

SAINT VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO. 184 OF 1999

BETWEEN:

DANIEL RICHARDS

Petitioner

and

GEORGIE RICHARDS

Respondent

Appearances:

Arthur Williams for the Petitioner

Nichole Sylvester for the Respondent

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2001: July 6 and 31
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DECISION

[1] WEBSTER, J. (*acting*). This is an Application by the Respondent Georgie Richards for ancillary relief pursuant to section 31 of the Matrimonial Causes Act Cap. 176. The parties were married on October 13, 1993. The marriage produced one child David age 11. There is another child Raphique age 12 years who was born prior to the marriage and whose paternity is disputed. However, the Petitioner treated Raphique as a child of the marriage, and as recently as June 2000, purchased clothes for both David and Raphique. I will therefore treat Raphique as a child of the family and the Order for maintenance that I will make will apply to both David and Raphique who are hereinafter referred to "the children".

[2] A Decree Nisi of Divorce was pronounced on the 24th July, 1997. The Decree has not been made absolute. On the 27th June, 2001 this Court made an Interim Order for the

Petitioner to pay to the Respondent the sum of \$150.00 per month for the benefit of the child David and adjourned the hearing of the application to the 6th of July.

- [3] The application for ancillary relief was filed on the 21st May, 1999 claiming
1. Custody of the children Raphique and David
 2. Maintenance for the children by periodical payments or secured provision and lump sum payments
 3. Costs of the application.

At the commencement of the hearing on the 6th of July, it was agreed that the Respondent would have custody of the child David with reasonable access to the Petitioner, and that the Petitioner was not seeking custody of or access to the child Raphique. The only outstanding issue therefore is the amount of maintenance that the Petitioner should pay to the Respondent for the benefit of the children.

- [4] Both parties filed Affidavits of Means and were cross-examined. The Petitioner is a 50 year old businessman who deposed in paragraph 8 of his Affidavit filed on the 11th June, 2001 that he has no real income, and he is presently living off borrowed funds from his brother which have been exhausted. When pressed in cross-examination he conceded that he has a current average monthly income of approximately \$600.00. The Respondent is 38 years old and operates her own business selling food and snacks. Her average monthly income is approximately \$450.00. Both parties live in their own homes on which they are paying mortgages.

- [5] The Respondent has monthly expenses of approximately \$1,700. Her evidence is that she is able to pay her monthly expenses with help from her sister, the church and other persons who have an interest in her.

- [6] The Petitioner's evidence of his means is quite remarkable. I have already pointed to the fact that his affidavit evidence suggests that he has no income, but under cross-examination he conceded that he does have an income, and eventually estimated that income to be approximately \$600.00 per month. Further, his affidavit evidence does not

disclose any of his assets and when questioned about this he said in cross-examination that he did not think that his assets needed to form a part of his Affidavit of Means. I do not accept this explanation, and generally I find the Petitioner to be an unreliable witness. His detailed listing of his liabilities of over \$438,000 with no mention whatsoever of his assets underlies his attempt to mislead the Court into believing that he is a man who has no income and is unable to support his children. I do not accept his evidence that his average income is only \$600.00 per month. He has demonstrated that he is able to secure funds by borrowing for other purposes, but not to maintain his children. He agreed in cross-examination that a reasonable amount for maintenance of the children would be \$500.00 per month, but stated that he cannot afford to pay that much.

[7] In all the circumstances I make the following orders:

- (a) The Respondent will have custody of the children of the family Raphique and David with access to the child David to the Petitioner on alternate weekends. The Petitioner is to pick up David at the Respondent's home on Friday evenings between 4 and 6 p.m., and return him to the Respondents' home on Sunday evenings between 5 and 7 p.m.
- (b) The Petitioner will pay to the Respondent for the benefit of each of the two children of the family the sum of \$200.00 per month commencing August 31, 2001 until each shall attain the age of 16 years or further order.
- (c) The Petitioner will pay the costs of the Respondent to be taxed if not agreed.

Paul Webster
High Court Judge (Ag.)