COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Public Law Division
No. 2021/PUB/con/FP/00001

IN THE MATTER of ARTICLES 17, 20(8), 21, AND 25 OF THE CONSTITUTION OF THE BAHAMAS

AND IN THE MATTER of section 29; 3(1);3(2);3(3)(a)(b)(c)(d)(e)(f); 4(a) and 4(c);5(1);6(1);9(1) and 9(3); and 14(1) and 14(2) of the Child Protection Act, Chapter 132

AND IN THE MATTER of section 74 Matrimonial Causes Act

B E T W E E N:

ANISHKA A. MISSICK A.K.A. ANISHKA HANCHELL

Applicant

THE ATTORNEY GENERAL OF THE COMMONWEALTH OF THE BAHAMAS

Respondent

Before:	Mr. Justice Loren Klein
Hearing Date:	19 August 2022
Appearances:	The Applicant appearing *Pro Se* Mr. Andrew McKinney, with Lilnique Grant for the Respondent Mr. Miles Parker, Mr. Khalil Parker QC, counsel for Mr. L. Hanchell (appearing at the invitation of the Court).

RULING

KLEIN, J.

Ex parte summons—Summons intituled in Constitutional claim against Attorney-General—Certificate of Urgency—Summons actually seeking relief relating to custody of Applicant's minor children—Welfare of the child principle.

Practice and Procedure—Hearings before Emergency Civil Judge—Conduct of Counsel and Attorney before the Court.

INTRODUCTION

[1] The facts of the present application, which came before me as emergency civil Judge on Friday 19 August 2022, are highly unusual and distressing. They concern a long-running custody battle between divorced parents over two minor children, which the mother for her part has zealously waged for several years seeking to regain custody of the children whom she says were unlawfully taken away from her during 2019. The litigation has generated

several rounds of appeals to the Court of Appeal and more recently the applicant has resorted to filing a constitutional claim in her fight, all of which she has carried on *pro se.*

[2] It is some permutation of the latter claim that came before me as emergency judge. The application was unusual not only as to its form, but also in the manner in which it came to be listed and the way in which the hearing was conducted. The purpose of this short Ruling is therefore to address in brief the reasons for my decision on the application and make some observations on other matters relating to the application and hearing.

Background

[3] In summary, the applicant is the mother of two minor children from her previous marriage, a daughter age 15 and a son age 12, who are now in the custody and care and control of the father as a result of a series of custody Orders made by the Court. The essential background of the litigation may be gleaned from several Court of Appeal Rulings: SSCivApp. No. 87 of 2020, delivered 25 September 2020; and SCCivApp. No. 72 of 2021 (two rulings, delivered respectively 28 July 2021 and 23 February 2022).

[4] The starting point is the position that obtained following ancillary proceedings in 2014 after the couple divorced. This was that the applicant, the petitioner in the matrimonial proceedings, shared joint custody with the respondent father, and had been awarded primary care and control, with access to the respondent (order of Sir Michael Barnett, Chief Justice, dated 15 July 2014). It seems the first of the impugned Orders was an *ex parte* Order made 29 July 2019 by now retired Justice Keith Thompson, on an application by the father, the effect of which was to remove the children from the care and control of the applicant and transfer those rights to the father. The initial term of the Order was for a period of 30 days, but this was extended by successive orders dated 12 August 2019 and 25 October 2019. The hearings before Thompson J. were not without incident, and at the hearing of 12 August 2019, which was intended to be the *inter partes* hearing, the applicant was ordered into custody by the Judge, purportedly as a result of her behavior in the face of the court, and detained for several hours.

[5] The 29 July 2019 Order was set aside on appeal by the Court of Appeal on 15 January 2020, and the *status quo ante* restored (*ex tempore* Ruling of Court of Appeal in SCCivApp. No. 167 of 2019).

[6] On 26 August 2020, on an *ex parte* application by the father, Bowe-Darville, J. (also now retired) granted an order which, *inter alia*, gave full custody to the father and prevented the applicant from removing the children from New Providence until further order. At the return date for the *inter-partes* hearing of that Order (originally 31 August 2020 but adjourned to the 3 and then 7 September 2020), the applicant appeared *pro se,* and Bowe-Darville J. after hearing the parties continued the Order of 26 August 2020. She also gave additional directions in respect of the applicant and the father. Those directions, which are set out in full in both Court of Appeal rulings, required both the applicant and the respondent father to submit to a psychological assessment by a court-approved psychologist as a matter of urgency and for reports to be submitted to the court. It also

provided for the applicant to submit evidence in response to that submitted by the father in the custody proceedings and the matter was adjourned to 22 October 2020 for a further hearing. The Order of the 7 September 2020 was specifically stated to be an "Interim Order".

[7] In its ruling of 25 September 2020, which was an appeal against the 26 August 2020 Order, the Court of Appeal deprecated the making of the order without notice, especially one that had the consequences of removing children from the care of a parent in circumstances where there was no immediate threat of harm to the safety or welfare of the children. However, as the *ex parte* Order had been superseded by the 20 September 2020 Order at the time of the appeal, the Court dismissed the appeal and notified the applicant (appellant in the action before the Court of Appeal) that she was free to appeal the 20 September 2020 Order, as well as any consequential Orders.

[8] The Court said:

> "26. In our judgment, the appeal against the Order of 26 August 2020 must be dismissed. The challenge to the jurisdiction of the judge to make the Orders cannot succeed. Even though that Order should not have been made without any prior notice to the appellant, the issues raised by that Order were subsequently dealt with by a trial judge after giving the appellant the opportunity to put in evidence and make submissions. The appellant was afforded an opportunity to put in evidence and make submissions at the hearings on 31 August 2020 and 3 September 2020. She deliberately refused to do so and rebuffed all attempts by the court to encourage her to do so. The matter has again been adjourned to the 22 October 2020 and the Order for the exchange of affidavit evidence with a timetable intended to achieve a timely adjudication of the matter.
>
> 27. We see no basis at this time for reversing the decision of the judge to give custody of the children to the respondent. The fact that it was done on an ex parte basis in August 2020 has been superseded by the inter partes hearings on 31 August and 3 September 2020. …".

[9] The applicant did attempt to appeal the 7 September 2020 Order, and in its ruling of 28 July 2021 the Court of Appeal refused leave to extend time for the appeal on the grounds that it was "hopelessly" out of time, the notice of motion not having been filed until 28 May 2021. In dismissing the appeal, and giving the reasons of the Court, the learned President stated:

> "8. In dismissing this proposed appeal against the Order of the 7 September 2020, we note that the intended appellant is not particularly disadvantaged. She is able to go back to the Supreme Court and seek to vary the Order of 7 September 2020. The court always has in mind the paramount interest of the children and if that interest requires that the Order of 7 September 2020 by varied in any way, no doubt a judge of the Supreme Court would vary the Order."

The Constitutional proceedings

[10] An amended Constitutional Motion ("the Constitutional Motion") was filed 22 March 2022, naming the Attorney General as Respondent and seeking various constitutional relief against the Attorney-General in respect of alleged breaches of the applicant's rights emanating from the custody proceedings, which were attributed to various judges. Curiously, the constitutional complaints are pleaded not as breaches but as a series of 16 interrogatories. To give a flavor of the pleadings, the first complaint is rendered as follows:

> "1. *Can a Court of Law; or any other Governmental Agency, its Officers or Agents; or any other person remove children from the custody and care of a Parent who possesses such an entitlement in law, by way of Ex Parte Proceedings without notice to that Parent; and in the absence of there being any evidence of an immediate threat of harm to the safety and welfare of the child or children concerned*?"

[11] I have been able to discern from the papers that the constitutional motion is currently before Forbes J. in Freeport, Grand Bahama, who is considering interlocutory applications made in those proceedings. It was also indicated during the course of the hearing that custody proceedings are pending before Lewis-Johnson, J. and a hearing is set for 31 October 2022.

The ex-parte Summons

[12] It should be clear that, as emergency Judge, I would not be concerned with any of the substantive applications involving the applicant that are before other judges of equal and co-ordinate jurisdiction. I therefore do not express any views on the merits or otherwise of either the Constitutional application or any orders that have been made in the custody proceedings.

[13] It is necessary, however, to say something about how the application came before me as emergency Judge. Apparently, by correspondence dated the 16 August 2022 to the Listing Office and copied to the Registrar, the applicant applied for her "matter" to be listed before the urgent duty Judge in New Providence. It was supported by a Certificate of Urgency filed 15 August 2022 and in particular by the Fourth Supplemental Affidavit in Support of the (Constitutional) Motion, filed 16 August 2022.

[14] On receiving the documents from the Listing Office, I communicated to them that it would be improper for me, while sitting as emergency Judge, to hear the applicant's constitutional motion, of which another Judge was properly seized. I could only hear a specific urgent or interim application for any relief filed by the applicant. This was relayed to the applicant by the Registrar of the Supreme Court by email on 17 August 2022 and, perhaps pursuant to that communication, the applicant on the 17 August 2022 filed the *ex parte* summons that came before me on 19 August 2022.

[15] That summons was intituled in the Constitutional motion, as appears in the masthead to this Ruling, and named the Attorney General as respondent. However, it sought relief requesting the Court to: (i) interview the minor children to "*determine whether the children*

would like to spend the remainder of the summer break with the Applicant"; (ii) for the court to make such an order should it determine that to be in the best interest of the children; and (iii) that the children be permitted to travel to Florida with the applicant, who was attending a conference from 23 to 31 August 2022. In addition to the affidavits which had been filed by the applicant in support of the Constitutional motion, she also indicated that she would be relying on some 9 additional affidavits sworn by various persons on her behalf and also filed in that application, including one from her current husband, Mr. James Missick, and one from her mother-in-law Mrs. Patience Missick.

[16] Having regard to the unusual complexion of the summons, I issued a note by email to the parties on the afternoon of the 17 August to further clarify the remit of the emergency Judge and reiterate the position with respect to my inability to hear the Constitutional motion. It is useful to set out this note in its entirety, for reasons which shall presently become clear:

> "Dear Mr. Wells and Counsel:
>
> As you might be aware, I am currently sitting as the emergency civil Judge, and any matters listed before me (or any other emergency Judge, for that matter) in that capacity, are matters which are certified to be urgent by a Certificate of Urgency, or concern applications for urgent interim or injunctive relief.
>
> I believe the practice is (and it is certainly my practice) that most duty judges will try to make every effort to attempt to hear applicants who have applied for an urgent hearing during the two-week period when they sit. Invariably, some of these matters cannot be disposed of during that period for various reasons, including factors such as the unavailability of one or more of the parties or counsel, because an adjournment is needed to allow one side time to respond, or because the matter can be dealt with more efficiently and justly by the Judge with carriage of the substantive matter. It also quite often turns out that the application is not as pressing or urgent as made out, so that it can be adjourned or deferred to the Judge seized of the matter without causing any prejudice to the applicant. In those circumstances, the emergency Judge may, having heard the parties, either return the File to the Registry to be re-assigned to the next duty Judge, or in an exceptional case where his/her calendar allows another early date, retain it for an adjourned hearing.
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> The limited remit of the duty Judge was made clear to the Applicant by the Registrar of the Supreme Court, and this court would only be concerned with any urgent interim application that is before it. It is not concerned with the substantive constitutional motion that is before any other Judge or any of the other substantive applications. And in this regard, the Court will carefully manage its process to ensure that it stays within the province of an urgent application.
>
> That said, and notwithstanding that the Summons filed 17 August 2022 names the Attorney General as the Respondent, the relief sought in the summons (to the extent that any of it might qualify as an urgent application pursuant to the criteria set out above) is obviously directed against the party with custody of the children. In this regard, the Court wishes to know who is the counsel of record

for that person, if it is not Mr. Wells' firm, and to enquire whether counsel will be appearing for the person with custody of the children.

The court will be sitting in Chambers to hear any urgent application proposed to be made by the Applicant, pursuant to the aforementioned summons, and will also send out a Zoom invite later this evening for those who will need to participate remotely.

Sincerely,
Klein, J."

[17] That email ought not to have been controversial. However, later that same evening, the Court received a rather off-kilter response from counsel as follows [emphases and formatting as in the original]:

"Pleasant Night to your Lordship and Counsel of the Respondent, Attorney General

I am currently in the process of preparing my submissions for tomorrow's Urgent Hearing before you, which I will make every effort to send by email on or before 8 am tomorrow for the Court's review and consideration. In Addition to my submissions, I will also provide the Court with an email which includes attachments of my evidence in support of my urgent application; along with my List and attachment of Authorities.

Finally, in light of the Court's most recent communication, I have finally settled down some, and taken a *closer* look at what was stated by your Lordship. While I am in agreement with most things stated by you, I must admit that I am somewhat taken aback and even offended at the tone and stance perceived by me to have been taken by a Judge appointed to the Supreme Court when you say the following about the Court:

(i) That it '…is not concerned with the substantive constitutional motion…"; and
(ii) That 'notwithstanding that the Summons filed 17 August 2022 names the Attorney General as the Respondent, the relief sought in the summons (to the extent that any of it might qualify as an urgent application pursuant to the criteria set out above) is obviously directed against the party with custody of the children.'

In light of these statements which I find most inappropriate to be made by any Judge of the Supreme Court, much less one assigned to the Public Law Division; I would like to take this opportunity for the record, and respectfully submit to this Court, that my children, myself and my immediate household have suffered a degrading and inhuman attack by the state which has prevented me from living in peace while my children were unlawfully taken away for almost 2 years and counting. I could not believe that this Court would tell this Mother that he ***is not concerned about that.***

> It is humbly submitted therefore, that should this Court continue in this vein, that I would like to place on the record, my objections which appear to be a continuation of contravention by Judges against what I know are an infringement of my rights. I will seek however to address these points within my written submissions to you, in the meantime however, I wish to reiterate that my Urgent application is indeed directed against the Attorney General, and him alone. As such, I find your suggestion worrisome that this Court would seek to arbitrarily substitute the parties to my genuine complaint.
>
> Respectfully,
> Anishka Missick
> Pro Se."

[18] It should be readily apparent, particularly to counsel and attorney of the Supreme Court, that in stating that it was not concerned with a matter, the court was simply indicating that it did not have carriage of that matter, and was not expressing any subjective feelings about the application or the plight of the applicant. Secondly, in inviting the legal representatives of the person with custody of the children to attend the hearing, the court was attempting to assist the applicant by ensuring that the proper parties were before the court should it determine that there was a proper urgent application before it in respect of which relief could or ought to be granted.

DISCUSSION AND ANALYSIS

The hearing

[19] The stridency in the written exchange was, regrettably, a harbinger of what was to come during the hearing, of which I will say more towards the end of this judgment. But suffice it to say that the applicant's presentation continually strayed into discursive submissions related to the issues in the Constitutional motion, repeatedly posing one or more of the interrogatories in that motion to the Court. This was despite repeated attempts by the Court to get the applicant to focus on the terms of the specific relief sought in the application.

[20] Having heard counsel on the application and having regard to the papers that were before me, I dismissed the application and made no Order as to costs. In light of the posture of the applicant and the conduct of the proceedings, I think it prudent to record, if only briefly, the reasons for my decision.

[21] Firstly, as the Court adverted to in the pre-hearing correspondence, while the Attorney-General would be the proper respondent to the constitutional claim, to the extent that the summons could only sensibly be construed as seeking a variation of the existing custody order, he was not the proper respondent and no relief was claimed (or could be ordered) against him. The Attorney General has no parental responsibility or any other form of power or control over the minor children. As was put bluntly by Mr. McKinney, counsel for the Respondent—not that the point needed any adumbration—the minor children are not wards of the state and the Attorney General does not have custody.

[22] This might appear an exceedingly trite point, but as recounted, the applicant insisted that the Attorney-General was in fact the proper respondent and objected to the attendance of counsel for the father, maintaining that they were not a party to the proceedings. Plainly, there was no application to amend the summons to add the party with custody, and consequently no relief could be granted against the Attorney-General. Having said that, the application would not have foundered on the procedural issue alone, as despite the protestations of the applicant as to the presence of the parties with an obvious interest in the proceedings, the court has an inherent jurisdiction to grant orders against parties before it, and an amoury of case management powers to have effected any necessary amendments to the application. But the use of this power was obviously unnecessary as result of the Court's decision.

[23] Secondly, there was no evidence and neither was there anything in the submissions or presentation of the applicant to satisfy me that it would be in the children's welfare to grant any of the relief sought. As indicated, the applicant not only relied on the affidavits filed by her in support of the Constitutional motion, but also indicated she would be relying on affidavits sworn by nine other persons. Her affidavits either regaled the litigation history and what were said to be the alleged breaches of her rights, or her attempts to have the matter set down before various judges. I extract, in elliptical fashion, a few paragraphs from the 4th Supplemental Affidavit:

> "2. In a most concise way, my Constitutional complaints touch and concern *inter alia*, my minor children, who, because of the grant of the Ex Parte Orders without Notice to me, were immediately and maliciously taken away from my custody and care. As a result of these Orders, my Parental rights to my minor children along with their rights to me as their Mother were removed. […]
>
> 4. On Tuesday the 22nd March, 2022, I filed my amended Notice of Motion. Together with my Affidavits ("Constitutional Motion"), this Constitutional Motion contained my complaint of breaches of my fundamental rights, the fundamental rights of my minor children and my immediate household by the Hon. Mr. Justice Keith Thompson, the Hon. Mrs. Justice Ruth Bowe-Darville, the Hon. Mrs. Justice Denise Lewis-Johnson; and now by the Hon. Mr. Justice Andrew D. Forbes et. al. ("the Judges"). […]
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> 41. Sadly, *most sadly*, today marks 4 months and 16 days since the parties were notified of the date set down for the hearing of my Motion; today marks 4 months and 20 days since the Respondent has filed their Appearances; today marks 3 months and 3 days since the Respondent was given an opportunity to Strike Out my Motion; today marks 1 month and 2 days since we appeared for our Strike Out Applications; and in a very short window of time, unless the Deputy Registrar in conjunction with the Listing Office consider the merits of my request as they should so that my matter is adjudicated upon by the Duty Judge, I would have missed an opportunity to spend any portion of the Summer break with my minor children, who to date I have not seen for almost two (2) years and counting."

[24] The other affidavits were mainly from persons who are either acquainted with the applicant, and apparently are intended to speak to her attributes as a mother and person, or were supplied by persons supporting her cause. Regrettably, several of the affidavits filed in support of the Constitutional Motion contain material that could properly form the basis of contempt proceedings, in that they condescend to statements which seem intended to denigrate and demean the Courts and its judges, perhaps in a misguided attempt to assist the applicant. I say no more about this.

Welfare of the child

[25] The determination of what is in the best interest of a child in any given case "*is inherently imprecise*", to use the language of Lord Nicholls of Birkenhead in the UK House of Lords case of *Re B (a minor)* [2021] UKHL 70 (mentioned in the Court of Appeal case of "*MGO" v. "FCO*" [SCCivApp. No. 10 of 2015]). In making any decision involving children, a judge is required to exercise his or her discretion based on many competing (and often conflicting) interests. As put by Lord Nicholls in the referenced case:

> "16. In cases such as the present the first instance judge decides which order, if any, he considers is in the best interest of the child. When doing so the judge is said to be exercising his 'discretion'. In this context, this expression is descriptive of the judicial evaluation and balancing of a number of factors from which an overall conclusion is reached on a concept whose application in any given case is inherently imprecise. There is no objectively certain answer on which of two or more possible courses is in the best interest of a child. In all save the most straightforward of cases, there are competing factors, some pointing one way and some another."

[26] But whatever impreciseness may inhere in such an exercise, I would be very reticent, particularly in the compressed environment of an urgent hearing, to disturb even on a *pro-tem* basis an order or orders made by a family law Judge who was fully acquainted with the parties and the history of the proceedings, had heard one or more of the parties on repeated occasions, and had the opportunity to consider oral and written evidence not before the emergency Judge.

[27] Furthermore, while the views of the minor children concerned may be a factor to be taken into consideration in appropriate cases, their wishes are never determinative of the court's decision. In any event, the request for interviewing the children was clearly not an exercise that could reasonably have been conducted at such short notice and in the context of a short-hearing window. It would have involved logistical and other arrangements which would have necessitated the involvement of the father, as the person with custody, and maybe even the Department of Social Services. As indicated, the applicant did not consider the father a proper party to the action. As it turned out, the children were never made to appear before the Court, and neither did the court think it necessary.

[28] Thirdly, although I heard the application, I should indicate that I was not convinced that this was a matter which ought to have been listed for an urgent hearing before the

emergency Judge. The fact that the applicant was hopeful of travelling with her children the following week might have given a colour of urgency to the application, but the difficulties standing in her way did not just arise so as to justify an urgent hearing. The applicant was well aware that there was an Order in place from 7 September 2020, whatever view she had taken of it, that precluded her from removing the children from New Providence and limited her access to supervised visits with them. As was helpfully pointed out by the Court of Appeal in the 28 July 2021 ruling, the applicant remained at liberty to apply to the Court to have the terms of that Order varied on a proper application.

[29] In fact, it is telling that the bulk of the matters set out in the Certificate of Urgency, said to justify the urgent hearing, were complaints about the circumstances in which the 2019 and 2020 Orders were made. There was also no evidence that the applicant had incurred any expenses or made other arrangements which would have caused financial or other prejudice if the relief were refused. Indeed, there could be none, as it was plain that no travel arrangements could be made in respect of the minor children without first having obtained the *imprimatur* of the Court to vary the custody order.

[30] It is also of some significance that in attempting to have the matter placed on the urgent list, the applicant was astute to ensure that the emergency Judge was someone assigned to the Public Law Division of the Supreme Court, ostensibly with the intention of having the constitutional motion heard. In this regard, the applicant clings stubbornly to the view that as the duty judge is assigned to the Public Law Division, there should be no impediment to having the constitutional motion heard as an urgent matter by the duty judge. As she put it in her application letter, such a Judge "*possesses the legal authority to hear my matters on all fronts*."

[31] In point of fact, every Judge of the Supreme Court, irrespective of Division, is vested with the full constitutional powers of the Court. However, as I had occasion to point out in *Donna Dorsett-Major v. Director of Public Prosecution* [2020/CRIM/con/00005 (13 October 2020)], recourse to the plenitude of constitutional powers ought not be used to attempt to evade the normal processes of the Court, or to make collateral attacks on decisions of courts of co-ordinate or superior jurisdiction. Article 28 itself is preclusive of such an approach and requires any available alternative relief to be exhausted before the constitutional jurisdiction is invoked. Additionally, s.6 of the Supreme Court Act requires matters relating to an action to be disposed of as far as practical before the same judge.

Other observations: emergency civil Judge

[32] Before rounding off the reasons, I think it is appropriate to say something about the functions of the emergency civil Judge, as this facility has become susceptible to some abuse. The emergency duty Judge system was implemented to provide a system for the expedited hearing of urgent matters, such as applications for urgent injunctions or other interim orders, where one or more of the parties would suffer irremediable prejudice, or be at risk of harm, if the application was not heard timeously. Such applications are required to be certified by a Certificate of Urgency, which should set out the reasons and justification for urgent consideration and indicate the period in which it is necessary to have the matter

considered to avoid any prejudice or detriment to a party. Sometimes the matter is so urgent that it requires the immediate consideration of the Court, whatever the time of day or night, and in such cases many of the procedures and formalities are dispensed with.

[33] Practice has shown, however, that not all of the matters said to be urgent qualify as urgent matters, and the mere engrossing of a Certificate of Urgency does not make a matter urgent. For example, it is very commonplace for such certificates to state *simpliciter* that the matter is urgent because it is a matter which concerns a minor child or children. True it is that matters relating to children ought to be dealt with expeditiously (s. 3 of the Child Protection Act), but that alone does not elevate each and every such application into an *urgent* hearing. Applicants and counsel ought to be aware that the emergency Judge has to hear urgent matters in addition to their normal lists, and therefore this service should not be used to get matters to jump the queue, or to be placed before a particular Judge, or to invite collateral consideration of matters which are currently pending before other Judges.

[34] While the Court stands ever ready to hear an applicant who may need its immediate protection, this facility should not be abused and courts in some jurisdictions have taken a dim view of applications where the need for immediate consideration is not made out (see, for an example, the comments of the UK Divisional Court in *R (on the application of Hamid) v. Secretary of State for the Home Department* [2012] EWHC 3 (Admin), [7], endorsing the practice to censure counsel and the firm when urgency criteria for hearings were not made out).

CONCLUSION

[35] Having considered all the circumstances of this case and for the foregoing reasons, I dismissed the *ex parte* summons filed by the applicant on 17 August 2022 and refused the relief sought thereunder. I made no order as to costs.

Postscript

[36] Regrettably, because of the conduct and remarks of the applicant during the course of the hearing, the Court has felt it necessary to institute proceedings for contempt and in due course will issue a summons to the applicant to show cause why she should not be committed for contempt of Court for her behavior during the hearing of 19 August 2022.

[37] The court is greatly sympathetic to the emotional turmoil and trauma that must have been occasioned by the circumstances in which the minor children were removed from the applicant. The Court of Appeal rightly adverted to this in its Ruling of 25 September 2020, when it implored her to seek the assistance of counsel to conduct a more dispassionate presentation of the case:

> "29. Finally, we implore the appellant to consider seeking the assistance of counsel to represent her in this matter. No doubt she may be an able lawyer and advocate in the courts, but her intemperate comments to this Court and the trial judge below suggest that in her own best interest she should seek assistance to represent her in this matter."

[38] In the lead-up to this application, I also enquired whether the applicant had independent counsel, and received the curt reply that the applicant desires to "*appear…pro se, as I have done up to the Court of Appeal many times before*", commending Order 5, Rule 6 (1) of the Rules of the Supreme Court 1978 ("*R.S.C.")* to the Court's attention.

[39] No one doubts the genuine love of the applicant for her children and her natural desire to wish to be reunited with them. But whatever deep human emotions might be evoked by the ordeal, it cannot excuse the behavior of the applicant, who, as counsel and attorney and an officer of this Court, owes a special duty over and above the normal citizen to uphold the authority and integrity of the court and to show it appropriate respect. The Court cannot and must not turn a blind eye to it.

2 September 2022

Klein, J.