

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Family Division

2021
FAM/gua/00473

IN THE MATTER of the Child Protection Act; Chapter 132 of the Statute
Laws of the Commonwealth of The Bahamas

AND IN THE MATTER of an Application for Guardianship of A.T.S.V.,
A.S.G., J.G. and J.K.G. of Nassau Village in the Southern District of the
Island of New Providence, one of the Islands of the Commonwealth of The
Bahamas

AND IN THE MATTER of Joint Application by Stephen Todd Sipprell and
Holly Sipprell

STEPHEN TODD SIPPRELL

AND

HOLLY UHLAND SIPPRELL

Applicants

JUDGMENT

BEFORE: The Honorable Madam Justice J. Denise Lewis-Johnson

APPEARANCES: Mr. Kevin Farrington & Ms. Floidira Collie, of Counsel for the
Applicants
Mrs. Cheryl Bazard, of Counsel for the Respondent
Ms. Racquel Whyms, Mr. Kirkland Mackey, Mr. Randolph Dames and
Lynette King of Counsel for the Office of The Attorney General and
The Department of Social Services

DATES: 10 August 2021; 12 December 2021; 20 December 2021; 2 February 2022; 24 February 2022; 28 February 2022; 2 August 2022; 9 August 2022; 23 August 2022; 25 August 2022; 11 October 2022; 12 October 2022; 31 May 2023; 6 March 2023; 7 March 2023; 8 March 2023; 28 July 2023

Family Law-Guardianship-Objection to guardianship application-best interest of the child-Child Protection Act- Court paramount considerations-Considerations when granting guardianship-Rule of Law-Proper practice and procedure

Introduction

1. By Originating Summons supported by Affidavit filed 6 July 2021, the Applicants sought Guardianship of four minor children namely, A.T.S.V., A.S.G., J.G. and J.K.G. “the minor children”.
2. Two of the minor children namely, AT and AS, share the same biological father, Harold St. Vilus, while J and J share the same biological father, JGS. The minor children all together share the same biological mother, Monique G, who pre-deceased them on the 3 June 2020, and are considered children of the family.
3. The Applicants' position is that they have formed a relationship with the minor children and their parents that the children were fully integrated in their family, and they wish to continue to provide for the minor children’s well-being and administer their affairs pursuant to the Child Protection Act Chapter 132 “the Act”.
4. The extant application before the Court was further accompanied by the following Affidavits for consideration:
 - Harold St. Vilus filed 9 August 2021;
 - Britney Lisa Jeunes-Gens, filed 12 August 2021, 6 July 2021,
 - Chinta McDonald filed 24 August 2021, 31 January 2022, & 16 February 2022;
 - JGS filed 1 July 2022;

- Celinise St. Louis filed 7 September 2022
- Debra Faye Hewitt filed 8 June 2022; and
- Alesha Tamara St. Vilus filed 4 August 2022

The Applicants' Evidence

Stephen Sipprell

5. The first Applicant avers that both he and his wife are citizens of the United States of America, residing in St. Augustine, Florida. He is currently employed with a multinational aerospace and defence technology company and serves as a part time pilot with Allegiant Airlines. He further averred that he and the second Applicant are married and together share two (2) children of the family.
6. He further stated that he and the second Applicant are known to the minor children as of September 2019, after the devastation of Hurricane Dorian on the island of Abaco. The first Applicant under a temporary legal status took JGS and Monique, along with all the minor children into their Florida home.
7. He further indicated that the G family "the family" were fully integrated into their home in Florida where he and the second Applicant wholly provided for the family and the well-being of the minor children on a day-to-day basis, including administering the minor children's affairs and making decisions in their best interest with the concurrence of their parents.
8. He also stated in his evidence that the minor children's mother, while hospitalized due to a brief period of illness, instructed him and the second Applicant to adopt the children and continue to provide for their well-being and provide for their welfare.
9. They paid for an apartment and all bills associated with it. They placed the children in private school and paid the tuition. They bought food and clothes for more than two years.

Holly Sipprell

10. Mrs. Sipprell, in her viva voce evidence, indicated that she is employed at the Good News Church as the Communications Director and presently resides in St. Augustine, Florida. She avers that she is the wife of Stephen Sipprell and together they have two children.
11. She averred that she came to know Mr. JGS while her husband was conducting relief flights after the passing of hurricane Dorian in 2019. She further averred that her husband was asked to pick up a family of six out of Abaco and bring them back to Florida. She indicated that when her husband arrived at the North Florida Regional Airport, he was accompanied by JGS and Monique and their four children.
12. She stated that when she was let in the area by her husband, she embraced each family member and welcomed them to St. Augustine. A news crew was present at the airport who interviewed them before leaving the airport. She further averred that the family was initially supposed to reside at the Seawalk Hotel, but they ended up at their home. She stated that she and Mr. Sipprell welcomed the family into their home and fed them.
13. She submitted that the children indicated that they were left with only the clothes on their backs and that her husband and two of the children went through their clothing to see what they needed. She also averred that they provided the family with a two- two-bedroom and bathroom cottage with a full kitchen that was adjacent to their home which she and her husband owned. She also averred that she introduced the G family to her mother and children that night.
14. She averred that the following day Monique came to the main house requesting a broom and she started to sweep their sidewalks and stairs in appreciation for them welcoming the family into their home.
15. She asserted that she and Mr. Sipprell enrolled JG and JK in school. She averred that Monique was very happy. She stated that she took Monique grocery shopping and, sometime after, took the family to Marshalls where they were allowed to purchase anything they needed and wanted.

16. She further stated that she enrolled AT and AS in the Sebastian Middle school and Alesha was enrolled in St. Augustine High School. She asserted that JGS was not a part of the enrollment process for AT and AS, but he attended a conference once for AS and some football games from the high school.
17. She contended that they asked the children what they were interested in for extracurricular activities and stated that JG was enrolled in taekwondo, JK in art and K-club, AT basketball and track and AS the ROTC program.
18. She stated that JGS attended AS ROTC but didn't believe he ever attended JS's taekwondo.
19. She further averred that she arranged tutoring for the children as they were behind in classes and, due to their transportation issues, she arranged a tutor who was willing to come to their house and spend time with each of the children. She also stated that she and Mr. Sipprell tutored the children every night as well.
20. She indicated that the reason she allowed the G's into her home the night they arrived is that she felt love instantly, and she believed that that was what she was called to do. She indicated that she wanted to help as it appealed to her emotions.
21. She averred that she took Monique and John to the Seawalk Hotel about three days after their arrival and told them that that was where they were supposed to stay if they were interested, and she believed it to be available. However, JGS and Monique indicated that they were comfortable staying with them.
22. She submitted that the hotel had no yard to play in and had traffic on the street. She further stated that the yard surrounding their home was in a rural setting with lots of children and that the G's were embraced and received support, love and concern, which she believed warmed the family's heart.
23. She averred that the families integrated very well, and they started to learn about each other's culture. She stated that bikes were donated to the children, and they took them

to neighborhood functions and the beach club. She further contended that they all went on walks on the beach, worshipped and went to restaurants together.

24. She averred that, with the children's parents' permission, she and Mr. Sipprell took the children to Disney World and Sea World.
25. She further averred that due to JGS's wanting to get his driver's license, as it was expired in The Bahamas, she had the driver's license manual printed in creole for him, as John was unable to read and write in English. She further indicated that Monique and JGS also expressed a desire to learn to read and, as a result, she arranged for instructors to come to the home to work with them while the children were at school.
26. She stated that during the G's time at their home, they did not require them to do any work and the funds which took care of the G family mainly came from her and her husband, the community, and donations from the Good News Church. She asserted that a GoFundMe account was created as a fundraising tool for donations, and that they received about \$13,000.00 though the entire experience as the G family lived with them from September 11th, 2019, until November 2019.
27. She also submitted that she and Mr. Sipprell leased the family a townhouse for \$1,700.00 per month in order for them to have their own privacy. She averred that the G's would still come over to their home and they would also visit the townhouse to spend time with the family. She averred that the deposit for the townhouse came from the Good News Church and the first month's rent and security deposit came from the G's account, they established for them.
28. She submitted that she took Monique grocery shopping anytime she asked and that other neighbors and an NFL football player also provided grocery and supplies for the G family. She stated that JGS lived in the townhouse from November until January 10th, when he left for The Bahamas, and that Monique and the children lived there until the 20th February 2020, when they then departed for The Bahamas.
29. She further asserts that JGS told them that he lost his passport in the storm and wanted to apply for a new Hattian passport. She averred that her husband took JGS to the US

embassy in Orlando where he applied for the Haitian passport and received same a few weeks later. She further asserted that JGS expressed that he and his wife would like to consider US Citizenship. As a result, they met with a US attorney in Jacksonville who explained the process to them.

30. She submitted that before JGS left for The Bahamas, they had a great relationship and he also asked her to assist him with some things for his church. She stated that she bought him an iPhone valuing \$1000.00, per his request.
31. She avers that her relationship with JGS significantly broke down when she learned that he was wiring money to Haiti. She submits that she asked him about it and he indicated on one occasion that he had sent the money to an orphanage and on another occasion to a church. She further told him that if he continued to wire funds to Haiti that was specifically for Monique and the four children, that they would stop assisting him.
32. She averred that JGS after that conversation became distant, the family came over for Christmas, their cottage was loaded up with gifts and surprises, and that JGS was elated and told Mrs. Sipprell that he had forgiven her She further averred that before JGS left, they had a going away party for the family.
33. She contends that her relationship with Monique was awesome. She said that she was concerned about some health issues Monique had and subsequently took her to the doctor where she had an exam. She also submitted that Monique indicated that she had asked JGS to seek further medical attention for her medical condition but he forbade it. She averred that Monique told her that she had been unhappily married and wanted to know how she could get a divorce.
34. She submitted that Monique and the children left on the 20th February 2020, that the monies donated to them were deposited into their bank account at Ameris Bank to which she, Monique and JGS were signatories. She averred that when Monique left, she had in her possession over \$5,000.00 separate from the sums on the bank account which she received from doing work for neighbors and working for a cleaning company

- while she was there. She also asserts that JGS also had at job which he made good money.
35. She stated that at the time Monique left, there was about \$16,000.00 in the account which both Monique and JGS had access to.
 36. She averred that once the family had returned to The Bahamas, they stayed in contact with them and would call on birthdays.
 37. She submitted that she was unaware at that time that Monique was sick as she had asked JGS how she was doing, and he indicated she was fine. She further submitted that she later learnt that Monique was sick and was airlifted to Princess Margaret Hospital the following day after she spoke to JGS.
 38. She averred that on the 25th May, Monique video called her indicating her concern for her children and that she was not going to make it. She stated that Monique asked her if she could fly the children to Nassau and if she could adopt them and she said yes. She further averred that when she asked JGS if she and Mr. Sipprell could fly the children to Nassau, he said yes. However, when her husband was about to fly over, JGS said only JG could go but JK could not.
 39. She averred that she attended Monique's funeral and saw JGS three days prior to the funeral. She submitted that when she saw JGS, he was with some other pastors and then they dealt with some money issues. She asserted that afterward, she told JGS that she would see him at the private family viewing later that evening. She asserted that she saw JGS at the private viewing but not at the funeral. She also submitted that after the private viewing, she saw JGS at a wake on Minnie Street at the house where the children were living with their grandmother and aunt.
 40. She asserted that at the point of the funeral, the \$16,000.00 was no longer in the account. Prior, she asserted that JGS indicated the funeral would cost \$16,000.00 and that she would need to send the money to Ziama, the owners of Rest On Funeral Home. She indicated that she did not send the money as the day after Monique's passing, JGS

called and asked them to adopt the children, which she felt was too soon after Monique's death.

41. She further averred that she sent JGS \$1,000.00, as he had JG and JK with him, and \$1000.00 to Monique's sister, Natasha, who had Alehsa and Alicia. She further submitted that she called funeral homes and was then informed that the same service at Ferguson was \$5,000.00 so she wired \$5,450.00 to Ziama. She further wired JGS funds for the air ambulance service and shipped his items to Marsh Harbour. She submitted that when she asked JGS about the remaining funds, he stated that the balance of about \$1,400.00 should be used for the children.
42. She averred that after the death of Monique she was more in contact with AS and asked the family what they needed. She stated that they assisted with food and clothing for the family.
43. She indicated that they leased a place for them in Nassau Village as the house on Minnie Street had about 15-20 people living there and she was informed that, from time to time, JK would live in the car, which concerned her. She further submitted that there was no furniture, they were sleeping on the floor and no one seemed to have a clear plan as the children were not even enrolled in school.
44. She averred that while at Palm Cay with the children, she met Kim Kooskalis, the owner of Blairwood Academy and at that time she expressed her concerns about the children's education. She contended that the children were enrolled in Blairwood Academy and still currently attend.
45. She asserted that she and Mr. Sipprell opened an account, Mocus Kids Fund, where they are the greatest contributors and that the account is used for welfare expenses for the children. She further contends that AS's money is wired through Western Union where she keeps a proper account of the funds with receipts and a spreadsheet.
46. She asserted that they have documented receipts of over \$155,000.00 since they met the G family, and that she is still fundraising for them at this juncture.

47. She further averred that she continues efforts for the family because they don't have a mother and, do not have a father in her opinion, as JGS fails to provide for his children and they have not heard from him. She contends that she assisted AS with getting Bahamian Citizenship and a US visa as it was in her best interest, and that she is her eyes and ears on the ground in The Bahamas to assist with the children.

Harold St. Vilus

48. Harold St. Vilus provided evidence for the Court in support of the extant application. He is the biological father of two of the minor children. He stated in his evidence that he was born in Abaco and is currently employed as a carpenter.

49. He averred that his daughters were both born at the Princess Margaret Hospital but lived in Abaco with their mother and her husband, JGS. He indicated that after the death of Monique, both of his daughters lived with their aunt, Britney Lisa Jeunes-Gens.

50. He averred that he met the Applicants at Monique's funeral and at that time, gave them permission to become AS and AT's legal guardians. He further stated that he did not have much of a relationship with his daughters; however, he communicated occasionally but was not actively involved with their education or upbringing.

Britney Lisa Jeunes-Gens

51. Ms. Jeunes-Gens averred that she is a 23 year old Haitian citizen who resides in a two-bedroom apartment unit paid for and financially maintained by the Applicants for her and the said children, and that she is employed as a sales associate with Diamonds International.

52. She averred that despite the children being born in Nassau, they lived with their mother, Monique and her husband JGS. She stated that although AS and AT know their biological father, they have little communication with him and were considered children of Monique and her husband.

53. She stated that she had not seen or heard from JGS over the past year and that he did not attend his wife's funeral. From her recollection, she stated that JG has had contact with JGS about twice and he has not informed his children of his whereabouts.

54. She further averred that since the children have been in her care, her family residing in Abaco have been searching for JGS to receive financial assistance for his children; however, these attempts have been unsuccessful. She further stated that she heard rumors he returned to Haiti.

JGS

55. JGS is the biological father of JG and JK. The Court provided an interpreter for his evidence. He provided evidence that he did not give permission for the Applicants to have guardianship of his two minor children. In fact, he attested that the Applicants were very manipulative and treated him and his family poorly while they were living in their home. He further stated that he wants to have custody of his own children.

56. Under cross examination, he was unable to identify any of the national symbols. He did not know the Coat of Arms, which was in Court, the flamingo, or the blue marlin. He identified them as "fish" and "bird".

57. JGS gave evidence that he was working in The Bahamas on a spousal permit based on his deceased wife. However, while the holder of that permit, he married a Haitian citizen who resided in Haiti.

58. JGS, on the next Court hearing, advised the Court and produced a letter dated 27 August 2022 that he had been granted Bahamian citizenship.

59. Under cross examination, JGS admitted that he had not made application to the Department of Immigration for or on behalf of his minor children to receive Bahamian citizenship when he applied.

60. JGS averred that he did not attend his wife's funeral because he was not feeling well.

61. He stated that he went to Haiti and that was why he did not contact his children or family in The Bahamas for two years. He acknowledged getting married while in Haiti to a Haitian citizen. He said he could not return to The Bahamas because of COVID and because the borders were closed.
62. He acknowledged not providing any financial support for the children over the past two plus years.

Celinise St. Louis

63. Mr. St. Louis averred that he attended the funeral of Monique G. He further averred that after his arrival at the church to attend the funeral, JGS fell ill and he took him to visit Dr. Charles Ceire of Balm in Gilead.
64. He stated that after about four (4) hours, the doctors attended and released JGS. He then took JGS to his home for about 2 to 3 hours where he cooked and fed him before dropping him off at his residence. He averred that he continued to cook for him to help him regain his health and that JGS left for Haiti to seek further medical assistance.

K. Darron Turnquest

65. Mr. Turnquest is the Court appointed Guardian ad Litem for the minor children. He provided recommendations to the Court that full custody be granted to Stephen and Holly Sipprell with visitation rights provided to the father, through the aunt during scheduled visits. He further recommended that at no point should JG and JK have unsupervised visits with their father until they are truly comfortable in doing so.

Report of Social Services

66. The Court received a Report from The Department of Social Services with strong recommendations to grant Guardianship to the Applicants, and that the children be placed in the care, custody and control of the Applicants. Based on their investigation,

they had concerns about the existing relationship between the father and children and that supervised visitation was needed until healing took place.

Evidence of Dwight Beneby

67. Mr. Beneby is the Deputy Director of Immigration. He has worked in the Department of Immigration for 43 years.

68. He averred that Cabinet approves citizenship applications after a process is completed. He stated that the process of becoming a citizen of The Bahamas commences with the applicant completing a Citizenship application form. After the applicant completes the form, they are notified within three (3) to six (6) months of the decision made.

69. He averred that in attempting to review and find documents relative to JGS's application for citizenship, he was only able to discover that Cabinet had approved JGS's citizenship on 20 September 2022, and a letter dated 6 October 2022 signed by the Minister of Immigration. There was no evidence of an officer having the file.

70. He further averred that there was no evidence of any proper application process being completed for JGS. He further averred that there was no evidence of notifications being sent to JGS by email, of a telephone call from the Ministry of Immigration, of an ad being placed in the newspaper, or an examination and interview being conducted by The Department of Immigration with JGS as a part of his application process.

71. He stated that the way in which JGS obtained citizenship was not a normal practice and appeared to be an extraordinary case.

72. Under cross examination, Mr. Beneby said, "Based on my experience, looking at this file, no I don't see anything that would venture to say that there was an extenuating circumstance." He further stated that he worked in the Department for 43 years. The citizenship application was approved within 8 days. Usually you would get notification that your application was received and being processed within 3 to 6 months. This application is "a mystery to us." There was no interview, no examination, you must know the national symbols, the National Anthem and Pledge of Allegiance, an ad

published in the Guardian or Tribune of the application for citizenship or naturalization by the applicant, none of this was done.

The Issue

Whether guardianship should be granted to the Applicants.

Discussion & Law

73. This Court is tasked with determining whether the Applicants ought to be granted guardianship of the named minor children, with the exception of AT who is now of age.

74. The Court is guided by statutory guidelines. In matters concerning the affairs of children, the overriding objective and paramount consideration is what is in the best interest of the child. The Court had an opportunity to interview the children of the family extensively and their evidence was considered in this decision.

75. In the case of **J v C [1970] AC 686**, Lord MacDermott provided exceptional guidance to the statute when considering the term “welfare of the infant”, stating,

“Reading these words in their ordinary significance...it seems to me that they must mean more than that the child’s welfare is to be treated as the top item in a list of items relevant to the matter in question. I think they connote a process whereby, when all the relevant facts, relationships, claims and wishes of parents, risk, choices and other circumstances are taken into account and weighed, the course to be followed will be that which is the most in the interest of the child’s welfare as that term has now to be understood. That is the first consideration because it is of first importance and paramount consideration because it rules on or determines the course to be followed.”

76. When the court is faced with applications of this nature, where Applicants are not the natural parents, the Court has the power to consider all circumstances of the case and investigate and take all of the findings into consideration.

77. This general power given to the Court is pursuant to S.20A of **The Child Protection Act** “the Act”, which states: -

(1) The Court may appoint a person as a guardian of a child, either in addition to any other guardian or as sole guardian either-

(a) On an application, for the purpose by any person

(b) On its own initiative, on making an order or removing a testamentary or any guardian appointed or acting by virtue of this Act.

(2) The Court may appoint the guardian as a guardian of the child-

(a) Either for a specific purpose or generally;

(b) Either for a specified period or not

78. The Applicants in this matter gave evidence regarding why the Court ought to accede to their application for guardianship. The Applicants assisted the G family (“the family”) in their time of need following the passage of Hurricane Dorian. The Applicants offered their home and assisted the family until they were able to get back on their feet.

79. Not only did the Applicants care for the family, but they also provided the minor children with emotional support during the time of their mother’s illness and during their bereavement, ensured that the minor children had access to a quality education and financially supported the minor children consistently.

80. Despite the family’s return to Abaco, the Applicants continued to demonstrate their commitment and love for the children. They consistently stayed in contact with the children and provided for them despite their residing in another jurisdiction. The Applicants have also demonstrated that they both have the means to provide, care for and nurture the children while having children of their own.

81. The Court found Mr. St. Vilus to be a credible, honest witness, and accepts that he consented to the Applicants having guardianship of his biological children.

82. A major concern for the Court is that the children are presently in the custody of their 23-year-old aunt, their deceased mother’s sister, Britney Lisa-Gens. The Court applauds Ms. Lisa-Gens for her efforts in nurturing and caring for the children. However, the Court also acknowledges that Ms. Lisa-Gens is 23 years of age. Given the age of the

children, the Court fears that Ms. Lisa-Gens may be unable to provide the needed financial support for the children, as she stated in her evidence that her family residing in Abaco were searching for JGS to receive financial assistance for his children.

83. JGS stated in his evidence that Applicants controlled and manipulated the family ever since he and his family moved to Florida to live with the Applicants. He further indicated that he did not give the Applicants permission to adopt his children and that he is capable of taking care of them.

84. Despite JGS's evidence that he was capable of taking care of the children and he wanted custody, care and control, he was missing for more than two years after the death of his wife, their mother. During that period, his children were left to grieve the death of their mother without his presence. In fact, his children believed he had passed away. For a period of two (2) years, JGS failed and/or refused to contact his minor children.

85. It is apparent to the Court that the minor children during that time were of no concern to JGS. He ought to have been present to lend emotional and financial support for his children.

86. JGS failed to attend his wife's funeral. In his evidence, he stated he was ill, which made it difficult to be present at the funeral. I do not accept the evidence of Celinise St. Louis that JGS arrived outside the church then took ill and had to be taken to the doctor's office.

87. JGS gave evidence to the Court that he was unable to enter The Bahamas' borders due to COVID-19 restrictions, as he flew to Haiti for a period. JGS gave no indication to his children that he was departing the jurisdiction. Moreover, the Court found that during this time, shortly after his wife's death, JGS remarried. While borders were closed, telephone services, and internet services remained operational. JGS could have contacted the children and released them of the fear that he too was deceased.

88. The Applicants sought to verify the evidence of JGS relating to the validity of his citizenship which he alleged to have obtained within two weeks. Mr. Dwight Beneby, Deputy Director of Immigration was called to give evidence in this regard.

89. During examination in chief of Mr. Beneby, it was revealed that JGS made application on the 19 August 2022 and received an approval letter on the 27 August 2022, and sworn in on the 6 October 2022. JGS, when questioned by Counsel for the Applicants regarding his citizenship process, could not answer general questions regarding the national symbols of The Bahamas.
90. JGS's failure to apply for citizenship for his children, despite having an expedited process for himself, speaks to his disregard for the welfare of the children. It was apparent to the Court that, not only did he not seek to have his children's status regularized at this most convenient time, but he was singularly concerned about himself.
91. The Court will not address the unorthodox, curious and unusual circumstances surrounding the granting of citizenship to JGS, save and except to say that his lack of care and concern for the welfare of his children was evident in his failure to apply for citizenship for them. In all the circumstances, it speaks to his character.
92. The Social Services report on the bi-weekly visits with the children and JGS, along with progress reports of the visits, reflected that all of the visits were similar, in that the children were not interested in visiting with their father.
93. When the children were the most vulnerable, JGS abandoned them. When they needed him, he was not present, and his absence added to their pain, hurt and fear. By disappearing for more than two years, his lack of communication, left them to believe that he was dead and that they were orphans. These are not the actions of a kind, loving parent, someone who wants to maintain parental rights and who has an unwavering love and commitment to his children.
94. Taking away parental rights is a very serious decision. It ought not to be done without significant cause, and the highest level of evidence that a parent is not a fit and proper person must be present. Some factors to consider are character, the abandonment of the parent role, the recommendation of Social Services, risk, wishes of the parents, wishes

of the children, all the circumstances of the case and the law. It is noted that the Court ordered JGS to provide maintenance and he has not been consistent.

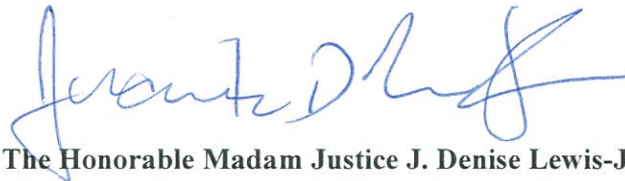
95. The Respondent's regard for the laws this country was also in question. He obtained and used a spousal permit of his deceased wife while being married to a "new" wife in Haiti. He continued to use that spousal permit to work and reside in The Bahamas until it was made known in Court. He acknowledged he should not have used it.
96. The case of **In The Master of an Adoption Application Number 41/1961 [1962] EWCA Civ J0730-3**, is instructive in this point where Lord Justice Danckwerts stated:-
"But I would respectfully point out that there can only be one "first and paramount consideration", and other considerations must be subordinate. The mere desire of a parent to have his child must be subordinate to the consideration of the welfare of the child and can be effective only if it coincides with the welfare of the child...when the future welfare of those children is being considered by the court."
97. JGS left the welfare of the children to others. His lack of communication with them showed he did not care whether they were housed, fed, clothed, educated or had the very basic necessities of life.
98. Having observed the demeanor and considered wholistically the evidence of JGS, the Court finds that he ought not have custody of the minor children and that he is unable to provide the financial and emotional support that the children need at this time.
99. The evidence is overwhelming that JGS ought not be allowed to have guardianship of the children. This is a case where parental rights must be taken away. The overarching principle is always what is in the best interest of the children. Their welfare is of paramount concern and thus who is best suited in all the circumstances of this case. Having regard for the law, this Court finds the Applicants should have guardianship of the children.

Conclusion

100. For all of the reasons stated above, the Court, having heard the evidence, watched the demeanor of the parties and having considered the relevant law, finds as follows:-

- i. Guardianship is granted to the Applicants for the minor children namely, AG, JG and JK.
- ii. No Order as to Cost.

Dated this 22nd day of August 2023, A.D.



The Honorable Madam Justice J. Denise Lewis-Johnson