



**CIVIL COURT  
(FAMILY SECTION)**

**MR. JUSTICE ANTHONY G. VELLA**

**Sitting of Thursday 23<sup>rd</sup> January 2025**

**Sworn Application : 46/2024 AGV**

**PMC**

**-vs-**

**Dr Jason Grima and PL Veronica Rossignaud  
as Deputy curators to represent the absent  
NER**

**The Court;**

**Having seen the sworn application of PMC ;**

**Respectfully submits and confirms on oath: -**

1. That the plaintiff and the defendant had a relationship from which they have a child, namely BR C, born on the ninth (9<sup>th</sup>) January of the year two thousand and thirteen (2013), as per birth certificate attached herewith and marked as **Doc. 'A'**.
2. That the relationship between the parties ended years ago because of the defendant's behaviour, who, regrettably, is an alcoholic and, for several years, failed to address her problem and, indeed, the problem persists, to date.
3. That this situation resulted in serious prejudice to the minor child who was repeatedly exposed to the defendant's erratic and unstable behaviour, to the extent that the plaintiff had no alternative but to end the relationship to protect his minor son who, throughout his childhood, experienced continuous episodes of neglect and psychological abuse, as will be shown throughout these proceedings.
4. That throughout their relationship, the parties, who are both Polish, resided for a number of years in the United Kingdom, and throughout the said period, social workers and other professionals had to get involved for the protection of the minor child, since it resulted that while the plaintiff was at work, the defendant was on various occasions, under the influence of alcohol, in the presence of the minor child.

5. That notwithstanding the plaintiff's repeated efforts to work and provide for the needs of his family, while simultaneously also doing his utmost to safeguard the best interest of his minor son, the defendant failed to address her issues to be able to also care for the minor child and was even aggressive towards the plaintiff, in the presence of the minor child, over and above exhibiting abnormal behaviour.
6. That additionally the defendant was also physically abusive towards the minor child, and social workers were involved in the matter, to safeguard the needs of the minor child, over and above the plaintiff's repeated efforts to protect his son's interests.
7. That the defendant was even hospitalised, several times, at Leighton hospital, in Cheshire, England, as a consequence of her repeated attempts to harm herself.
8. That the defendant failed to complete any treatment, and every time she relapsed to her usual ways and habits, to the extent that even professionals from the school attended by the minor child, in England, namely Sandbach Primary Academy, Cheshire, had visited her at home, and found her heavily intoxicated and had to call the plaintiff for assistance.
9. That the relationship between the parties ended circa in the year two thousand and nineteen (2019) and in September of the year two thousand and twenty-two (2022), the plaintiff came to Malta with the minor child, where he managed to secure full-time employment and has, since then, established his residence in Malta.

10. That over the last year and a half, since the plaintiff and the minor child relocated to Malta, the defendant only visited the minor child in Summer and December of last year, for a few hours, and on both occasions, clearly under the influence of alcohol.
11. That in November of the year two thousand and twenty-two (2022) the defendant signed a declaration with a notary confirming that the minor child would be residing in Malta with the plaintiff, as per document attached and marked as **Doc. 'B'**.
12. That in virtue of a decree dated the twenty-fourth (24<sup>th</sup>) November of the year two thousand and twenty-three (2023), hereby being attached and marked as **Doc. 'C'**, the plaintiff was entrusted with the sole care and custody of the minor child, BRC , and was authorised to take all decisions in relation to the health, education, extra-curricular activities, and the general well-being of the said minor child, while this Honourable Court also upheld the plaintiff's request that any access to the minor child by the defendant, be exercised solely and strictly under supervision, in the presence of social workers, should the defendant ever seek to exercise such access.
13. That the plaintiff has been authorised to initiate judicial proceedings in virtue of the above-mentioned court decree dated the twenty-fourth (24<sup>th</sup>) November of the year two thousand and twenty-three (2023), as extended in virtue of a further decree dated the nineteenth (19<sup>th</sup>) January of this current year two thousand and twenty-four (2024) - (**Doc. 'D'**).

14. That the facts here in stated are personally known to the plaintiff.

For these reasons the plaintiff humbly prays this Honourable Court to: -

1. Order and authorise the said plaintiff to exercise, alone and exclusively, parental authority over the minor child BRC

2. Order and confirm that, in the best interests of the parties' minor child, BRC , the care and custody of the said minor child remains solely and exclusively entrusted with the plaintiff, until the minor child reaches the age of majority.

3. Order and declare that the residence of the minor child BRC remains with the plaintiff, also until the minor child reaches the age of majority.

4. Order and confirm that all decisions, of whatever nature, be they ordinary or extraordinary, in relation to the minor child BRC be taken solely and exclusively by the plaintiff, as is the situation today, including such decisions related, but not limited to, the minor child's welfare, residence, health, education, extra-curricular activities, religion, upbringing, well-being, the issue and renewal of his passport and travel, without requiring the defendant's consent or any order of the competent court.

5. Order that any access to the minor child by the defendant, should she ever seek to visit the minor child, be limited and exercised solely and strictly under supervision, always in the presence of social workers and that such access is not exercised against the minor child's wishes.

6. Authorise the plaintiff to apply for/renew the passport of the minor child, as and when required, and to travel with the minor child, without requiring the written consent of the defendant, whose whereabouts are unknown, or authorisation from any Court.

7. Order the defendant to pay the plaintiff such maintenance allowance, for the needs of the minor child, which this Honourable Court shall deem fit taking into account the needs of the minor child and the means of the defendant, payable monthly or weekly as may be ordered by the Court, or if such appears just to the said Court, order the defendant to pay the plaintiff in lieu of such maintenance or part thereof a capital sum which in the opinion of this Honourable Court would be sufficient to cater for the needs of the minor child, while also ordering the defendant to pay her share of all educational and health expenses of the minor child, as well as extra-curricular activities, equally with the plaintiff.

8. Give all those appropriate and opportune measures in the best interests of the minor child BRC

With costs against the defendant, including those incurred in mediation proceedings, who is summoned for reference to her oath.

**The Court having seen the reply of Dr Jason Grima and PL Veronica Rossignaud, presented in the Maltese Language dated 26<sup>th</sup> April 2024;**

1. Illi f'dal -istadju , l-esponenti mhux edotti mill- fatti u ghalhekk jirriserva id-dritt li jipprezenta risposta ulterjuri, fi stadju iehor ta' procedure jekk ikun il-kaz.
2. Illi r-rikorrenti ghandu jaghti d-dettalji kollha fuq omm il-minuri sabiex tigi rintraccata ;
3. salv eccezzjoijiet ulterjuri

Having heard the evidence brought forward by plaintiff;

Having seen the documents exhibited;

Having seen all the acts of the proceedings;

Having seen the mediation proceedings attached to these acts;

### **CONSIDERS:**

This case concerns the care and custody of a minor child, a twelve-year old boy named BRC, born out of a relationship between the parties on the 9 January 2013. The Court only has the version of events as explained by plaintiff, since defendant was represented by curators in these

proceedings, given that defendant's present address is unknown. Therefore, the Court considers that plaintiff's version of events, since this has not been rebutted or contradicted by any other evidence, has been proven as facts at law.

In his affidavit, plaintiff declares that defendant suffers from an alcohol addiction, and could also possibly suffer from a mental condition. The Court has no concrete evidence in this regard except for plaintiff's testimony. He states that their son was born in Holland, and subsequently they moved to the United Kingdom to seek better work opportunities. He had in fact found employment there, whereas defendant was employed as a bartender.

Her condition deteriorated towards the end of 2016 and kept getting worse. There were instances of self harm and other incidents of aggression towards plaintiff and their son. The local authorities had been informed of this situation through the child's school and their case was examined by various professionals in social services.

Plaintiff felt he had no other option but to sell the house where they lived in Cheshire and move to another place. He chose to live here in Malta after they had come here on holiday. Plaintiff and the minor child have been living here since 2022, and it was the best decision they could have taken. Defendant had signed a notarial agreement, exhibited in these acts, whereby she declared that she is aware that her son shall be residing in Malta, and that she is giving her full consent for plaintiff to apply for a residence permit for their son, and that she will do everything in her power to sign any forms and documents in support of this. The document is dated 28 November 2022, signed by defendant before notary Dr Samuel



Bezzina. For the last two years, plaintiff states that the child has been living without fear of being harassed and attacked by his mother. The child is attending a state school in Birzebbugia, is happy here and participates in school and other activities. Plaintiff states that he has managed to turn his life around and provide a safe home for his son.

He kept in contact for a while with defendant, who visited twice, but it appeared that she was not willing to overcome her alcohol addiction. He declared that he has lost all contact with her, and that she doesn't call their son or contact him, not even on his birthday or other important occasions. The child does not want to see or hear from his mother at this stage.

Plaintiff also exhibited the child's school report for the scholastic year 2023/2024, where it is evident that the child is doing very well.

The only details that are lacking in this case are evidence of plaintiff's income from employment, and his expenses to raise the minor child. In the absence of such information, the Court can award maintenance for the child's upbringing in the amount of €250 per month, which sum includes defendant's share of monthly expenses incurred in the child's health and educational needs.

Moreover, the Court will not be granting defendant access with the child. This will only be done if and when she attempts to make contact, through the proper procedure, and after due consideration is given to the child's wishes and after the involvement of the Directorate for Child Protection. Such access will be under supervision, as in fact requested by plaintiff, but only after defendant institutes proceedings herself to this effect.

On the basis of this evidence, the Court has no hesitation in upholding all plaintiff's pleas on the lines outlined above.

**DECIDE:**

NOW, THEREFORE, THE COURT:

UPHOLDS PLAINTIFF'S PLEAS.

1. Orders and authorises the said plaintiff to exercise, alone and exclusively, parental authority over the minor child BRC
2. Orders and confirms that, in the best interests of the parties' minor child, BRC, the care and custody of the said minor child remains solely and exclusively entrusted with the plaintiff, until the minor child reaches the age of majority.
3. Orders and declares that the residence of the minor child BRC remains with the plaintiff, also until the minor child reaches the age of majority.
4. Orders and confirms that all decisions, of whatever nature, be they ordinary or extraordinary, in relation to the minor child BRC, be taken solely and exclusively by the plaintiff, as is the situation today, including such decisions related, but not limited to, the

minor child's welfare, residence, health, education, extra-curricular activities, religion, upbringing, well-being, the issue and renewal of his passport and travel, without requiring the defendant's consent or any order of the competent court.

5. Orders that any access to the minor child by the defendant, should she ever seek to visit the minor child, be limited and exercised solely and strictly under supervision, always in the presence of social workers, and that such access is not exercised against the minor child's wishes.
6. Authorises the plaintiff to apply for/renew the passport of the minor child, as and when required, and to travel with the minor child, without requiring the written consent of the defendant, whose whereabouts are unknown, or authorisation from any Court.
7. Orders the defendant to pay the plaintiff such maintenance allowance, for the needs of the minor child, in the amount of €250 per month, which sum also includes defendant's share of all educational and health expenses of the minor child.

Any expenses incurred in extra-curricular activities are to be shared equally with the plaintiff.

All costs in this case and in the mediation proceedings are to be borne temporarily by plaintiff, and shall be recoverable in full from defendant, if and when her residence is determined.

**Antonio G Vella**  
**Judge**

**Concetta Gauci**  
**Deputy Registrar**