

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Family Division

2022/FAM/div/FP/00163

B E T W E E N

CT

Petitioner

AND

VT

Respondent

Before: The Honourable Justice Constance Delancy

Appearances: Shavanti Griffin-Longe for the Petitioner

Parkco Deal for the Respondent

Hearing date(s): 19 June 2025
[submissions received 25 July 2025 and 28 July 2025]

JUDGMENT

DELANCY, J.

[1.] This is the Court's decision on the Application for Ancillary Relief filed herein.

Background

[2.] The parties were married on 30 July 2011. The Petitioner is an educator and author, age 41 years. The Respondent is an Office Assistant and a receptionist/sales representative, age 36 years. The parties are the parents of four daughters and one son ages 12, 11, 9, 7 and 5 years.

[3.] A Decree Nisi was granted on 23 April 2023.

[4.] The Petitioner filed a Notice of Application for Ancillary Relief on 14 March 2024 seeking:

1. Joint custody of the minor children with primary care and control to the Petitioner and reasonable access to the Respondent;

2. The Petitioner to have care and control of the children for 4 days every week (Thursday to Sunday inclusive) and the Respondent to have care and control of the minor children for 3 days of every week (Monday to Wednesday inclusive).
3. The parties to split the school fees of the youngest child with the Petitioner paying 70% and the Respondent paying 30% until he enrolls into a government primary school.
4. The parties to equally contribute to the school books, school supplies and uniform of the minor children until they attain 18 years or completes high school.
5. Petitioner to contribute \$700 per month towards the maintenance of the minor children.
6. The parties to equally share all medical, dental and optical expenses for the minor children.
7. The Petitioner to pay \$1,000 per annum for the cost of clothing for the minor children to be reduced by \$150 upon each child attaining the age of 18 years.
8. The Respondent to convey her interest in the matrimonial home to the Petitioner in exchange for 50% of the equity thereof.
8. Each party to bear their own costs.

[5.] The Respondent seeks:

1. Primary custody and control of the minor children with reasonable access to the Respondent on (Friday to Sunday inclusive).
2. The parties to contribute equally to all medical, dental and optical expenses for the minor children.
3. The parties to equally contribute to the school books, school supplies and uniform, extracurricular activities and school incidentals of the minor children until each child attains 18 years or completes high school and/or college should the minor child pursue higher education.
4. Petitioner to contribute \$250 per child per month for groceries.
5. The Petitioner to pay \$300 per child twice per year for the cost of clothing.
6. The parties contribute equally to the summer vacation for the minor children.
7. Petitioner to bear the Respondent's costs of these proceedings.

[6.] The parties are joint owners of the matrimonial home in Coral Reef Estates Subdivision Two, Freeport, Grand Bahama. By an Interim Order filed on 10 June A.D., 2025 the parties have agreed that the Respondent will convey her interest in the matrimonial home to the Petitioner upon payment for her 50% interest.

[7.] The Petitioner's evidence is found in his filed Affidavit of Means on 1 March 2024, Affidavit in Response to Respondent's Affidavit on 1 July 2024 and Supplemental Affidavit on 18 March, 2024 and testimony under cross-examination. The Petitioner's evidence may be summarized as follows:

1. The Petitioner is an educator employed at a Junior High School and earns a gross salary of \$3,150 per month.

2. The Petitioner also earns an income from the sales of an educational book distributed by a local bookstore which co-authored of approximately \$1,000 in 2024.
3. The Petitioner lists his monthly expenses, inclusive of the mortgage payments, as \$3,665.01 and his annual expenses of \$10,596.00.
4. The parties are the joint owners of the matrimonial home, which is currently occupied by the parties and their children, subject to a mortgage payments being deducted from the Petitioner's salary.
5. The children are all enrolled in school, the youngest child is currently attending a private institution and the Petitioner pays the school fees monthly.

[7.] The Respondent filed Affidavit of Means on 16 May 2016 and Amended Affidavit of Means on 23 May 2024. The Respondent's evidence may be summarized as follows:

1. The Respondent is employed as an Office Assistant and Sales Representative for a local radio station and earns a base salary of \$1,200 per month and with commission it may fluctuate to \$1,600 per month.
2. Monthly expenses:

a. \$85	Life insurance
b. \$300	Gasoline
c. \$200	Lunch money for the children
d. \$100	Car maintenance
e. \$300	Additional and recreational expenses for the children
3. Annual expenses:

a. \$700	Back to school
b. \$1,500	Clothing and footwear
c. \$500	Toiletries
d. \$195	Car License
e. \$500	Car insurance
f. \$3,000	Travel vacation
g. \$1,200	Bedding and Furniture
4. In 2018 the parties agreed that the Respondent would a stay at home parent. The Respondent became employed upon the breakdown of the marriage.
5. The Respondent owns a 2014 Buick Enclave.

Social Services Report

[8.] The Court requested the assistance of Social Services conduct an investigation and provide the Court with recommendations with reference to the issues involving the children. The Department of Social Services provided a report dated 20 January 2026 ("the report"). Both parents and the children were interviewed by Social Services.

[9.] The Court noted, based on the report, that the parties are committed to fostering a co-parenting plan that allows the children to have liberal access to both parents. Both parents are employed and do not suffer from any mental or physical disabilities. All of the children are well adjusted. However, it was noted that their 11-year-old child is visually impaired and wears

corrective glasses. Further, that she recently underwent oral surgery to remove a tumor from her mouth and does not have any special needs which need to be addressed.

[10.] The Report recommends that a joint custody parenting arrangement to support “*stability, consistency, and continued involvement of both parents*”.

Issues

[8.] The parties settled the issue of matrimonial property by way of consent Interim Order filed 10 June 2025 whereby the Respondent will transfer her interest in the matrimonial home to the Petitioner upon payment. The Court must determine custody, care and control of the minor children and arrangements for their education and maintenance.

Law and Discussion

[9.] Section 74 of the Matrimonial Causes Act (the Act) empowers the Court to make orders for “*the custody and education of any child of the family who is under the age of eighteen*”.

[10.] Section 73 of the Act provides that the Court must be satisfied that the arrangements have been made for the “*welfare*” of any children of the family prior to the issuance of a Decree Absolute:

73. (1) 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-

... (b) 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 —

(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

(5) This section applies to the following children of the family, that is to say —

(a) any minor child of the family who at the date of the order under subsection (1) is —

(i) under the age of sixteen, or

(ii) receiving instruction at an educational establishment, or undergoing training for a trade, profession or vocation, whether or not he is also in gainful employment; and....

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

[Emphasis added]

[11.] Section 27(1)(d)(e) and (f) of the Act empowers the Court to make one or more of the following financial provision orders for any child of the family:

- (d) an order that a party to the marriage shall make to such person as may be specified in the order for the benefit of a child of the family, or to such a child, such periodical payments, for such term, as may be so specified;
- (e) an order that a party to the marriage shall secure to such person as may be so specified for the benefit of such a child, or to such a child, to the satisfaction of the court, such periodical payments, for such term, as may be so specified;
- (f) an order that a party to the marriage shall pay to such person as may be so specified for the benefit of such a child, or to such a child, such lump sum as may be so specified;

[Emphasis added]

[12.] The Court in exercising its powers under Sections 27 in relation to the welfare of financial provisions for any child of the family must consider the factors outlined in Section 29(2) of the Act:

... it shall be the duty of the court in deciding whether to exercise its powers under section 27(1)(d), (e) or (f), (2) or (4) or 28 in relation to a child of the family and, if so, in what manner, to have regard to all the circumstances of the case including the following matters, that it to say —

- (a) the financial needs of the child;
- (b) the income, earning capacity (if any), property and other financial resources of the child;
- (c) any physical or mental disability of the child;
- (d) the standard of living enjoyed by the family before the breakdown of the marriage;
- (e) the manner in which he was being and in which the parties to the marriage expected him to be educated or trained;

and so to exercise those powers as to place the child, so far as it is practicable and, having regard to the considerations mentioned in relation to the parties to the marriage in paragraphs (a) and (b) of subsection (1) just to do so, in the financial position in which the child would have been if the marriage had not broken down and each of those parties had properly discharged his or her financial obligations and responsibilities towards him

[Emphasis added]

[13.] Counsel for the Petitioner submits that the Court ought to consider the Respondent's lack of disclosure of her financial position in the circumstances. In particular, the Respondent's failure to account for the funds and/or donations which were contributed towards the medical fund for their 11-year-old child. Further, that her claim of a loan to cover the said medical fund is not supported by any evidence.

[14.] Counsel for the Respondent submits that the Petitioner has not produced evidence to support his efforts to portray the Respondent as unfit mother and not being frank with disclosure of her financial position.

[15.] The Court considered the financial position of both parties:

- a. That the mortgage on the matrimonial home is deducted from the Petitioner's salary;
- b. That the Petitioner bears the financial burden of the utilities and maintenance associated with the matrimonial home;
- c. That the parties share the costs of their children's schooling and groceries with the Petitioner being responsible to the larger portion thereof;
- d. That upon the payout to the Respondent of her interest in the matrimonial home she will have to secure accommodations which would have to factor in space for the children when they are in her care.

[16.] Counsel for the Petitioner also submits that the Petitioner ought to be granted primary care and control as he is a "*hands on father*" and the Respondent takes a more "*passive role in caregiving*".

[17.] Counsel for the Respondent submits that the Court when making any decision related to a child it must consider the child's welfare as paramount as per Section 3 of the Child Protection Act. Further, that the Court should also consider the observation of *Turner, J.* (as he then was) in **P v P and A** who accepted the dicta of *Lindley, J* in **Re McGrath (infants)** (1893) 1 Chancery 143 which was approved by *Guest, J.* in the House of Lords case of **J v C** (1969) 1 All ER 788 as follows:

The dominant matter for consideration of the Court is the welfare of the child. But the welfare of the child is not to be measured in money only, nor by physical comfort only. The word welfare must be taken in its widest sense. The moral and religious welfare of the child must be considered as well as its physical well-being. Nor can the ties of affection be disregarded.

[Emphasis added]

[18.] The Court having reviewed the affidavits of the parties, evidence under cross-examination and the report finds that both parents are actively involved in the upbringing of their children and their parenting styles have not adversely affected their children.

[19.] In all circumstances of the case the Court hereby orders as follows:

- (1) The Petitioner and the Respondent shall have joint custody of the children of the marriage care and control to the Respondent and liberal access to the Petitioner;
- (2) The children of the marriage shall reside with the Respondent from Sunday afternoon to Thursday morning;
- (3) The children of the marriage shall reside with the Petitioner from Thursday afternoon to Sunday afternoon;
- (4) The Petitioner shall have staying access to the children for one half of school breaks and national holidays;

- (5) The Petitioner and the Respondent shall share equally the children's school uniforms, school books and school supplies;
- (6) The Petitioner and the Respondent shall share equally the children's extra-curricular activities which have been mutually agreed;
- (7) The Petitioner and the Respondent shall share equally medical, dental and optical expenses of the children;
- (8) The costs of vacation and related travel expenses are to be borne by the party accompanying the children;
- (9) The Petitioner shall contribute \$700 to the Respondent towards the maintenance of the children into an account identified by the Respondent;
- (10) The Petitioner to pay \$1,000 per annum for the cost of clothing for the minor children to be reduced by \$150 upon each child attaining the age of 18 years;
- (11) Each party has liberty to apply.

[27.] The Court hereby declares that it is satisfied that the only children who are or may be children of the family to whom Section 73(i)(b)(i) of the MCA applies are CHT born 11 July 2013, CIMT born 28 October 2014, CAVT born 4 June 2016, 9 September 2018, and CIVT born 20 February 2020 and that arrangements for their welfare have been made and are the best that can be devised in the circumstances.

Dated the 10 day of February, 2026

[Original signed and sealed]

Constance Delancy
Justice