

A PRACICE AND PROCEDURE - COURT OF APPEAL - Application for adjournment
on ground that counsel for appellant off the island - Police
detained journal of prison life. no case against

JAMAICA

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IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S MISCELLANEOUS APPEAL NO. 2/89

Civil Proceedings

BEFORE: THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE WRIGHT, J.A.
THE HON. MR. JUSTICE GORDON, J.A. (AG.)

BETWEEN

ORMSBY
SEAXY ORMSBY

DEFENDANT/APPELLANT

AND

MS. MARIE FORREST

COMPLAINANT/RESPONDENT

Dr. Marshall for appellant

Respondent not present or represented.

31st July, 1989

CAREY, J.A.

This is an appeal against an Affiliation Order made in the Family Court for the parish of Kingston and St. Andrew by Her Hon. Mrs. M.S. Smith, a judge of that court. Dr. Marshall says that Mr. McLean was instructed to appear at the hearing of the appeal but is not here today and he appears merely as holding on behalf of that counsel.

The respondent is not represented before us though she was before the learned judge of the Family Court. The only basis for the application for adjournment is that Mr. McLean is off the island. We do not regard that as an adequate basis for adjourning an appeal. We note also certain factors which are of profound importance. The application for the Order was first made by Miss Forrest as far back as the

2nd October, 1985. For reasons which we are wholly unable to appreciate, the hearing did not seem to commence until the 8th of June, 1987. It was not completed until the 16th of December, 1988. The record before us shows a plethora of part-heard dates for hearing covering the better part of two years.

In the result it means that the order which was eventually made and could not have been made retroactively, was made to commence on the 16th of December, 1988. So that this unfortunate woman has been without maintenance for the child over that lengthy period of time.

Today when the matter comes before the court, we are told that the same counsel who had appeared below and made the several applications for adjournment is again not present and we are being prevailed upon to grant a further adjournment. As we said, we do not take any limp view of our powers. We propose to dismiss the appeal for want of prosecution.