues before going there, and while I make no assumptions about the causation of those problems, it is troubling that his talk of suicide and his attempt at it were not communicated to his mother in New Providence until sometime after the event. This has also highlighted the lack of communication between the husbands’ parents, where the child lived, and the wife, as the mother of the child. That lack of communication extended even in the most critical situation.

[30.] Throughout the husband’s evidence, he focused on JD’s academics and his accomplishments in school in Long Island. He expressed little to no concern about JD’s psychological welfare and the need to engage in some form of therapeutic assistance for the child. Not even after finding the photograph with JD posing with a gun. This leads me to believe the wife when she said that he and his parents focus only on JD’s academics and athletic prowess. Yet, even though the husband emphasized the academics, it is clear that he was not prepared to assist with the payment of any school fees for the child to attend a fee-paying school when they were faced with no other alternative. Nor does it seem that the husband bothered to participate in ensuring JD was enrolled in the very beneficial programs like the National Student of the Year program and several extra-curricular clubs and activities, which the wife has ensured he is engaged with.

[31.] As for the couple’s daughter, PZD, aside from coupling his concern for both the children’s exposure to the wife’s lesbian lifestyle, the husband’s reference to PZD was negligible. The fungus that the wife demonstrated to the court, which was growing in PZD’s head when she returned from a prolonged visit with the husband, suggests to me that she was neglected. The totality of the lack of interest the husband has expressed in his affidavit for this child is concerning.

[32.] Finally, the husband made much of the lesbian lifestyle that the wife is admittedly engaged in. He said he is very concerned about the immorality of the situation and the possible effects on

the children. However, his marriage came to an end as a result of an adulterous affair with a woman named, with whom he is still involved in a relationship and with whom he has a child. He has exposed the children to that lifestyle, and it would seem to be a situation akin to the biblical admonition "He that is without sin cast the first stone."

[33.] There are so many other troubling incidents involving JD aside from the gun; he was caught vaping, he engages in sexually explicit conversations with his peers, the list goes on. The husband has failed to show that he has made any attempt to assist this child with his behavioral problems. The wife, on the other hand, has turned over every rock that she could to get help for this child.

[34.] Aside from personally seeing to his enrollment in the National Primary School Student of the Year program, for which JD was very successful, she has sought the help of medical and psychology professionals. Her engagement with the school's guidance counsellors and the Head Master of JD's school speaks volumes about her interest in the psychological well-being of JD. Her enrollment of him in programs like the Defense Force Rangers and the various sporting clubs demonstrates that she takes parenting her children seriously. The wife also spoke of taking the children on vacation to enjoy themselves, which points to her ensuring balance in their lives.

[35.] The wife does not shy away from the fact that she is involved in a lesbian relationship, but she assures the court that her behaviour in front of the children is never inappropriate. More to the point, except to voice his disapproval of the immorality in the relationship, the husband did not reference one incident where the wife had behaved inappropriately with her lover in front of the children. While this court accepts that the wife's lifestyle is not the ideal situation for the children, she has demonstrated to the court that she has a much greater interest in the welfare of these children.

[36.] I am satisfied that the husband's financial contributions to the wife to assist with the children are inadequate and sporadic at best. The husband did not protest when she said that her lover assists her financially to maintain the children. In fact, the husband focused on the breakdown of the wife's expenses and emphasized that he felt she was being untruthful because he was of the view that she did not account for the financial help she received from her lover. I am satisfied that the arrangement which the wife sought in relation to the children, which in so many words is identical to the husband's, is reasonable in the circumstances. Neither has asked the court for payment of any sums by the other party as is provided in s. 27 (1) of the MCA and as is usual in many divorce cases;

s. 27 (1) On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or of nullity of marriage, before or after the decree is made absolute), the

court may make any one or more of the following orders, that is to say — (a) an order that either party to the marriage shall make to the other such periodical payments, for such term, as may be specified in the order;

The wife has outlined the terms of the order that she seeks, and I am satisfied that the terms therein provide the best arrangements for the children in the circumstances as is required by s. 73(1)(b)(i) MCA , and I accede to her prayer.

Conclusion and Disposition

[37.] This court, having considered the evidence of the respective parties, the Social Services Report, the Report from the National Parenting Programme, the law, and case authority, it is hereby ordered that;

1. The husband and wife have joint custody of the children of the marriage, JD and PZD.
2. The wife has care and control of both children, JD and PZD.
3. The husband has liberal access to the children, wherein;
 - i. The husband and wife share equally all school holidays, including Four (4) weeks in the Summer, one week in Easter, and one week at Christmas.
 - ii. The children spend all of Father's Day with the husband and all of Mother's Day with the wife and alternating their respective birthdays.
 - iii. At all other times as agreed between the parties.
4. The cost of travel for the children to visit the husband shall be shared equally between the husband and wife, with the wife paying for their tickets one way and the husband paying for their tickets one way.
5. That the husband and the wife are equally responsible for the maintenance of the children while they are in their respective care.
6. The husband and wife share equally all educational expenses, including school fees, book fees, and uniforms. Provided that the parties must agree on any fee-paying schools that the children attend.

7. The husband and wife share equally all medical, dental, and optical expenses as needed.
8. The husband and wife share equally the lunch fee for the children of the marriage.
9. The Court grants a Declaration pursuant to s. 73(1)(b)(i) MCA that the arrangements made for the children are the best that can be devised in the circumstances.
10. Each party shall bear their own costs.

Dated the 18th day of November, 2025



The Honorable Justice Hope Strachan

