

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
FAMILY DIVISION
BETWEEN**

**2015
FAM/DIV/00615**

**J.T.
Petitioner**

AND

**S. T.
Respondent**

Before: The Hon. Madam Justice G. Diane Stewart

**Appearances: Mrs. Kelly Bostwick-Toote for the Petitioner
Mr. Keith Seymour for the Respondent**

Ruling Date: March 8th, 2023

RULING

BACKGROUND FACTS

1. These ancillaries have been protracted and despite numerous orders being made, there are still outstanding issues to be resolved.
2. All of the issues regarding the children of the family have been determined and consolidated in an order made on the 9th September, 2022.
3. I have been advised by counsel for the Petitioner that the Respondent is in breach of the various court orders made, not only with regard to the maintenance of the children but also in production of documents to verify his submissions

relating to his financial position and the home he states is owned by his mother.

4. There is a court order made on the 25th October, 2022 ordering the Respondent to pay the Petitioner by the 27th October 2022 the sum of \$1,000.00 toward the arrears of maintenance failing which he will be held in contempt. This court also restrained the Respondent from charging, assigning or encumbering the home owned by himself and his mother.
5. Submissions were received from the Petitioner only despite the court order that the parties file submissions.
6. There is no application made by the Petitioner for an order for committal of the Respondent for his breaches of the various court orders.
7. The outstanding issues involve the confirmation of the Respondent's earnings from BPL where he is still employed and a property adjustment order for the home owned with his mother.
8. In compliance with the order served on BPL evidence of his earnings were produced from October 31, 2020 to October 31, 2022.

| <u>2022</u> | | \$40,675.88 | \$26,578.38 | \$11,348.00 |
|------------------------|--------------------------|------------------------|------------------------|-----------------------|
| | | Earnings | Net Deposit | Loan |
| January | Fidelity Loan | \$3,745.10 | \$2,483.39 | \$1,025.00 |
| February | | \$5,358.26 | \$4,096.55 | \$1,025.00 |
| March | | \$3,161.94 | \$1,900.23 | \$1,025.00 |
| April | | \$2,850.83 | \$1,589.12 | \$1,025.00 |
| May | | \$4,664.55 | \$3,403.04 | \$1,025.00 |
| June | | \$3,258.32 | \$1,992.85 | \$1,025.00 |
| July | | \$4,427.32 | \$3,161.85 | \$1,025.00 |
| August | | \$3,021.23 | \$1,755.76 | \$1,025.00 |
| September | | \$2,739.97 | \$1,474.50 | \$1,025.00 |
| October | | \$3,973.95 | \$2,621.48 | \$1,025.00 |
| November | | \$3,474.41 | \$2,099.61 | \$1,025.00 |
| <u>2021</u> | | \$38,068.33 | \$24,491.28 | \$8,879.00 |
| | | Earnings | Net Deposit | Loan |
| January | Commonwealth Bank | \$2,701.62 | \$1,730.60 | \$746.00 |
| February | | \$2,965.82 | \$2,740.80 | \$ - |
| March | | \$2,429.99 | \$224.97 | \$ - |

| | | | | |
|--------------------|------------------------|-------------------|--------------------|-------------------|
| April | Fidelity Loan | \$2,496.98 | \$1,523.96 | \$748.00 |
| May | | \$2,965.82 | \$1,907.44 | \$830.00 |
| June | | \$2,764.50 | \$1,682.22 | \$830.00 |
| July | | \$3,087.41 | \$2,025.27 | \$830.00 |
| August | | \$3,021.63 | \$1,959.49 | \$830.00 |
| September | | \$2,526.37 | \$1,464.23 | \$830.00 |
| October | | \$3,973.95 | \$2,621.48 | \$1,112.00 |
| November | Fidelity Loan Increase | \$4,090.64 | \$2,828.93 | \$1,025.00 |
| December | | \$5,043.60 | \$3,781.89 | \$1,025.00 |
| <u>2020</u> | | \$8,328.13 | 5,415.07 | \$2,311.00 |
| | | Earnings | Net Deposit | Loan |
| October | Commonwealth Bank | \$2,430.01 | \$1,458.99 | \$746.00 |
| November | | \$2,668.13 | \$1,697.11 | \$746.00 |
| December | | \$3,229.99 | \$2,258.97 | \$746.00 |

9. Employees in the Respondent's category receive a \$800.00 bonus in addition to their earnings in December of each year.
10. His annual gross earnings from BPL were as follows:-

| | |
|-------------|------------------------------|
| 2020 | \$8,328.13 (3 months) |
| 2021 | \$38,068.33 |
| 2022 | \$40,675.88 |
11. There is evidence from the 2020 statement that the Respondent was paying a loan to Commonwealth Bank. In 2021 he commenced paying a loan to Fidelity Bank in the sum of \$748.00 per month which was increased to \$1025.00 by the end of the year. In 2022 the amount being paid to Fidelity increased in October to \$1,112.00.
12. Throughout his employment, in addition to his basic salary, the Respondent earned overtime and also worked side jobs.
13. Upon review of these figures there is no evidence that the Respondent could not have contributed to the maintenance of his children as he should and even as ordered.
14. The interim order made for the monthly maintenance based on the evidence now provided is varied to \$300.00 per month per child. All other maintenance provisions remain as ordered. The maintenance shall be by way of salary deduction.

LOANS

15. The court made several orders relating to the various loans taken out by both parties or by each one individually. These orders stand.

HOME CO-OWNED

16. The home which is co-owned by the Respondent and his mother is a matrimonial asset and was appraised in May of 2022 at \$213,000.00. Based on the evidence of the Petitioner in her affidavit filed September 26th, 2022, this house can easily be converted into a duplex.
17. As the need of the Petitioner is considerably greater than the need of the Respondent as it involves the need for a home for the children, I order that the house be divided into a duplex within six months of the date of this ruling at the cost of the Respondent and the Petitioner and the children be allowed to live in same until the last child reaches the age of 18. The partition can be divided as agreed between the parties but with the aim of accommodating the Petitioner and her children.
18. Upon the last child reaching the age of 18, the Petitioner must vacate the same. While living in the duplex, the Petitioner will be responsible for all utilities incurred for the same.
19. Should the Respondent not settle his portion of the Fidelity loan as ordered upon the vacating of the home, the duplex shall be sold and the net proceeds divided between the Respondent and his mother. Out of his portion the balance of the various sums owed to the Petitioner for the Fidelity loans must be settled before he is able to retain the residue. The Respondent's mother is at liberty to apply to the court regarding this order.
20. The salary slips reflect another loan deduction for Fidelity which the Respondent acknowledged as his personal loan.
21. In conclusion I order that:-
- i. The various orders relating to maintenance of the children except as hereafter set out remain. For the avoidance of doubt, the Petitioner shall have custody of the children of the family with access as set out in the consolidated order made the 9th September, 2022.
 - ii. The monthly maintenance for each of the children shall be \$300.00 totaling \$900.00 per month commencing on the 28th day of March,

2023 and payable until each child reaches the age of 18.

- iii. The orders relating to the liability of the various loans are confirmed.
- iv. The Respondent shall convert at his expense the house co-owned with his mother into a duplex within the time ordered and allow the Petitioner and her children to live there until the last child reaches the age of 18 years. Upon the last child reaching the age of 18, the Petitioner shall vacate the premises within 30 days thereafter. Should the Respondent fail to comply with this ruling, the property is to be sold and the proceeds divided as set out in paragraph 19 hereof.
- v. If the sums ordered to reimburse the Petitioner have remained unpaid, the duplex shall be sold and from the Respondent's half of the proceeds, the sums owed for the loans shall be paid to the Petitioner.
- vi. The court declares pursuant to Section 73 (1) (b) (i) of the Matrimonial Causes Act that the arrangements are the best that can be devised in the circumstances.
- vii. The parties are at liberty to apply to give effect to this ruling.

22. Normally each side would be responsible for their own costs in ancillary proceedings but I recognize that much of the delay in resolving this matter must be laid at the feet of the Respondent and I accordingly order that costs in the amount of \$5,000.00 be paid by the Respondent to the Petitioner for these proceedings.

Dated this 8th day of March, 2023



The Hon. Madam Justice G. Diane Stewart