**CHRISTOPHER ROSS GIDLA**

GIDLA & ASSOCIATES

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**IN THE REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**Family**

**Petition No.FH /2020**

**BETWEEN**

|  |  |  |  |
| --- | --- | --- | --- |
| **NADIA RIVAS** | | | **Petitioner** |
|  |  | | |
| **And** | |  | |
|  | | |  |
| **ORLANDO RIVAS** | | | **Respondent** |

I, **ORLANDO RIVAS,** 7 Buena vista Street, St. Joseph make oath and say as follows:

1. The facts hereinafter deposed to are true and correct and within my knowledge save where other wise stated.
2. I have read the affidavit of the Applicant/ petitioner made in support of the application relating to the Children(hereinafter referred to as the “Applicant”) filed herein on the 18th of October, 2019 and I make this affidavit in response thereto.
3. In response to paragraph 4 of the affidavit, I deny that I ever behaved in manner to such to put the applicant and my children to fear for their lives. I ever have been abusive verbally, emotionally and physically towards the applicant and my older son Andres. In fact the applicant always showed a conflicting behavior. She would be calm sometimes and mostly on other occasions she would show a very aggressive and loud behavior towards me and the Children. She would be very strict with even the minor things with the Children and very intimidating. Often, abusive and very angry on the Children. There is one incidence that the Eldest Child Andres, said he had enough and took a knife and put it round his throat threatening to kill himself. I had to intervene and took the knife away. She has a tendency to make any small issue into a big issue. On incidence I was cleaning the Children’s toys and I had a plastic bat in my hand and she was shouting at me and I had to tap her and ask her to keep calm. She started to make a big fuss and started to complain that I bet her with the bat.
4. In response to paragraph 5 I deny that I ever I made cause to physically abuse and threaten the applicant. Furthermore, the statement that she made in the paragraph that she made complaints to the police station, were not substantiated in the copies of the report. All the reports said was information and there was no mention about the physical abuse. The statement that she made that she hid the reports because of fear of what I might do to her is absolutely do not make any proper sense.
5. In response to paragraph 6 I deny that I ever was physically abusive towards her and threatened to kill her. Moreover when I cross examined her on that issue on 28th November ,2019, she admitted that I never threatened her. On New year’s day, 2019, She said she would take care of the children and instead she was having a long conversation with her friend outside in the Car. Finally after about an hour or so, she came inside and I asked her why did she leave the children so long, I said I hope you are not talking about my business. She became angry and started saying it’s her business and moreover I am so evil and wicked. We had an argument at that instance, but I never said I would be a murderer. I did not threaten to kill her. I admit I had an argument.
6. In response to paragraph 7 I deny that I ever was aggressive and abusive towards to my Children. I always had a loving relationship with my Children. They love to play with and be around me all the time. We watch movies together. Some times we play with the remote control cars. I always help them with their school work. The applicant is always busy talking to her friends on her phone. She talks all the private instances to her friends belittling me. Either she is on her phone or sleeping. In fact her over controlling nature towards the Children made an negative impact on the Eldest Child and his ability to cope with her aggressive behavior. At one instance he said he had enough and took a knife towards his throat and threatened to kill himself. If I did not intervene I do not what would have happened.
7. In response to paragraph 8 , it is the applicant who cause these tensions to my Children. She was always quarelling with my Eldest Child. Often I had to intervene between their physical fights. I always had a loving bond between my Children and me. She always tries to quarrel with me and argue with me for every small issue and this was causing a tension in my Childrnen. I often asked not to argue in front of the Children. She would sometimes use obscene language towards the Children and me. I often begged her not to do that. I am student of Bible institute and I always wants to bring my Children in a Christion upbringing. She also says that too but lose her temper very easily because of her controlling nature. My Eldest Son is good boy and given a proper love towards him has never behaved in a manner to such that he would need Psychiatric treatment. The Applicant instead of giving the love he needs She always regards him as a Psychiatric patient and takes to the hospitals.
8. In response to the paragraph 9, She has been doing these proceedings with my knowledge, and I have never acted in any abusive way. I only pleaded with her to give me proper access to my children. She tried to block the Children from seeing me and took the Children from my house even before the an interim Order was made. When asked about it she threatened me that she would use the undertaking I made and use it against me. Even today , eventhough an interim order was made that I could pick the Children every day from School, She would send her father to pick up the Children even before the School is finished interfering with the School work. She is always vindictive in that nature, ignoring and disrespectful towards this Honorable courts orders.
9. In response to paragraph 10, I admit I used to smoke. But I stopped smoking since I started the Bible School. Probably I fell a couple of times. But I completely stopped since August, 2019. Because , I used to smoke she takes advantage of this and stamps me as a drug addict. I never was unpredictable, even though I was smoking before I never smoked to the extent that I wouldn’t know what I was doing.
10. In response to paragraph 12 I was never disrespectful towards the applicants parents. My father in law and me were always on friendly terms. In fact he expressed that he was surprised how this was happening.
11. In response to paragraph 13, I deny that I ever put the applicant in that situation.
12. In response to paragraph 14, on September 30th , 2019, I was resting and I heard noises and arguments about my Eldest Child Andres missing homework. They came into my room and shook me to wake me up. I got up and carried on with argument. I told her to relax and I would deal with him. She started to say that Andres is too blasted disrespectful and they started to fight physically in front of me and I had to intervene and asked to go to his room and stay there. She continued with her shouting . I proceed to tidy up the room where I found the toys scattered. I had a bat plastic toy bat in my hands. When went on and on with her curses towards and started saying that I was training him to rebel against her. At that point I tapped with the bat on her shoulder and said stop telling the child those things. At that point she started making a big fuss about it and started saying I beat her with the bat. My father’s caretaker was there at that time and she saw what happened.
13. Moreover, the police report she mentioned in the paragraph 15 did not mention any beating or was there ever a medical report.
14. In response to paragraph 16 I admit that Andres refused to speak with the police. I admit I was angry when I found that the police were a bit rough and rude with my Child. At that point I did say, if you want to leave you can leave but do not bring the police to question my Children and to frighten my Children. The whole episode of how the Police came upsetted my children and they were crying when I reached home. I did not make the children cry.
15. In response to paragraph 19 I neither admit nor deny since I was not present.
16. I deny I am a man of abusive temperament nature. I deny that I ever commenced a series of interactions of such that I terrorized her by threatening the applicant/ petitioner with death and remove the children from being with her. I deny ever to proceed to use a plastic bat and beaten the Petitioner/applicant in a bout of anger and threatened to kill her. On September 30th of 2019, The Petitioner/ applicant and my eldest child Andres Rivas were having a quarrel. I intervened to stop the quarrel. I was tidying up the toys of the children where I pickup the plastic bat. She was in front me shouting at me accusing me that I was teaching the children to me disrespectful. She was also saying that Andres is like his father and was no good. At that point I tapped her with the bat and asked her to stop it. She started making a big fuss and accused me that I was beating her. However when she was cross examined on 28th November, 2019 in the court she admitted on oatt that I never threatened to kill her.
17. In response to paragraph b , I deny that I ever was physically abusive towards the children. Moreover, she is the one who is always abusive towards the Children and me. At one incident, Andres Rivas , my oldest child said he cannot take it anymore and took a knife and held it towards his throat and threatened to kill himself. I had to intervene and take the knife away.
18. She has a nagging/ intimidating nature and likes to nag me and intimidate me and the children all the time. She was intimidating me in every way even today, hoping that I would break my undertaking that I gave this honourable court.
19. Andres Rivas was always a good child. She is persistent in quarelling with him and made it look like he needs a Psychiatric treatment. He never had that problem when he is around me.
20. In response to paragraph c, I deny that I ever refused to allow the Applicant to go to her parents home. I deny I ever threatened, abused and harassed the Applicant by my words, telephone calls, messages and actions. I deny that I ever told the applicant that I would rather commit a crime against than live without my children or let the Applicant leave me. Moreover, when crossexamined in the court she did not confirm this.
21. In response to paragraph d, I deny that I used obscene language in the presence of her and the Children and had ever physically abused my older son Andres and the Petitioner. Moverover during the crossexamination she confessed that she is the on who curses the children. As mentioned afore she always had a quarrel with the Andres.
22. In response to paragraph e I admit I used to smoke marijuana now and then. I deny I was an avid smoker. I have joined a Bible institute and since then I stopped smoking. My teacher Mr.Boodram is professional psychologist and he counselled me on the various harms the marijuana could do and also the spiritual aspect of it.
23. In response to paragraph f , I deny ever threatening the Applicant/ Petitioner in manner where she was asked to not to speak to anyone and barred her from seeking help regarding the issues faced in the home. I deny ever using abusive slurs against the Petitioner’s parents. She is the one who always uses intimidating words towards me and the children.
24. I deny ever behaving in a manner with which the older Child Andres has had to seek help for his mental state of mind, and as to such I behaved in a manner which scares and scared the child. Moreover, she is one who always had quarrels with Child as to the extent that he once took a knife and held it towards his throat threating to kill himself and I had to intervene and take the knife away. If she did not persistently harass the Child , Andrew always behaved to be a nice boy. He never had any problem when he is around me, alone. I give the freedom to be Child, and not to the extent of spoiling him. He does school work regularly when he is around me. I always help me with him work.
25. Even though I admit that I do not have a 8;00 to 4;00 job , I am a Janitor, and I have jobs coming to me enough to provide for the welfare of the children.
26. Hence, on basis of the above information I was not threat to the children or the Petitioner. That Children always preferred my company rather than the petitioner’s company. They were happy when they are around me and they have lessons and other needs attended to . Whereas the Petitioner is always busy with her and tired when she comes. She expresses her irritability because of her tired ness towards me and the Children. She always tries to correct the Children for every small thing. Things like brushing at nights she harasses them, from 5:00 pm whilst there playing. When the Andres refuses and tell that it is still early she wouldn’t and starts to quarrel with in big manner.
27. In these circumstances, it is not safe for the petitioner to have sole custody or care and control, because, she never could handle Andres and she do not the time to be there for them when they need for assistance in their school. They had spend time with their grandparents who do take could care of them. Andres even informed me that the grandparents called him a Brat and imbecile and calls him little Orlando, meaning he is no good like me.
28. I have given an undertaking that I will restrain from harassing, molesting, threatening or otherwise interfere with the Petitioner and the Children of the family. The order that the applicant asked for a restraining order is no longer necessary. The order for the supervised access is no longer necessary. There is no necessisty for urgency.
29. I admit paragraph 3 of the Applicant’s affidavit. I have been the primary care taker of leave me.
30. Christian Wingham since he was 10 months old.
31. I admit paragraphs 4 to 11 of the applicant’s affidavit.at
32. In response to paragraph 12 I deny I spent large sums of money on rental income. I always wanted to keep my wife and my children in comfortable accommodations and hence I took the rentals which I am comfortable with my income. I admit I purchased a Daihatsu Terios and it was meant to be a surprise to my wife. I admit I was behind with the mortgage payments but however I made arrangements to rent the vehicle which could have paid the arrears. However, before I could do that the bank repossessed the vehicle.
33. In response to paragraph 13 I deny that I was selling our appliances in order to get quick access to cash. When we moved from Bayside Towers we had excess of possessions and I subsequently sold them. I did not barter the sale of appliances I gave them to movers as they were old and they were in excess of our requirements.
34. In response to paragraph 14 I admit we had a joint account at Royal Bank. I deny that I often over spent relatively large sums of money without discussing anything with the respondent. Moreover, when I came to Trinidad I did deposit $600,000 in this account. It is she who did withdraw large sums of money without discussing with me. I found out she did make a withdrawal of $3000 and when I asked her about it she said she had given the money to her friend at the mall. Upon further questioning she admitted that she had given the money to a builder to commence works on balcony at her apartment in Laventille.
35. Whilst she was living with me she was making plans of building an apartment in Laventille.
36. In response to paragraph 15 I deny that I told her that I was doing currency exchange. I had formed a company with other parties to commence currency TRADING not exchange. To commence this we required a minimum of $1 million USD.
37. In response to paragraph 16 I deny that I ever took money from people under false pretenses.
38. In response to paragraph 17 I did form a company which commenced very successfully and we were able to attract various investors. We utilized the property to attract investors having parties and meetings with various interested investors. Unfortunately we were unable to attract the required volume of funds and the company subsequently failed.
39. I admit paragraph 18 of the Applicant’s affidavit. However I made every effort to repay the monies owed to the investors in the legal possible way. Since the company I formed collapsed the investors investments went into loss. This is a matter purely out this application and the investors have their legal rights which they could utilize it if need be.
40. In response to paragraph 19 of the applicant’s affidavit. I am not aware of the circumstances since I was not present when it happened.
41. In response to paragraph 20 of the applicant’s affidavit, I admit I did work for Ruthven Jack and Associates but however deny telling the Respondent that I was unable to do the jobs. I worked for Ruthven jack and Associates in or about 2008. I was subsequently asked to leave as there was not enough work for me to do. I had to leave on the last in first out basis. The work being referred to that Paragraph was from a private client. I received an advance deposit of $2500. I was not able to complete the work since all the information was not available. Many times I asked the Client to provide this but it was not forthcoming. He subsequently called at our home to collect the documentation I had. He asked for the said $2500 but I refused as I has already done substantial works on his behalf.
42. In response to paragraph 21 I admit it. However it was settled with the owner of the supermarket and it was just a one time event.
43. In response to paragraph 22 I cannot respond since I was not aware of the event. However I was never involved in any illegal activity other than the supermarket event.
44. IN response to paragraph 23 I deny I was not able to hold down steady employment for a very long periods of time. I worked as a security guard at nights for over two years for my brother in law. I was always on time and never missed a day. When I worked at SingChong I worked every day, doing as many extra days and hours as were available.
45. In response to paragraph 24 of the applicant’s application I deny that I was always very controlling and domineering and was verbally abusive. In fact she is the one who did control my life and was using obscene language in front of the children towards me.
46. In response to paragraph 25 of the applicant’s application, I deny the paragraph. I was not an alcoholic. I did have an occasional drink as would any English man would have it. Whenever I had a drink she would make it difficult for me. She would ask me to leave her house and go back to England taking my son Carrington with me. She was always rude to me. I deny locking her out of the apartment in Tobago. In fact she did lock me out for the whole night.
47. In response to paragraph 26 of the applicant’s affidavit. I deny ever walking around the apartment naked. In fact I was the one to be very strict regarding clothing. I never told my children that mommy has a boyfriend. I deny telling Christian that mommy and daddy are unhappy because of him. I never called my children any obscence language. I did say some things in a scolding manner to instill responsibility to the children a I am the father I have a great concern for my children to bring them up in a manner fitting the decent society.
48. In response to paragraph 27 of the applicant’s affidavit I did tell all the children that I was unable to pay the maintenance requested by the court. I did tell them that my wife had threatened me with going to jail if I did not pay.
49. In response to paragraph 28 of the applicant’s affidavit, Carrington did get burnt. I deny of being drunk on that day. I too do not know how the incident happened except that Carrington was a very inquisitive child at the age. The doctors did not find any slap injuries on Carrington. I deny that I did not care for Carrington. I stayed with Carrington in the hospital for three days. Moreover Carrington is 9 months old then and he is Ten years old now. There hasn’t been any incident to show I ever assaulted my children in any way.
50. In response to paragraph 29 of the applicant’s affidavit, I admit the food got burnt but on not the account of I being drunk and was asleep on the couch. It was only on one occasion that happened out of 4,000 lunches I prepared. I was the one who mostly did the cooking.
51. In response to paragraph 30 of the applicant’s affidavit I deny ever forcing her not to have a tubal legation. I was always concerned about her health since I was the one who used to take care of families health problems.
52. In response to paragraph 31 of the applicant’s affidavit I was not aware the marriage was unhappy one. I always loved her and took good care of her. She was one who is constantly suspecting of doing illegal business deals. Finally she asked me to move out of our bedroom and sleep with my sons. I am not aware of any strange telephone calls.
53. I admit paragraph 32 of the applicant’s affidavit. However I was forced to move out of the matrimonial home.
54. I deny paragraph 33 . Carrington called me two weeks after I had left the family home and asked to for him and Cyprian to come and live with me. I said I would collect them the following weekend. Within one hour they called me again and said they were packed. When I collected them they had all their clothes and toys with them showing the eager ness to live with me. The respondent was in agreement to this arrangement.
55. I deny paragraph 34 of the applicant’s affidavit. I have adhered completely to the requirements of the court with regard to access of respondent to Carrington and Cyprian.
56. I admit paragraph 35 of the applicant’s affidavit in that I did with draw Carrington and Cyrpian from Nelson Street Boys RC School. Before I moved them I called my wife telling her of my intentions. Her response was” I want nothing to do with this”. I informed Mrs. Bailey ( Social Worker) of the situation both by phone and in writing and she advised me to go ahead with the move. The reasons for the move were 1. The children were being beaten by teachers at Nelson Street Boys RC School. 2. The boys were bullied by other pupils. 3. The school was not within walking distance of our home in Cascade. The two children now enjoyed a mixed school with classes of 15 children. They are able to play soccer, rounders and cricket besides getting more attention with regard to school work. In addition they can walk to and from home to school each day.
57. In response to paragraph 36 of the applicant’s affidavit the Children do live together . As per the court order Christian and Charlotte come over to my place from Fridays to Sundays. I took them out for swimming and various other activities and I also super vise them in their lessons. I do not have any illegal business dealing and the work I only do is accountancy. I do drink but not to any excess.
58. In response to paragraph 37 of the applicant’s affidavit , none of my children are afraid of me, in any way. With regard to the beach they would get worried because they knew their mother would never ever return them on time. There are many times I have been waiting in City gate from 6pm for upto 3 hours for them to return from beach. However all the children go swimming at theCarlton Savanah Hotel with me on a Friday evening and Saturday.
59. In response to paragraph 38 of the applicant’s affidavit I cannot respond since I am not aware of those phone calls.
60. I deny paragraph 39 that I am earning $10,000 to 12,000 per month. I am a self employed accountant with various clients. My income varies but am currently earning approximately on average of $8500 per month.
61. In response to paragraph 40 the respondent is currently building an extension to her apartment, providing an additional bedroom for Christian.
62. I have always made the best efforts to keep my family in the comforts they deserved.
63. Currently I am taking care of two children Carrington Wingham and Cyprian Wingham. The other Children Christian Wingham and Charlotte also would come to my house every weekend and stay on Fridays and Saturdays . I take them out for swimming and other activities.
64. I am self employed accountant and earn approximately $8500 per month. The respondent works in various houses and also gets the food card every month.
65. On 13th of June, 2013 the honourable magistrate her worship magistrate Gordon made an order that I pay a maintenance of $250 per week for both the Children Christian and Charlotte that would amount to $1000 per month for both the Children in total.
66. However that order was superceded after the divorce petition was filed in the family court. On 22nd of july 2014 the matter of maintenance came up. I told the honourable Judge I could only afford $1000 per month for both the children. We were sent out to settle the matter. However, I was not represented then and in my confusion I agree to $2000 per month which I could not afford.
67. Hence I ask this honourable court to vary the interim order granted on 22nd of July, 2014 to $1000 per month for both the children which I can afford, based upon my current income, other wise I would be in breach of the courts order because I cannot afford it.

Sworn to at }

Street, port of Spain this }

Day of 2014 }

Before Me

Commisioner of Affidavits.