

**THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES**

IN THE HIGH COURT OF JUSTICE

SVGHCV2021/0115

**IN THE MATTER OF AN APPLICATION UNDER SECTION 8 OF THE STATUS OF CHILDREN ACT, NO
21 OF 2011 OF THE REVISED EDITION OF THE LAWS OF SAINT VINCENT AND THE GRENADINES**

AND

**IN THE MATTER OF THE REGISTRATION OF BIRTHS AND DEATHS ACT, CAP 242 OF THE REVISED
EDITION OF THE LAWS OF SAINT VINCENT AND THE GRENADINES 2009**

AND

**IN THE MATTER OF A POSTHUMOUS APPLICATION FOR A DECLARATION OF PATERNITY BY
TERRIKA JORDAN HUMPHREY TO HAVE THE NAME “ROHAN TERRANCE WALKER” INSERTED
ON HER BIRTH CERTIFICATE AS HER FATHER**

BETWEEN

TERRIKA JORDAN HUMPHREY

APPLICANT

and

ESTATE OF ROHAN TERRANCE WALKER

FIRST RESPONDENT

REGISTRAR OF HIGH COURT

SECOND RESPONDENT

ATTORNEY GENERAL

INTERESTED PARTY

Before: The Hon. Mde. Justice Esco L. Henry High Court Judge

Appearances:

Ms. Chanté Francis holding papers for Mr. Duane Daniel for the applicant.

First respondent unnamed and unrepresented.

Ms. Lahdail Horne for the second respondent and interested party

2022: Mar.30

Apr. 11

DECISION

BACKGROUND

- [1] **Henry, J.:** Ms. Terrika Humphrey is seeking a posthumous declaration of paternity and a related order amending the Register of Births. Ms. Humphrey named the Estate of Rohan Terrance Walker (the alleged putative father) as a respondent. She now seeks an order appointing Coks Kerrance Walker to represent the estate and leave to file a Fixed Date Claim Form to obtain the substantive reliefs. The Registrar of the High Court is the second respondent. The Honourable Attorney General was named as an interested party. Ms. Humphrey's application is unopposed. It is granted for the reasons outlined below.

ISSUE

- [2] The issue is whether the Court should grant an order appointing Mr. Coks Walker to represent Rohan Terrance Walker's estate and whether leave should be granted to Ms. Humphrey to file a Fixed Date Claim Form.
- [3] Ms. Humphrey's application was filed initially on 17th September 2021. She filed an amended Notice of application on March 18th 2022. It is supported by affidavit of Coks Kerrance Walker filed on

March 23rd 2022. Ms. Otisha Nichols and Ms. Afiya Ambris, legal clerks at the Law Chambers of Duane Daniel also provided affidavits¹ in support of the application.

[4] Mr. Walker averred that he is the brother of Rohan Terrance Walker deceased. He explained that he sought and obtained independent legal advice from counsel Mrs. Euchrista St. Hillaire Bruce-Lyle, based on which he has presented himself to represent the deceased's estate in these proceedings. He stated that he believes that the deceased made no will. He averred further that he caused a search to be done in the Probate Registry and discovered that no Grant of Letters of Administration or Probate has been issued in respect of the deceased's estate. He consented to being appointed to represent the deceased's estate in this case.

[5] Mr. Walker exhibited his photo identification card², a certified copy of the deceased's death certificate and certified copies of his and the deceased's birth certificates which reflect that they share a mother – Brenda Walker. I am satisfied from that evidence that Mr. Coks Walker is the brother of the late Rohan Walker.

[6] Ms. Otisha Nichols averred that pursuant to a court order dated January 19th 2022, notices were published in the News and Searchlight newspapers on January 28th 2022 and February 4th 2022, outlining that Ms. Humphrey intended to make an application to the court for a declaration of paternity and that she had already made an application for the appointment of Cynthia Walker to represent the deceased's estate. Ms. Afiya Ambris attested that she has searched the High Court's physical file to ascertain whether any objections were filed in relation to the referenced notices and found that there were none. She indicated that she also made inquiries of the court staff as to whether any such objections were lodged and entered in the court's administrative system and she was told by the Court staff that none were made.

[7] The court is empowered to appoint a person to represent the estate of a deceased where it appears to the court that the deceased person has no personal representative.³ Such an appointment may

¹ Filed respectively on 11th February 2022 and 30th March 2022

² National Identification card No. SVG012653

³ Civil Procedure Rules 2000 ('CPR') rule 21.7(1)

be made if the proposed appointee, can fairly and competently conduct proceedings on behalf of the estate and has no interest adverse to the deceased's estate.⁴ The parties advanced a number of authorities which expound on the application of these rules and the underlying principles.

[8] Ms. Humphrey relied on **Claudine Isola Johnson née Toney v Registrar of Births and Deaths and the Attorney General**⁵. The applicant cited **Olive Clarke v Alicia Gellizeauin** which Gordon JA opined: -

‘... an application for a declaration of paternity intimately involves and interests the putative father. The putative father being dead is “a deceased person interested in the matter in question in the proceedings .’⁶

[9] In view of the testimony supplied by Mr. Walker, I am satisfied that he understands the role of an appointee charged by order of court with representing a deceased's estate in court proceedings. I find on a balance of probabilities that he can discharge those functions competently and fairly and that he has no interests adverse to the deceased's estate. It is just in all the circumstances to grant the order as prayed on condition that notice of his appointment is published in a newspaper circulating in the State. In this regard, I make the observation that the previous publications related not to Mr. Coks Walker but to another proposed appointee.

Leave to file Fixed Date Claim

[10] Ms. Humphrey has made no submissions as to why she considered it necessary to seek leave of the court to file a Fixed Date Claim. The second respondent and interested party also did not address this. CPR Part 8 deals with the filing of a Fixed Date Claim. It contains no stipulation for leave to be obtained. That issue does not arise for consideration.

Costs

[11] It is not usual to make a costs order in applications of this nature. The parties agreed that there should be no order as to costs.

⁴CPR 21.7(2)

⁵ SVGHCV2016/0143

⁶ Saint Vincent and the Grenadines Civil Appeal No. 13 of 2003, at para. 15

ORDER

[12] It is accordingly ordered and declared:

1. Coks Kerrance Walker is appointed as representative of the estate of Rohan Terrance Walker for the purpose of these proceedings.
2. Terrika Humphrey is at liberty to pursue her claim in such manner as she considers appropriate.
3. No order as to costs.

Esco L. Henry
High Court Judge

By The Court

Registrar