

**IN THE HIGH COURT OF THE COOK ISLANDS  
HELD AT RAROTONGA  
(CIVIL DIVISION)**

**DP NO: 12/2016 & 13/2016**

**IN THE MATTER** of the Section 6 of the Infants Act 1908  
(NZ) (as applied by Section 630 of the  
Cook Islands Act 1915) and Section 10(1)  
of the Judicature Act 1980-81

**AND**

**IN THE MATTER** of Rule 354 of the Code of Civil  
Procedure of the High Court 1981 and  
Section 9 of the Judicature Act 1980-81

**BETWEEN** **HALATO A FUA** of Rarotonga

**Applicant**

**AND**

**PAMELA WILLIAMS** of Rarotonga,  
Unemployed

**Respondent**

**Date:** 03 June 2016

**Counsel:** Ms M Henry for Applicant  
No appearance for Respondent

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**MINUTE AS TO CUSTODY (DP 12/16 & 13/2016)**

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[1] This is a very delicate proceeding principally, at least at this stage, concerned with the custody and welfare of the one child of the parties Chase Tumutoa Fua who was born on 10 April 2015 and even now is therefore only about 13 months old.

[2] There have been deep-seated difficulties in the marriage, largely it seems stemming from the fact that the parties' household, apart from the two of them and Chase, also includes the 4 year old daughter born to Mr Fua and a former partner. Ms Williams deeply resents any contact between that girl and her mother particularly if it is initiated by Mr Fua and it seems that psychologically she is unable to cope with the continuing existence of that relationship.

[3] As the papers demonstrate, on a number of occasions recently Ms Williams has undertaken suicidal actions, sometimes in Chase's presence with the expected distress that her actions cause to him fortunately her attempts have been unsuccessful.

[4] A few days ago she left for Aitutaki taking Chase with her and information given to the Court suggests that she may be intending to take Chase to Brisbane in Australia sometime in the next week or so.

[5] Other factors to be woven into the mix are that Ms Williams has family on Aitutaki and she also has a sister in Brisbane who can arrange for Ms Williams to be given appropriate psychiatric and psychological help if she goes to Queensland. Having lived there before she is apparently entitled to public funding under Medicare for that assistance.

[6] This application was originally brought by Ms Williams seeking orders for custody concerning Chase and Orders were made on an ex-parte basis at an earlier stage. Mr Fua has responded in the sense that he has issues a cross-application for custody and it is with that application that this minute is concerned particularly given the distressing personal situations which have arisen in the last little while.

[7] In discussions on 2 June with the parties and Ms Teinangaro who has been counselling Ms Williams as to the best means of promoting Chase's welfare and interests by getting him into his father's care, it was suggested that making Chase a Ward of the Court might be less inflammatory than an Order granting Mr Fua interim custody.

[8] After reflecting on that suggestion overnight and ruminating on the practical means of effecting such an order, Mr Fua has agreed today that Wardship proceedings are at least at this stage preferable to custody proceedings. He suggests that if Chase is made a ward of Court, Sergeant Pauline Rangi of the Rarotonga Police who has had dealings with Ms Williams and seems to command her confidence may be the best agent for the Court to execute the Order.

[9] Those circumstances in light of which the above can be no more than a brief regime – there will be orders;

- 1) That Chase Tumutoa Fua be made a Ward of this Court and that Sergeant Pauline Rangi of the Rarotonga Police be appointed as this Court's agent to execute the order;
- 2) There will be an order that Chase Tumutoa Fua be not removed from the Cook Islands without Mr Fua's consent or a further Order of this Court;
- 3) The date, time and place of Sergeant Rangi exercising her powers as to Court's agent under the Wardship order is a matter for her;
- 4) Once Sergeant Rangi has uplifted Chase as the Court's agent she is to deliver him to his father Mr Fua to act the Court's guardian of Chase until further order of the Court.
- 5) Chase's passport is held by his father Halatoa Fua.

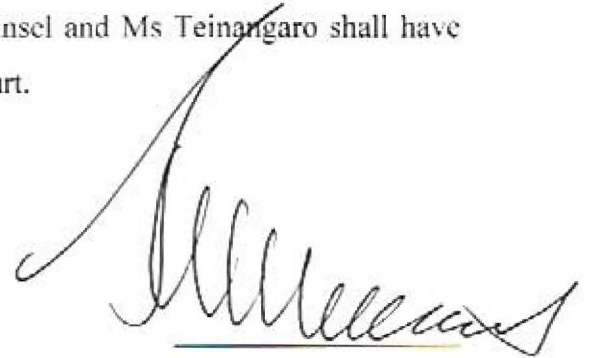
[10] It is pertinent to make a few additional observations;

- 1) Mr Fua is prepared to meet Sergeant Rangi's travel cost to Aitutaki and return. He will probably go with her to Aitutaki when Sergeant Rangi proposes to execute her agency duties but in the circumstances should not be present when Chase is actually uplifted;
- 2) Ms Teinangaro who has been counselling Ms Williams has already set in place a counselling and supportive regime for Ms Williams. It is of course entirely for Ms Williams whether she avails herself of that assistance but it would be very much to her advantage if she did so, not just to make Chase's transition to his father easier but for her longer term benefit;
- 3) Ms Williams should also be encouraged to avail herself of the expert psychological or psychiatric assistance available in Queensland, but again there is no order this Court can make to require her to do so.

[11] These proceedings should be adjourned *sine die*. It may well be necessary in due course to reconsider the orders made and in particular to replace the Wardship order by a custody order the better to advance Chase's interest. But in formal terms the only aspect

of that which needs to be part of the Court's order is to give Ms Williams leave to apply to vary the arrangements set out in this minute should she choose so to do.

[12] Because of the delicate nature of the matters contained in the file there will be an order that no person other than the parties, their Counsel and Ms Teinangaro shall have access to or search the file without an order of the Court.

A handwritten signature in black ink, appearing to read 'H Williams', is written over a horizontal line. The signature is fluid and cursive.

**Hugh Williams, J**