

ROYAL COURT  
(Matrimonial Causes Division)

28th November, 1994 237.

Before: P.R. Le Cras, Esq., Lieutenant Bailiff,  
and Jurats Blampied and Vibert

<u>Between:</u>	LM	<u>Petitioner</u>
<u>And:</u>	GM	<u>Respondent</u>

Applications by the Petitioner for variation of:

- (1) the level of maintenance paid by the Respondent to the Petitioner for the children of the marriage; and
- (2) the Respondent's access arrangements to the children of the marriage.

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Advocate P.S. Landick for the Petitioner.  
The Respondent on his own behalf.

JUDGMENT

THE LIEUTENANT BAILIFF: This hearing results from a summons by the Petitioner and concerns the continued problems relating to maintenance of the two children and access to them.

5           The parties have been much before the Courts over the past  
two years and in our view there is no point in reciting yet again  
the past history of this litigation. The Petitioner has care and  
control of the children and the Respondent presently has access to  
10       them on a Tuesday and a Thursday afternoon between 3.00 p.m. and  
6.00 p.m. and at the weekend on alternate Saturdays and Sundays  
from 10.00 a.m. to 6.00 p.m.

15       According to the Petitioner this access is working well and  
the children are fine when they come back. Furthermore, by  
agreement, the Respondent took the children on holiday in France  
this summer and no problems have arisen from that.

5 The Respondent wishes to extend the access which he has been exercising. He does not seek an enormous extension, but it suffices to say that it is more than the Petitioner is prepared to concede. Instead she offered that the access should be increased so that where the Respondent has the children on a Saturday on alternata weekends they should stay overnight until 10.00 a.m. on Sunday morning. In addition she offered that the Respondent should be able to take them out of the Island for a fortnight during the summer holidays.

10 Given the stress to which the children have been subjected in the past, and that they appear to have become accustomed to the present routine which seems to be working satisfactorily, we are of the opinion that any changes should be introduced gradually. 15 These orders are not set in stone and in circumstances such as exist here, it is likely that further applications will come before the Court.

20 In the circumstances we are of the opinion that the compromise suggested by the Petitioner is right at this stage and we so order.

25 This leaves the question of maintenance. At the moment the Respondent is making a voluntary payment of £100 per month. We note this payment and it was very much a factor which weighed with us in dealing with the question of access.

30 Given the circumstances of the present case, we propose today, by a majority, to make no change to the existing order. In making this decision, we have no doubt but that further applications will come before the Court; indeed a failure to make this voluntary payment would *ipso facto* permit the Petitioner so to proceed.

35 We wish to add this: that despite the Petitioner's clear wish that the Respondent should have nothing to do with the children, we find that he has a good deal of affection for them. Although it is proper and indeed important for the children that he should continue to have access and although we find that the Respondent 40 has to some extent at least stabilised his home life, we are nonetheless much disturbed about the Respondent's financial position. We are less than satisfied that he is taking sufficiently energetic steps to find the work of which he is capable. We recognise that he has considerable debts to meet, but 45 he must, in our view, make a serious effort to meet them and properly discharge his responsibilities to his children. Failure to make serious efforts in this direction must, as time goes on, begin to weigh more and more heavily with the Courts in their approach to these problems and will no doubt lead to a further application by the Petitioner for the Court to consider the 50 position unless he should take the appropriate steps.

Authorities

Croft -v- Moy (1971) JJ 1793.

Williams -v- Williams (1974) 3 All ER.

McEvan -v- McEwan (1972) 2 All ER.

Wachtel -v- Wachtel (1973) 1 All ER 113 and 829.

