

**IN THE COMMONWEALTH OF THE BAHAMAS  
IN THE SUPREME COURT  
Common Law and Equity Division**

**2024/FAM/div/FP/00113**

**B E T W E E N**

**DRR**

Petitioner

AND

**CRP**

Respondent

**Before:** The Honourable Madam Justice Constance Delancy

**Appearances:** Shavanthi Griffin-Longe for the Petitioner

Cassietta McIntosh-Pelecanos with Louisiene Louissaint for the Respondent

**Hearing date(s):** 11 November 2025

**JUDGMENT**

**DELANCY, J.**

[1.] This the Court's decision on the contested divorce proceedings between the parties.

**Background**

[2.] The parties were married on 2 April, 2022 in Freeport, Grand Bahama.

[3.] The Petitioner is a teacher and the Respondent is a physician. At the date of Petition and Cross-Petition, the parties were married for two and one-half (2 ½) years. The parties are the parents of one (1) child BCRP born 1 October, 2023.

[4.] The Petition was filed on 24 September, 2024 and an Amended Petition was filed on 3 October, 2024 wherein the Petitioner sought a dissolution of the marriage on the grounds that the Respondent has, since the celebration of the marriage, treated her with cruelty.

[5.] The Respondent filed an Answer and Cross-Petition on 15 November 2024 denying the allegations contained in the Petition and cross-petitioned on the grounds that the Petitioner has, since the celebration of the marriage, treated him with cruelty.

[6.] The Petitioner filed a Reply and Answer on 3 December 2024 denying the allegations contained in the Respondent's Answer and Cross-Petition.

## **Evidence**

[7.] The Court read and considered the pleadings, video evidence, affidavit evidence filed by the parties herein and the submissions of the parties. The parties and the witness called by the Respondent were extensively cross-examined.

### *Petitioner's Evidence*

[8.] The Petitioner's evidence may be summarized as follows:

1. That the Respondent was verbally, physically, emotionally and financially abusive;
2. The Petitioner recounted an incident which allegedly occurred on 24 January 2023. The Petitioner alleged that the parties attended a party and that the Respondent became intoxicated and refused to give her the keys to the vehicle. Further that the Respondent attempted to interfere with the Petitioner's safe operation of the vehicle causing her to be afraid and she pull over on the side of the road. Upon arrival at the matrimonial home, the Respondent remained outside and she attempted to persuade him to enter the home; that she entered the home and while she was standing behind the back door the Respondent, knowing she behind the door, barged through said door intentionally causing her injury.
3. On cross-examination the Petitioner admitted that she was also drinking at the party and that the Respondent voluntarily gave her the vehicle. When probed as to why she simply did not seek the assistance of persons attending the event she did not respond.
4. Further, she admitted that when she allegedly pulled over on the drive home due the Respondent's alleged attempts to grab the vehicle's steering wheel she did not contact the police but chose to continue to drive to the matrimonial home. The Petitioner also conceded that she was standing behind the back door of the matrimonial home and the Respondent may have been unaware of her presence or position relative to the said door. The Petitioner was uncertain as to how she received any bruises or any affect the same may have had on her. The Petitioner claimed to have video evidence of the Respondent's alleged actions but did not produce the same.
5. The Petitioner recounted an incident which allegedly occurred on 24 July 2023. The Petitioner alleged that the Respondent told her he may unable to control himself and she contacted the police as result thereof.
6. On cross-examination, when it was pointed out the alleged incident occurred in September 2023, the Petitioner's evidence was confusing as she stated it occurred in July 2023 then that it was in August 2023 and then stated in was July 2023. She alleged that

the Respondent pulled her leg in a way that she interpreted to be domineering and controlling. When asked to demonstrate that the action complained of she proceeded to demonstrate by touching her wrist. Further, she stated that at the time of the alleged incident she asked the Respondent not to touch her but there is no mention of this in her Amended Petition or Reply.

7. The Petitioner also alleged in her Amended Petition that during her pregnancy she feared for her life and that of their unborn child. On examination in chief the Petitioner stated that her fear during the pregnancy, which affected both parties, was borne from the threatened miscarriage of their child.
8. The Petitioner also stated on examination in chief that the Respondent would demonstrate his caring towards her by performing small task or gestures which she characterized as “small things” which she later concluded to be “manipulation and control” tactics. She also testified that she felt that the Respondent putting only \$10 worth of petrol in the vehicle was controlling.
9. Under cross-examination when asked to describe what she meant by “small things”, she recounted that the Respondent contacting her during at lunch time to confirm she was at home and enquiring about her wellbeing and whether was she was experiencing any symptoms related to the threaten miscarriage. The Petitioner confirmed that she had been placed on bed rest during her pregnancy because of a threatened miscarriage symptoms and that the Respondent kept petrol in the vehicle for her to be able to get to the clinic in the event an emergency.
10. The Petitioner recounted a version of events which took place in August 2024 shortly before the parties’ separated. She alleged that the Respondent returned to the matrimonial home from a function with their child, she attempted to remove the child from his stroller and that struggled ensued between her and the Respondent. Further, that he took the child and locked himself and the child in the guest bedroom.
11. The August 2024 incident was captured on the child’s baby monitor camera and when confronted with the video under cross-examination the Petitioner’s demeanor was that of snickering and flippant. That the video which was not challenged by the Petitioner, depicted the Petitioner as the aggressor and the Respondent attempting to de-escalate the situation and protect the child.
12. That the Respondent falsely reported that the child’s travel documents as lost. On cross-examination the Petitioner conceded that she had no evidence to support such a claim.

### *Respondent’s Evidence*

[9.] The Respondent’s evidence and that of his brother, C.P., may be summarized as follows:

1. The Respondent averred that the Petitioner has been emotionally and physically abusive towards him. The Respondent recounted instances where the Petitioner made disparaging remarks about him to their friends which has caused him embarrassment.
2. The Respondent stated that he was in a constant state of confusion, as his efforts were not good enough for the Petitioner. That in July 2023 the Petitioner made false reports about him to the police. That she demanded that he leave their bedroom refused to be intimate with him and stated that she did not enjoy his company.

3. The Respondent alleged that the Petitioner also threatened to take their child and told him “Good luck with trying to see your son in Europe”. The Respondent lived in fear of the Petitioner taking their child and excluding him from his life.
4. The Respondent recounted how the Petitioner again reported him to the Police alleging abuse from the incident which was captured on the child’s baby camera. That she alleged that he had locked himself and child in the guest bedroom which was contradicted by the video footage.
5. The Respondent also alleged that he was attacked by the Petitioner which was also supported by the video footage.
6. The Respondent’s brother, C.P. was called as a witness and he testified that he resided with the parties and observed the Petitioner sleeping on the couch after being excluded from the bedroom he shared with the Petitioner.
7. The Respondent averred that the child’s travel permit could not be found and in order to get a replacement document he had to file a report indicating that it could not be located.
8. That the Petitioner repeated false reports to the Police made him fearful of the adverse effect on his employment.
9. C.P. recounted hearing the parties having an argument in which the Petitioner attempted to cancel prearranged family outing. Further, that he recounted a conversation between him and the Petitioner, in which he asked her “*if you did not love C\*\*\*\*\* why did you marry him?*” and that she responded “*in Europe we do it all the time to save on rent and taxes.*” C.P.’s evidence remains unchallenged.

## Law and Analysis

[10.] Section 2 of the Matrimonial Causes Act (MCA) defines “*cruelty*” to include:  
 ...**voluntary conduct reprehensible in nature** or which is **a departure from the normal standards of conjugal kindness on the part of one party to a marriage thereby occasioning injury to the health of the other spouse** or a **reasonable apprehension of it on the part of that other spouse and being conduct which, after taking due account of all the circumstances of the case, would be considered to be so grave and weighty a nature that should such other spouse be called upon to continue to endure it, would be detrimental to his or her health.**

[Emphasis added]

[11.] The Court in determining whether a spouse has treated the other spouse with cruelty must consider all the circumstances of the case and determine whether:

- (i) the behaviour complained of was voluntary reprehensible conduct or a departure from normal standards of conjugal kindness;
- (ii) there must be correlation between the alleged behaviour and injury or reasonable apprehension of injury on the part of the other spouse; and
- (iii) the nature of alleged behaviour was so grave and weighty that it would be detrimental the other spouse’s health

[12.] The Court must also be satisfied that the Petitioner/Respondent has not condoned the alleged behaviour. Section 19(1)(b) MCA provides that:

If the Court is satisfied on the evidence that the case for the Petitioner has been proved and —

(b) where the ground of the petition is cruelty that the Petitioner, has not in any manner condoned the cruelty,

the court shall, subject to section 18 grant a decree declaring the marriage to be dissolved; and **if the Court is not satisfied with respect to any of the matters aforesaid; it shall dismiss the Petition;**

[Emphasis added]

[13.] Section 18 MCA sets out the circumstances when the Court may dismiss a Petition:

(a) it is **not satisfied on the evidence that the case for the Petitioner has been proved;** or

(b) it finds that the Petition is **presented or prosecuted in collusion with the Respondent** or either of the Respondents; or

(c) it finds **that the petitioner has during the marriage been guilty of adultery;** or

(d) in its opinion the **Petitioner has been guilty** —

(i) of unreasonable delay in presenting or prosecuting the Petition; or

(ii) **of cruelty towards the other party to the marriage;** or

(iii) where the ground of the Petition is adultery or cruelty, of having without reasonable excuse either deserted or willfully separated himself or herself from the other party before the adultery or cruelty; or

(iv) where the ground of the Petition is adultery or desertion, of such wilful neglect or misconduct as has conducted to the adultery or desertion.

[Emphasis added]

[14.] Counsel for the Petitioner submits that the Petitioner has made out her case against the Respondent and ought to be granted a decree nisi. Counsel relies on dicta of *Strachan, J. EHS v KSJ* 2022/FAM/div/00438 in which she referred to the decision in *Windeatt v Windeatt* (No.2) (1962) 1 All ER 776 at para. [20]:

In *Windeatt v Windeatt* (No.2) [1963] P 25, [1962] 1 All ER 776 “The Court of Appeal held that a husband's conduct had constituted cruelty justifying the grant of the decree nisi, since the question as to whether treatment accorded by the husband to the wife amounted to cruelty, entitling the wife to a divorce, was one of fact and degree depending on the circumstances of the case.

**The conduct had to be looked at as a whole in the light of the sort of people that the parties were, and what sort of person the wife was and how the husband's conduct affected her.**

[Emphasis added]

[15.] Counsel for the Respondent submits that the Petitioner has failed to prove that the Respondent was verbally, emotionally, financially or physically abusive towards her. That the Petitioner relies on trivial incidents that fall short of meeting the standard of “*grave and weighty*”

as per **Gollins v Gollins** (1964) AC 644. Counsel submits that the Respondent has proven that the Petitioner has been physically and mentally abusive to towards him.

[16.] Counsel for the Respondent also submits that the criteria “*grave and weighty*” is applicable to all the conduct of the parties to prove the elements of cruelty as defined in the MCA as posited by *Scarman, J.* in **Saunders v. Saunders** [1965] 1 All E.R. 838 at p.846, paras. D-I.

Counsel for the wife, appreciating the difficulties that his client might have to face in her case, was bold enough, if he will permit me to say so, to submit that the test which the courts have recently been most careful to apply in assessing the quality of conduct alleged to be cruel or to be just cause for withdrawal from cohabitation was a wrong test. **That test is commonly known as the “grave and weighty” test. Counsel for the wife, relying on one passage from the speech of Lord Pearce in Gollins v. Gollins, submitted that that was not really the test, but that the test really was first, whether the conduct of the spouse was reprehensible conduct or a departure from the normal standards of conjugal kindness; and secondly, if it was, whether a reasonable person, after taking due account of the temperaments of the spouses and all the other particular circumstances, would consider that the conduct complained of was such that the spouse should not be called on to endure it. If it was such conduct and was accompanied by injury to health or reasonable apprehension thereof, it would be cruelty; if not so accompanied, it would at least afford just cause for withdrawal from cohabitation. I think, with respect, that counsel for the wife has misunderstood the passage of Lord Pearce's speech in Gollins v. Gollins on which he relied.** It is clear to my mind that Lord Pearce was substantially in agreement with the other members of the House, whose opinion was that the appeal should be dismissed. *Lord Pearce*, at the beginning of his speech, emphasized that since the days of Lord Stowell it had been acknowledged that to support a finding of cruelty the matter must be grave and weighty. He then, mentioned **Russell v. Russell**, in which it was laid down that, **when the charge was cruelty, there must be evidence of injury to health or reasonable apprehension of injury**, and he said:

**Thus there have long been two safeguards against any extension of relief to cases founded on mere trivialities and incompatibility.**

The **truth is that Lord Pearce was recognizing that the ‘grave and weighty’ test of alleged matrimonial misconduct remains in full force and effect as one of the great safeguards against matrimonial relief being given on mere trivialities or incompatibility.**

[Emphasis added]

[17.] The parties both placed much emphasis on the video and audio footage captured on the child’s baby monitoring camera and sought to persuade Court as to how it ought to be interpreted. The Court was taken through the footage frame by frame thorough “*lens*” of parties’ respective testimony. The Court viewed the entire video footage and drew its own conclusion

from the same. It is an illustration of one incident between the parties and while it may not be definitive of the entirety of their course of their marriage it is nonetheless helpful.

[18.] In **Lockhart v. Lockhart** 95 of 1994 *Hall, J.* (as he then was) at para.136 of his decision lamented the task of a judge hearing contested divorces:

**The inevitable task of trial courts in (contested) divorces and matrimonial matters is to wade through the detritus resulting from the posture of parties** (who, despite the fact that they must have been "in love" with each other at some time in the past, in the unforgiving glare of scrutiny by strangers (which is the trial process), each seeks to monopolize virtue for his/her cause and to demonize the other party (and this, even if they so choose to embarrass themselves, to the distress of the children of that union reverberating for years to come)) **and shift minutiae of truth from the sediment.**

[Emphasis added]

[19.] The Court makes its findings from the examination of the pleadings, affidavit evidence filed herein, the parties' testimony and that of the witness, C.P. The Court also observed the demeanor and behaviour of the parties throughout the trial.

[20.] The Court found the Petitioner to be combative, unclear and that her evidence differed or contradicted the particulars of her Amended Petition and Reply. The Petitioner's allegations of threats and manipulation are not borne out by her evidence.

[21.] The Court observed that the Respondent's evidence did not differ from his Answer and Cross-Petition and largely remained unchallenged under cross-examination. The Court also accepts the unchallenged evidence of the Respondent's witness, C.P.

[22.] The Court is also guided by the observation of *Thompson, J.* in **Spencer v Spencer** 2003/FAM/div/00232 at para. [9] thereof:

**...The court is not inclined to preserve a limping marriage but it is still obliged to be satisfied that the matrimonial offence is proved, since The Bahamas does not recognize irreconcilable differences as a ground for divorce.**

[Emphasis added]

[23.] In all the circumstances of the case, the Court hereby dismisses the Amended Petition and grants a decree nisi to the Respondent on the basis that since the celebration of the marriage the Petitioner has treated the Respondent with cruelty not to be made absolute for three (3) months as the behaviour of the Petitioner strayed from the normal standards of conjugal kindness and that it would be likely to injure the Respondent should he have to endure it.

[24.] The Court will assess the costs on a summary basis and directs the parties to provide skeleton submissions to the Court within 21 days.

Dated the 6 day of May, 2026

Constance Delancy  
Justice