

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

FAMILY DIVISION

SUIT NO. FD1995/N001

BETWEEN ALISTAIR LOUIS PAUL NARCISSE PLAINTIFF
AND MARGARET ANITA NARCISSE RESPONDENT

Mr. Terrence Ballantyne and Mr. Paul Beswick for Plaintiff

Mr. Gordon Steer for Respondent

HEARD: MARCH 12, 13, 14, 21, 27, 28, APRIL 10, 18,
MAY 9, 31, JUNE 25, SEPTEMBER 6 AND OCTOBER
2, 1996.

GRANVILLE JAMES J.

ORAL JUDGMENT

The husband Petitioner and the wife Respondent were married in October 1988, they have two children, Amanda, Arianne, born 20th August, 1986 and Alicia Gillian Marie, born 16th August 1988. Both the Petitioner and the Respondent are seeking custody of the two children.

Hearing of this application for custody began on 12th March, 1996 and concluded on 6th September, 1996 when judgment was reserved until today.

At the outset it was agreed that I should speak with each of the affected parties separately, this included Amanda and Alicia. I promised then that the information I received from each party was confidential, that information will remain confidential.

The parties separated in December, 1993, there are apparently irreconcilable differences between them. Mrs. Narcisse gave evidence to the effect that her husband is a violent alcoholic and that she is afraid of him. She outlined instances of alleged violent conduct by the husband directed at her. The Respondent further stated in her evidence that the Petitioner has not obeyed any order pronounced by the Court and in particular that he failed to obey an order made by Her Ladyship The Honourable Mrs. Justice Harris on 27th June 1995 respecting custody, care and control of the relevant children.

Mr. Narcisse denies the allegations of alcoholism and violence levied at him by his wife. He denies the particular acts of violence alleged by Mrs. Narcisse.

I have carefully considered the contents of the affidavits given by the Petitioner and the Respondent together with all the other relevant and admissible evidence in this matter. I have also read the very helpful and comprehensive report by the Acting Senior Probation Officer S. Saddler. Careful consideration has been given to the oral evidence by the parties to this action as well as the oral evidence of Florence Narcisse, Merelene Ramsay and Merle Lewis.

I make the following findings:-

- (i) Both the Petitioner and Respondent occupy ample and suitable dwellings in which the children can be accommodated;
- (ii) The child Amanda would prefer to continue living with her father;
- (iii) Alicia is quite flexible and is prepared to live with either parent;
- (iv) The children are making commendable progress at school and should be encouraged and assisted by both parents;
- (v) The desirable course is that both children be kept together, that is, they should live under the same roof; they should not be separated.
- (vii) It is desirable that both parents share in the upbringing of the children.

I am of the view that young female children such as Amanda and Alicia should be reared by their mother unless there are unusual circumstances that suggest otherwise. It is my view that there are unusual circumstances in this case, in particular, the fact that the children have been living with their father and appear quite happy with that arrangement and furthermore one of the children wishes to continue living with her father while the other appears quite contented with him.

In arriving at a decision in this matter I consider that the paramount consideration is the welfare of the two children Amanda and Alicia.

It is ordered that the Petitioner and Respondent have joint custody of the relevant children Amanda Narcisse and Alicia Narcisse and that the Petitioner do have care and control of the relevant children from Monday to Friday of each week and the Respondent to have care and control of the relevant children from 6.00 p.m. on Friday to 6.00 p.m. on Sunday of each week save and except that the Petitioner do have the children for one weekend each month, that is, on the second weekend of each month.

The relevant children are not to be removed from the jurisdiction of the Court without the consent of the Court or the consent of the parties in writing.

I strongly recommend that Mr. Narcisse obtain the services of a household helper to assist in caring for the children. I do not make an order to that effect as it is sometimes difficult to secure the services of a reliable worker).

G/auces