

IN THE SUPREME COURT OF WESTERN SAMOAHELD AT APIA

DIV. 45/93

BETWEEN: STEVE ALPHONSO BETHAM of
Vailoa, Businessman:

PETITIONER

A N D: MARIANNA FILI BETHAM of
Vailoa, Housewife:

RESPONDENT

Counsel: Mr P.A. Fepuleai for Petitioner
Mrs R. Drake for Respondent

Date of Hearing: 25th January 1994

Date of Judgment: 26th January 1994

JUDGMENT OF Sapolu, CJ

This is an application for interim maintenance by the respondent pending determination of a petition for divorce filed by the petitioner. The application is made pursuant to section 22 of the Divorce and Matrimonial Causes Ordinance 1961.

At present the respondent and the two children of the marriage are living with the respondent's sister. The children are aged 7 and 10 years respectively. The house they are living in does not actually belong to the respondent's sister. And the respondent wants to rent a place for herself and her children to live in. Previously the respondent and her children had been living in the house which the respondent says she and the petitioner had built at Vailoa on land which belongs to the petitioner's family.

The petitioner had been giving \$200 weekly to the respondent for the maintenance of herself and her children. That amount has been reduced to \$180. It is not clear why that amount has been reduced. The respondent is

now claiming \$500 a week for the maintenance of herself and the two children. The petitioner says in her affidavit that he earns \$380 a week and is prepared to continue paying \$180 a week to the respondent and her children. He is also prepared to pay for his children's school fees and dental and medical expenses when such expenses arise. But that will be a matter which depends on the petitioner's free will. The petitioner operates a business and there is no evidence to show how well his business is doing. His weekly earning of \$380 is his weekly drawings from his business. The respondent on the other hand, although presently unemployed, may be able to find employment herself.

Bearing in mind the present needs and circumstances of the respondent and her children as well as the means of the petitioner insofar as all those matters are presently clear to the Court, the petitioner is ordered to pay \$190 weekly per interim maintenance towards the respondent and her two children. First payment is to be made on 28 January 1994 and then every week thereafter until determination of the petition for divorce. The interim maintenance is to be paid to the respondent.

T. F. M. Sapola
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CHIEF JUSTICE