

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

Antigua and Barbuda

Claim No: ANUHMT 2019/0191

BETWEEN:

OLIVIA SAINTDE BESWICK

Applicant

and

JASON D'GON BESWICK

Respondent

Appearances:

Sherfield Bowen of counsel for the Petitioner

Leslie Ann Brisett of counsel for the Respondent

2022: March 8th

October 26th

December 1st

DECISION

[1] **Drydale, J:** The matter for consideration concerns application for the custody and maintenance of the minor child of the marriage.

[2] The parties are husband and wife whose marriage has seemingly broken down resulting in the Applicant filing a petition for Divorce. During the currency of the marriage the parties had two children although this application only concerns the remaining minor child namely Marley Link Beswick (hereinafter referred to as "the Child").

The Applicant's Affidavit

[3] The Applicant deposes that she voluntarily left the matrimonial home in January 2016 as she was unable to continue to cohabit with the Respondent. Following this, an agreement was put in place for the Respondent to pay maintenance in the sum of \$1,200.00 for both children who at that time

lived with her and one half of the school fees. It was agreed that the school fees would be paid directly to the school of the children.

- [4] The Applicant alleges that the Respondent continued to pay the school fees directly to the school but fell into arrears concerning the maintenance payments. This caused her anxiety which only increased as the Respondent failed to address other pending issues including access to the children, and the unsigned Deed of Family Arrangement.
- [5] Over the ensuing years several attempts were made to resolve the proposed Deed of Family Arrangement without success. During this time the older child attained the age of majority. By early 2019 the Deed of Family Arrangement remained unresolved. That out of sheer frustration she reached out to the Respondent and in March 2019 an agreement for the Child to spend alternating periods of two (2) weeks with each party was arrived at. At that time, the issue of the payment of maintenance by the Respondent for the Child was not discussed.
- [6] The Applicant alleges that this arrangement never worked properly because over the ensuing months up to June 2019, the Respondent would frequently call to cancel his designated time with the Child. As a result of which she continued to have primary custody of the Child.
- [7] The Applicant deposes that she works as a Property Manager at Jumby Bay earning a salary of \$6,316.56. She detailed her expenses as follows:

Rent	\$ 975.00
Groceries	\$ 632.00
Electricity	\$ 90.00
Water	\$ 37.00
Internet	\$ 239.00
Cell Phone	\$ 286.00
Cooking Gas	\$ 32.00
Gas for vehicle	\$ 400.00
Maintenance for vehicle	\$ 150.00
Car Loan	\$1,680.00
Medical Insurance	\$ 167.95
Clothing for Applicant and Child	\$ 125.00
Weekly Lunch Allowance	\$ 50.00

Special Needs Classes	\$ 290.00
Day care services and Lunch for child	\$ 117.00
Other school related expenses	\$ 300.00

TOTAL **\$5,720.95**

- [8] The Applicant states that based on the expenses relative to her income, if any unrelated expense arises that she is in a precarious position and wholly unable to deal with it.
- [9] The Applicant asserts that the Respondent is a self-employed furniture maker catering to the high-end market in Antigua. That although the Respondent income fluctuates that she is satisfied that the Respondent can pay the sum of \$800.00 for the maintenance of the Child.
- [10] The Applicant admits to having a hostile relationship with the Respondent and maintaining her distance from him as a result. She admits to having concealed her residential address from the Respondent to prevent him from showing up at her home.
- [11] The Applicant suggests that given their hostile relationship that an order for joint custody would not be in the best interest of the Child as given their historical track record, they would have difficulty in reaching agreements on important matters pertaining to the Child.
- [12] The Applicant proposes that Respondent be granted liberal access to the Child every weekend. Further that the Child should spend one-half of the Summer Easter and Christmas vacations with each party.

The Respondent's Affidavit in Response

- [13] The Respondent filed an affidavit in response opposing the application. The Respondent disputed that he fell into arrears stating that although the proposed Deed of Family Arrangement was circulated no formal agreement was put in place. Furthermore, that the parties had each agreed to maintain the child in their respective care with them each paying one half of the school fees for the Child.
- [14] The Respondent accuses the Applicant of being hostile towards him and blamed her attitude towards him as the reason for failing to effectively co-parent. He states that the Applicant has not made a good faith attempt at co-parenting and that on occasion the Applicant has prevented him

from seeing the Child, a situation which occurred in June 2019 and forced him to through his attorney send to the Applicant a letter. The Respondent states that he loves his sons very much and love spending time with them and always wish to foster a good father son relationship.

[15] The Respondent challenged the income received by the Applicant stating that the Applicant also managed another property at Jumby Bay but had failed to disclose that income.

[16] The Respondent admitted that he was a self-employed furniture maker whose income was inconsistent. He denied working consistently for a particular business stating that that was a one-off project which he performed since 2017.

He averaged his monthly income as the sum of \$6,800.00 with the following expenses:

Food	\$2,000.00
Mortgage	\$1,920.00
Electricity	\$ 200.00
Transportation for The Child	\$ 100.00
School Fees for The Child	\$ 290.00
Property Tax	\$ 120.00
Car Registration and Insurance	\$ 112.00
Petrol	\$1,000.00
Work rent and utilities	\$1,200.00
Personal Care/Miscellaneous	\$ 200.00
The Child and Tion's misc. expenses including Tions school fees	\$ 700.00
 TOTAL	 \$7,842.00

[17] He proposed the sum of \$600.00 for his share of the maintenance towards the Chid and joint custody of the Child with the parties submitting to parental counselling. The Respondent proposed that the Child spends two weeks each month with him and two weeks with the Applicant with the vacation in Easter Summer and Christmas being evenly shared.

Applicant's Affidavits in Reply

[18] The Applicant filed two further affidavits in reply. She asserted her belief that joint custody was not a practical arrangement to taking care of him as it was difficult to have a civil conversation with the

Respondent. The Applicant agreed that given their acrimonious relationship that attending counsel to help them effectively co-parent was necessary.

[19] She suggested that it was an inadvertent error in failing to include her second income and sought to remedy this by submitting her salary slip. The Applicant challenged the Respondent's admitted income asserting that based on her knowledge of his pricing when they lived together that she would hazard a guess that the Respondent earned about US\$3,000.00 per month.

[20] She denied trying to obstruct the Respondent from having a relationship with the Child. She explained the incident whereby she prevented the Child from seeing the Respondent was due to the Child informing her that the Respondent and his partner repeatedly questioned him about her address. Furthermore, that the Child stated that he was tired of being questioned and accordingly she thought that it was a very uncomfortable environment for him at the time. She asserted that her only objective has been to ensure that they reach a firm and workable arrangement for the care and custody of their children and to ensure that the Respondent plays his part in so doing.

[21] She expressed her dissatisfaction with the level of care offered by the Respondent toward the Child regard given to his special needs. She also submitted an updated list of expenses which included an expense for a washing machine and increased expenses for inter alia rent, groceries and utilities now bringing the total to \$6,398.71. Separate from the listed expenses, the Applicant asserted that ordinarily she paid Lewis Brothers the sum of \$600.00 for a washing machine but now the current balance was \$300.00

The Evidence at Trial

The Applicant

[22] The Applicant testified that the sum quoted for groceries was inclusive of herself and the Child. However, a fair apportionment of groceries for the Child would be 50% of the sum quoted making the sum of \$425.00. The Applicant also testified that she gives the Child \$25.00 per day for lunch. She later admitted that this was limited to the two weeks spent with her and as such the total amount for this was \$250.00 and not \$500.00 per month as initially alleged. She confirmed that the amount spent on clothing for the Child fluctuated but she would average it to be around \$380.00.

[23] She stated that the Child has special needs as he is partially dyslexic. That this resulted in the Child needing special help which cost \$40 per week. She explained that she had lost his spot as

the Respondent did not show up on time with the Child to the session and as such this was not accounted as a current expense. However, she intended to reapply for the Child to receive this assistance. She stated that the Child's grades fluctuated and that at the moment he was not performing well.

[24] The Applicant deposed that currently that the level of communication was good which allowed her and the Respondent to co-parent reasonably well. She disagreed with the suggestion that based on the parties communication that they could come to reasonable decisions regarding the welfare of the Child. She however welcomed the suggestion of attending parental counselling.

[25] She cited the circumstances surrounding the Child being admitted into Trinity Academy as an example of them failing to collaborate. She explained that initially the decision was for them as parents and the Child to go to the school together to see the surroundings and then decide. However, the Respondent went with his partner, filled out the form for enrolment of the Child and subsequently sent it to her for her approval.

[26] She admitted that her total income was the sum of \$11,190.61. In relation to the Child's expenses the Applicant admitted that given the deduction for groceries and lunch money that the Child's expenses being food, lunch money and clothing would total the sum of \$1,055.00. The Applicant however suggested that that figure did not take into account the expense of housing and driving the Child whilst in her care and custody.

The Respondent

[27] The Respondent deposed that there has been a change in his circumstances since the filing of the affidavit in response. He testified that the level of work has declined now resulting in his income being between \$3,000.00 to \$7,000.00 per month. He also testified that there has been a change in the school fees for the Child to \$850.00 per term. That his rental has also increased from \$1,200.00 to \$1,700.00 per month.

[28] The Respondent explained that he was involved in a motor vehicle accident which resulted in his vehicle being written off. Accordingly, he was forced to rent a motor vehicle for the two weeks when the Child is in his care and custody at the rate of \$1,000.00 per week.

[29] When cross examined the Respondent clarified that his rent was now \$1,400.00 and a further sum for \$300.00 for utilities. He denied that the reason he was paying more for electricity was due to

him consuming more electricity. Instead, he suggested that electricity had become more expensive.

- [30] The Respondent admitted that although he worked all over the island that he also worked in other islands off Antigua in particular Jumby Bay. He admitted that Jumby Bay is high value work. Initially he stated that he went to Jumby Bay infrequently about once a month but later stated that between the period January to March he had gone there 3-4 times a month. He however stated that this did not mean that he had gotten work. Much later he admitted that in February 2022 he made a total of 8 trips to Jumby Bay all of which were about work.
- [31] The Respondent was unable to indicate how many jobs he received in 2021 or more particularly in February 2022. He also seemingly had no idea of the value of the work done in January 2022 stating that he left this aspect of the business to his partner.
- [32] The Respondent admitted to being aware that the Child required assistance for his dyslexia. He also admitted to being unaware of the cost of the lessons but admitted that the sum of \$40.00 per class or \$480.00 per month was reasonable. He however asserted that he was not 100% in agreement that those special lessons for the Child were needed.
- [33] The Respondent testified that he did not believe that the Child was performing poorly. He stated that he had not received the Child's report card and had not inquired about it. Later however he stated that he made inquiries of the school.
- [34] He suggested that he spends between \$200.00 to \$300.00 per month on clothing toiletries and haircuts for the Child and further had expended monies under the heading of miscellaneous expense for the Child which included school supplies every month.
- [35] When questioned about his child support payments, the Respondent stated that initially he was giving the Applicant the sum of \$1,200.00 per month. However, after they began sharing the children that he had not given her anything. He agreed that he had not paid anything for child support since 2017.
- [36] He agreed that the Child would benefit from stability in his life but suggested that a definite place of abode could be one or two residences. Finally, he suggested that the \$1,000.00 per week for the vehicle was paid by his girlfriend.

The Child

[37] After the examination of the parties and in accordance with the Maintenance of and Access to Children Act¹ which allows that the views of the Child be taken into account, I convened a private and confidential meeting with the Child. Both parties were also in full support of this posture. Having examined the Child, I found him to be articulate, expressive, and mature. The Child was quite direct in his responses and spoke candidly about the relationship with his parents. He also spoke about his dreams, desires, friendships, and school experience. I also carefully observed the Child and found that his demeanour was open which corresponded with his frankness. I found no reason to doubt the veracity of anything the Child stated to me. For the purpose of determining this matter I will take into account the wishes and statements of the Child in arriving at a conclusion in this matter but for confidentiality purposes will not detail the same in this judgment.

The Issues

- a. Whether the current arrangements for the custody of the Child should be varied?
- b. What is a reasonable amount for the maintenance of the Child?

Analysis and the Law

Whether the current arrangements for the custody of the Child should be varied?

[38] As it stands the current custody arrangements agreed to by the parties allows for the Child to spend two weeks a month with each parent during the school term and one half of the Easter Summer and Christmas vacations with the parties. The Applicant suggests that this arrangement does not allow for stability for the Child and thus proposes that the current arrangement be varied to allow her to have primary care and control of the child with liberal access to the Respondent on weekends. The Applicant also proposes that the Child spends one half of the Easter, Summer and Christmas vacations with the Respondent.

[39] I pause here to note that the Applicant alone profited the opportunity to file closing submissions. However, the submissions contained information which was not produced in any affidavit, and which did not arise on cross examination and is therefore tantamount to evidence from the bar

¹ No 1 of 2008

table. Therefore, as far as the new information contained in these submissions is concerned it will be disregarded in the consideration of the various issues before this Court.

[40] The relevant sections of the Divorce Act² relating to the custody of a minor states as follows:

“14. (1) A court may, on application by either or both spouses or by any other person, make an order respecting the custody of or the access to, or the custody of and access to, any or all children of the marriage...

(8) In making an order under this section, the court shall take into consideration only the best interests of the child of the marriage as determined by reference to the condition, means, needs and other circumstances of the child.

(9) In making an order under this section, the court shall not take into consideration the past conduct of any person unless the conduct is relevant to the ability of that person to act as a parent of a child.

(10) In making an order under this section, the court shall give effect to the principle that a child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child and, for that purpose, shall take into consideration the willingness of the person for whom custody is sought to facilitate such contact.”

[41] Section 8 of the Maintenance of and Access to Children Act³ also provides guidance on the factors the Court should be concerned with in determining the best interest of the Child. It reads as follows:

8. (1) When hearing an application for an order the court shall consider the best interest of the child in all the circumstances and may give due regard to—

- (a) the financial requirements of a child;
- (b) any other particular requirements that a child may have by virtue of any disability or special circumstance;
- (c) the educational requirements and expenses of a child;
- (d) the standard of living of the child, the applicant and the respondent;
- (e) the age, income, earning capacity, property and other financial resources of both the applicant and the respondent;

² No 10 of 1997

³ No 1 of 2008

- (f) the financial requirements, obligations and responsibilities of both the applicant and the respondent;
- (g) whether there are other children to be maintained by the applicant or the respondent;
- (h) the relationship between the parties to the application and the child for whose benefit the application is being made and the effect of that relationship on the child; and
- (i) any other matters that the court considers just and equitable.

[42] Having set out the statutory framework above, I have also taken cognisance of the common law in particular the case of **Dennis Forsythe v Idealin Jones**⁴ where the court in deciding a custody issue stated:

“A court which is considering the custody of the child, mindful that its welfare is of paramount importance must consider the child’s happiness, its moral and religious upbringing, the social and educational influences, its psychological and physical well-being and its physical and material surroundings, all of which go towards its true welfare...”

[43] Extrapolated from both the statute and the common law is that in determining the best interest of the Child the Court must look at the matter comprehensively. The Applicant has submitted several issues in support of her claim for variation of the custody agreement between the parties. The first claim is that the Respondent has routinely failed to spend the agreed time with the Child. The Applicant states that the Respondent has cancelled the designated pickup of the Child resulting in the Child being left with her. However according to the evidence of the Applicant this occurred several years ago and over a small window of time being March 2019 to June 2019. It is noted that this application and all the evidence relied on by the Applicant post-dated this period in time. Given the Applicant’s assertion that their relationship is acrimonious and the fact that the Applicant is seeking to limit the Respondent’s access to the Child I am of the considered belief that if this was a continuing issue that the Applicant would have at the very least documented it in her evidence. Rather this seems to have been an isolated incidence and not a pattern of behaviour.

[44] The Applicant next relies on the assertion that the Respondent and his partner allegedly repeatedly questioned the Child on her residential address. Having examined all of the evidence before me I

⁴ SCCA NO.49/-1999

do not believe the Applicant's assertion that this occurred. However even if this were the case, given that there is no known behaviour by the Respondent or his partner to cause the Applicant to be fearful for her safety by them being in possession of this information, I cannot see how this would catapult the Respondent in being an unfit parent.

[45] Thirdly the Applicant suggests that the Child requires some level of supervision regarding his personal care which care she is not satisfied that the Respondent has given. The Applicant has linked this to the Child's dyslexia. Dyslexia is a learning disability which affects skills involved in reading, spelling and writing. As far as I understand it children with this condition will have normal intelligence and normal vision. This was also confirmed in my examination of the Child whom unhesitatingly I found to be intelligent. Thus, whilst the Child may have a more difficult time reading or with his academic performance, I cannot fathom how this translates into him being unable as a growing teenager to properly groom himself. Indeed, the Applicant also seems to somewhat recognise this stating that "I have not been satisfied with the level of care shown by the Respondent, but now that the Child is a little older I do think that he is better able to attend to his personal care."

[46] The Applicant next suggests that the Child requires a higher level of supervision than other children which she is anxious to ensure he gets. Save this blanket statement the Applicant did not further explain in her evidence in chief why such supervision is required or how the Respondent has failed to provide adequate supervision.

[47] On cross examination the Applicant asserts that the Child is currently performing poorly at school and that the Respondent has not prioritized the Child's education. The Applicant cites the Respondent not being in possession of the Child's report card as evidence of his disinterest in the Child's education. The Applicant argues that the Respondent has prioritized fun activities like fishing over the Child's academic performance. The Respondent disagrees that the Child is performing poorly. However, the Respondent also agreed that he was not in possession of the Child's report card. Given the admission that the Respondent was not in possession of the report card at first blush there appeared to be some credibility in this assertion. However, I am made to understand that the report card is issued monthly and that the parent with whom the Child is residing at the time would first get access to the report card. Thus, given the acrimonious relationship between the parties, it is entirely feasible that at times the Respondent would not have obtained or seen the monthly report card. No evidence being led to establish that the Respondent

has never been or is not in recent times in possession of the majority of report cards, I do not find the failure of the Respondent to be in possession of a report card as evidencing any lack of interest in the Child's education.

[48] However, I am mindful that the Child has been diagnosed as being partially dyslexic and has associated academic challenges as a result. Whilst some level of supervision is required to ensure that the Child performs his work, it seems that the larger picture is that the Child will require some professional assistance which will give him the necessary tools to help him deal with or overcome his challenges. It seems unlikely that an untrained parent though diligent and providing as much supervision as is reasonably possible would be able to adequately assist the Child. Thus, whilst I find favour in the Applicant's suggestion that the Child requires specialized lessons, I am not convinced that more supervision simpliciter is sufficient to assist the Child in improving his academic performance.

[49] The final reason proffered for the variation of the custody agreement is the acrimonious relationship between the parties. Whilst the Respondent tried to downplay this, I believe the Applicant, that the parties are at loggerheads with each other each adopting a positional approach and being unwilling to easily resile for from the same. The parties both struck me as being combative and in the case of the Respondent sometimes prone to also being somewhat sarcastic. The Child is now a teenager and can clearly understand the dynamics and tensions between his parents. I am concerned that if the parties continue along this trajectory that this may eventually cause the Child to become alienated from one parent in favour of another. Thus, as a first step in improving the parties relationship and their parenting of the Child I am in agreement with the suggestion that the parties should submit to parental counselling. The Applicant has admitted that their relationship has improved resulting in them being able recently to better co parent recently. Thus I am of the belief that the parties can put aside all negative emotions and focus on the best interest of the child and the tools obtained in counsel would better assist them in that regard.

[50] As it relates to the custody of the Child, I am not in agreement with the Applicant that the arrangement should be varied. The Applicant has not demonstrated that the Respondent is negligent, abandoned the Child or is guilty of parental alienation or the like. The arrangement though not typical is designed to ensure that both parents have a relationship with the Child and contribute to his maturity and wellbeing. In fact, the Child appears to have a good relationship with the Respondent. The Child is a teenager in need of guidance from his father. Therefore given that

there is no established change in circumstances, and the reasons provided by the Applicant having been rejected as founding a basis for variation it is therefore imperative that the Child be allowed an opportunity to continue to develop his relationship with the Respondent. I note that the Respondent has not asked for the custody arrangement to be varied but has instead asked for the status quo to be maintained. Taking in account all of the circumstances I reject the application to vary the custody arrangement as suggested by the Applicant or at all.

What is a reasonable amount for the maintenance of the Child

- [51] The Applicant argues that given her expenses relative to the Child that the sum of \$800.00 for child support including one half of the school fees was reasonable. This sum was subsequently increased by the Applicant to \$1,000.00 per month exclusive of school fees.
- [52] The Applicant submits that the non-payment of support for the Child by the Respondent since 24th June 2017 caused much anxiety and distress. Further the Applicant suggests that given her knowledge of the income previously earned by the Respondent which she estimates to be around US\$3,000.00 per month that paying the requested sum for the maintenance of the child would not cause any undue hardship or difficulty for him.
- [53] The Respondent disputes that he can pay the sum claimed. He states that whilst he agreed to pay one half of the Child's school fees that he could pay no more than the sum of \$600.00 that he has proposed. The Respondent maintains that given his financial circumstances and the fact that the Child lives with him for two weeks in the month that the sum of \$600.00 is reasonable.
- [54] The Respondent also argues there was no Deed of Family Arrangement put in place and hence there could be no arrears. Furthermore, there was no formal agreement for the payment of maintenance and in any event the parties informally agreed to support the children in their care and custody until a formal arrangement could be agreed upon.
- [55] My analysis of both parties was not favourable. Regarding the Applicant I formed the distinct impression that the claim for maintenance in the sum claimed was motivated by other considerations than simply the Child's welfare. The Applicant initially submitted that her disclosed salary relative to her expenses left her in a precarious position so that if any unforeseen circumstance should arise, she would not be able to deal with the same. When challenged by the Respondent in his affidavit in response the Applicant then admitted to erroneously failing to

disclose income from a second job. When combined the aggregate of those two jobs was the sum of \$11,190.61, almost double the salary initially disclosed. Although the Applicant later filed an affidavit of means updating her expenses, the same only increased somewhat marginally from \$5,720.95 to \$6,398.71 thus leaving doubt to her claim of being financially distressed.

- [56] More importantly the evidence of the Applicant of her expenses for the Child was found to be an exaggeration of the truth. Although the Applicant suggested that she incurred expenses of about \$1,700 per month on cross examination it was agreed that the expenses in her affidavits represented the monthly cost and would have to be adjusted since the Child only resided with her for two weeks in the month. Upon further questioning it was then agreed by the Applicant that the associated cost of the Child's expenses was the sum of \$1,055.00.
- [57] My impression of the Respondent was also not favourable. I found the Respondent to be deliberately cagey and unhelpful as it came to determining his income. He averaged his income to be about \$6,800 but suggested that his expenses far outweighed the same being the sum of \$7,842.00. He attempted to lay all information about how he determined his average income at the feet of his partner who conveniently is not a party to these proceedings and did not produce any affidavit evidence in support of his assertion.
- [58] The Respondent is an experienced businessman typically dealing in the higher end market for his services. It is unlikely that this type of clientele would operate without being made aware of what the associated cost for his services and or without a written contract. I am buttressed in my belief as the Respondent indicated that he would sometimes go to Jumby Bay to deliver bids on various jobs. In order to arrive at a cost which would render a job profitable some type of cost analysis would be done. In fact, the Respondent submitted an invoice for work done for a client to defeat the suggestion that he was in continuous employment. That invoice was very clear on the cost of the work vis a vis the materials and transportation even included a cost for any overruns. Also included on the invoice was the manner in which payment was to be effected. I note also that that invoice which the Respondent alleges was for a one time job in 2017. Clearly as the invoice demonstrates, the Respondent is organised and has a system for him to readily assess and calculate his finances. If the Respondent was able to retrieve an invoice from 4 years ago then clearly, he could have been in a position to properly quantify and advise the Court on his income for the years 2021 and or 2022. The documentation produced to my mind demonstrates that he is

someone who has a record of all his dealings. Given the above I find that the failure to produce more than a bald statement of his average income to be unreliable.

[59] The Respondent has provided no information to substantiate his income and has suggested that his partner alone is aware of the same. The Applicant has suggested that when they were happily married she too was intimately aware of his finances. The Respondent has also confirmed this in cross examination. Therefore, I believe the Applicant in this regard. Having regard to all of the facts, coupled with the Respondent prevaricating in his evidence of his frequency in attending Jumby Bay, an island off Antigua where he frequently obtains work and the quality of his evidence I believe that the Respondent earns more than he has declared. I believe that his salary is more consistent with that alleged by the Applicant than what has been submitted to the Court. I therefore accept the Applicant's assertion that the Respondent's salary is US\$3,000.00 or XCD\$8,150.70.

[60] Having found both parties to be suspect in their evidence, I take a dispassionate look at the evidence to determine what sum is reasonable for the proper maintenance of the Child. The evidence before the court is that the Child's monthly expenses is the sum of \$1,055.00. The parties because of their unique arrangement have custody of the Child for an equal amount of time during the months. Therefore, the expenses of one party should not be disparate to the other party.

[61] The parties have a joint responsibility to care for and provide for the Child. I Therefore the claim by the Applicant for the Respondent to in essence be responsible for almost her entire monthly commitment for the Child, given the fact that she is gainfully employed, earns a salary equivalent or more than the Respondent, and has a joint responsibility to share in those expenses is entirely unreasonable. A simple division of the admitted expenses would render the Applicant responsible for \$527.50. However the Respondent has offered to pay the Applicant the sum of \$600.00 when the Child is in the Applicant's care and custody. I find that to be reasonable.

[62] However, that the Child requires special lessons to assist him with his dyslexia. The cost of those lessons is \$480.00 per month which I find the parties should split evenly.

[63] The parties have also admitted that they could benefit from counselling sessions to help them better co-parent. Given the state of the relationship between them and the possible effects their relationship could have on the Child I will also incorporate as part of my order that the parties for a period of time attend counselling classes. Hopefully this will enable them to better communicate

and be mindful that their actions or non-actions could very well affect the Child's growth and development.

ORDER

[64] In light of the forgoing, it is hereby ordered that:

- i. The Application to vary the custody arrangement is refused. The parties shall continue to share joint custody of the Child. All decisions relevant to and relating to the health, education, travel and general maintenance of the Child, not including the routine physical check-ups and arrangements for after care services shall be taken jointly on agreement between the parties.
- ii. The Respondent shall pay to the Applicant, the sum of \$600.00 per month for the support and maintenance for the Child, Marley Link Beswick until the Child turns 18 or completes a level of tertiary education whichever is later in time.
- iii. The parties shall each pay 50% of special lessons for the Child to assist him with his dyslexia for as long as the Child is undergoing secondary and or tertiary education.
- iv. That the parties each for a period of no less than 6 months commencing 31st January 2023 shall attend parental counselling classes and each shall bear the cost of the same.
- v. The Court office shall set the petition for divorce down for an uncontested hearing before the Family Court Judge and a notice of hearing shall be issued with regard to the same.
- vi. Liberty to apply.
- vii. The Respondent shall pay the Applicant costs in the sum of \$1,500.00.

Jan Drysdale

High Court Judge

By The Court

Registrar