

**IN THE HIGH COURT OF JUSTICE, EDO STATE OF NIGERIA**  
**IN THE BENIN JUDICIAL DIVISION**  
**HOLDEN AT BENIN CITY**

**BEFORE HIS LORDSHIP, THE HONOURABLE JUSTICE V.O. EBOREIME, JUDGE**  
**SITTING IN HIGH COURT NO. 10, BENIN CITY**  
**ON FRIDAY THE 14<sup>TH</sup> DAY OF NOVEMBER, 2014**

**SUIT NO. B/518D/2013**

**B E T W E E N:**

MR. FRIDAY ALOHAN

í

PETITIONER

VS.

MRS. PATIENCE CUSHION ALOHAN

í

RESPONDENT

**J U D G M E N T**

This Judgment is in respect of a Petition for the dissolution of marriage filed on behalf of the Petitioner, Mr. Friday Alohan, by his Counsel, Mrs. J. O. Oziegbe on the 7<sup>th</sup> day of October, 2013.

The Petition is against his wife Mrs. Patience Cushion Alohan the Respondent herein. The orders sought by the Petitioner are as follow in paragraph 10 of the Petition:

**“The Petitioner seeks the following orders:**

**A Decree of dissolution of the marriage held at the Registry or (sic) Oredo Local Government Area Benin City Edo State on the 11<sup>th</sup> of July 2009. Between the Petitioner and the Respondent be granted on the ground that the marriage has broken down irretrievably.”**

The Respondent on the 13<sup>th</sup> day of January, 2014 filed Answer and Cross Petition in response to the Petition through her Counsel F. Onokurefe Esq. in paragraph 28 of the Cross Petition, the Cross Petitioner prayer for the following reliefs:

õ28. The Cross Petitioner therefore prays:

- (i) That the said marriage be dissolved on the ground of this cross petition.**
- (ii) That the Petitioner cause be dismissed.**
- (iii) That the Petitioner should be ordered by this Honourable Court to be paying the sum of N50.000(sic) monthly to the Cross Petitioner to assist her in taking care of the up keep of the only child of the marriage, his educational needs and others(sic) incidental expenses relating to the child.**
- (iv) That the Cross Petitioner may have such other or further reliefs as may be expedient.”**

On the 25<sup>th</sup> day of February, 2014 the Petitioner filed a Reply to the Answer and Cross Petition and prays as follows:

**“14. The Petitioner prays as follows:**

- i. That the marriage be dissolved on the ground that the marriage has broken down irretrievably as per the Petitioners Petition dated 2<sup>nd</sup> October 2013.**

- ii. **An order dismissing the respondent/cross petitioner's Answer and Cross Petition dated 13<sup>th</sup> January 2013.**
- iii. **That Access be given to the Petitioner to communicate with his son."**

The Petition, the Answer and Cross Petition and the Reply to the Answer and Cross Petition are reproduced as follows:

**PETITION FOR DECREE OF DISSOLUTION OF MARRIAGE**

The Petitioner whose address is 11 Enobakhare off Ogiso MM way Benin City Edo State of Nigeria petitions this Court for a decree of dissolution of marriage against the Respondent whose address is Albrecht Street 72762 Reutlingen Germany on the ground that the marriage has broken down irretrievably.

Section 15 (c) of the Matrimonial Causes Act.

That since the marriage the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent.

**MARRIAGE**

1. The Petitioner then a bachelor was lawfully married to the Respondent then a spinster under the Act at the Marriage Registry of Oredo Local Government Area Benin City Edo State on the 11<sup>th</sup> of July 2009 and was issued a marriage

certificate (a copy of the marriage certificate is hereby annexed).

2. The Surname of the Respondent immediately before the marriage was Enoghama.

### **BIRTH OF THE PETITIONER AND RESPONDENT**

3. The Petitioner was born in Edo State on the 20<sup>th</sup> August 1969 while the Respondent was born on the 1<sup>st</sup> of May 1979.

### **DOMICILE OR RESIDENCE**

4. The Petitioner is within the meaning of the act domiciled in Nigeria. The fact on which the Court will be asked to find that the Petitioner is so domiciled are as follows:-

- a. The Petitioner is resident in Nigeria and resides at 11 Enobakhare Off Ogiso MM Way Benin City Edo State.
- b. The Petitioner has been resident in Nigeria for three years preceding the presentation of this petition.

### **COHABITATION**

5. The parties have since the marriage cohabited at
  1. 9 Igbinidu Off Orodion Close Off Ekenwa Road Benin City from July 2009 to August 2009 and April to September 2010 when the Respondent moved out of the matrimonial home and travelled back to Germany with

the only child of the marriage and since then cohabitation ceased with them.

### **CHILDREN**

6. There is a child of the marriage namely Divine Iwinosa Alohan (m) born on the 9<sup>th</sup> of August 2009.

### **PREVIOUS PROCEEDING**

7. Since the marriage, there has not been any previous proceeding in any Court between the Petitioner and the Respondent.

### **FACT**

8. The facts within Section 15(2) () (sic) of the Matrimonial Causes Act relied upon by the Petitioner as constituting the ground specified above that the marriage has broken down irretrievably are as follows:-

- a. That the respondents(sic) mother with the approval of the respondent constantly harasses the petitioner and his family which culminated in the mother of the respondent bringing armed policemen to arrest the petitioner and his family when he went to the respondents family house to seek measures to address the issues in their marriage.
- b. After the marriage, the Petitioner and Respondent started quarrelling over minor issues and the respondent was always accusing the petitioner of being fetish and

infidelity it became clear that the parties had irreconcilable differences.

- c. The Petitioner in a bid to save the marriage sought the help of family and friends and also the pastor of the church they attend to resolve their differences which the respondent vehemently opposed.
- d. Sometime in 2010, the Respondent moved out of the matrimonial home with the child of the marriage and the Petitioner has not seen the Respondent since then.

#### **CONDONATION, CONNIVANCE AND COLLUSION**

9. The Petitioner has not condoned or connived at any of the grounds specified above and is not guilty of collusion in presenting this petition.

#### **ORDERS SOUGHT**

10. The Petitioner seeks the following orders:-

A Decree of dissolution of the marriage held at the Registry of Oredo Local Government Area Benin City Edo State on the 11<sup>th</sup> of July 2009. (sic) Between the petitioner and the Respondent

be granted on the ground that the marriage has broken down irretrievably.ö

ANSWER AND CROSS PETITION TO THE ABOVE COURT

(SIC)

The Respondent/Cross petitioner in this proceedings says as follows:

1. SAVE AND EXCEPT as hereinafter expressly admitted the Respondent denies each and every allegation of fact contained in the petition as if each and every allegation of fact contained in the petition as if each and every such traversed seriatim.
2. The Respondent admits paragraph 8 of the petition to the extent that the marriage between her and the petitioner had broken-down irretrievable but contends that the petitioner caused the break-down of the marriage and denies the grounds as put by petitioner.
3. The Respondent denies paragraph 8 a, b, c, and d of the facts contained in the petition and puts the petitioner to the strictest proof thereof.
4. The Respondent states that the petitioner is a man of ungovernable tempers who in anger usually threatened to beat her up.
5. The Respondent in response to paragraph 8 a of the petition says that neither herself nor her mother ever harassed the petitioner and or his family members with the police nor any other Law Enforcement agent, that such fact is a deliberate

concoction of the petitioner to unnecessarily weep up sentiments against her.

6. In further response to paragraph 8 a of the petition the Respondent says the petitioner was the one who constantly harassed her mother, forcefully demanding for her house documents in possession of her mother which house the Respondent had already built ever before knowing the petition, a situation which made the Respondent to be wary of the unbridled desperation of the petitioner to financially milk her dry.
7. In response to paragraph 8 (b) the Respondent says she is a loving wife to the petitioner and in humility subordinate herself to the petitioner but has always resisted every attempt of the petitioner to further forcefully extort money from her when it became obvious that the true intention of the petitioner in the marriage was to quickly and clandestinely grab from her as much money he could get from her.
8. In further response to paragraph 8 b of the petition the Respondent says she is not Resident in Nigeria and do not know whether the petitioner is fetish or unfaithful and has never ever accused the petitioner of such.



9. The Respondent in response to paragraph 8 C of the petition says the petitioner told her he brought his friends and family members to the Respondent's family house when the Respondent started asking him to account for the money and vehicles entrusted to his custody to manage. That, that proved the Petitioner and he came to Respondent's family house to please with the Respondent's mother to prevail on the Respondent not to press the matter further.
10. That the Respondent in reaction to paragraph 8 d says she has never been resident in Nigeria since 2011 to the knowledge of the petitioner and it was never part of their plan that the Respondent will relocate from Germany to Nigeria, rather it was the agreement of the parties that the petitioner will join the Respondent in Germany after the marriage. The respondent came to Nigeria in 2011 wherein she came with the only child of the marriage who is a German citizen, and the petitioner and respondent cohabited and the petitioner even took a photograph with their son contrary to the petitioner's claim that the Respondent moved out of the matrimonial home with the only child of the marriage and he has not seen the Respondent and their son since 2010. The photograph Snapped by the petitioner and the only child of the marriage as well as that

snapped by the Respondent together with the only child of the marriage while in Nigeria are hereby pleaded and shall be relied upon during the trial of this petition as the Respondent gave some copies of the photographs to her mother before leaving Nigeria for Germany.

11. The Respondent says that she had sent a lot of money from Germany to the petitioner severally to enable him processes his travelling documents so as to join her in Germany but the petitioner turned down the offer contrary to their agreement before the marriage and squandered the money for no just cause.
12. The petitioner (sic) states that while she was in Germany, she money also to the petitioner to enable the petitioner secure an admission into any of the adult education center in Benin but the petitioner never took advantage of the opportunity.
13. The petitioner says that when it became obvious to her that the petitioner was not interested in joining her in Germany she decided to secure a loan in Germany and sent the money to the Petitioner to buy two Cars and he bought a Toyota Camry with Registration **NO BD928 USL, ENG, 55761953** and chassis **No 4TIBG22K6XU92237** and one other Audi 80 Car for commercial purposes.

14. The Respondent says that she bought this vehicle so that the petitioner can manage the vehicle and the proceeds from the vehicle so as to use part of it to take care of himself and remit the other part to her to enable the Respondent defray the loan. To the greatest surprise of the Respondent, the petitioner could not account for a naira from the proceeds of the vehicles.
15. The petitioner says that whenever she demanded that the petitioner accounts for the proceeds of the vehicles, he usually resorts to shouting at her but she insisted on her money.
16. The Respondent says that rather than accounting for the proceeds of the vehicle, the petitioner used the money to established his personal car wash business.
17. The Respondent says she is still battling to repay the loan with which she bought those vehicles till now while her creditors are on her neck to repay the loan and all these are to the knowledge of the petitioner.
18. The Respondent says that contrary to the claim of the petitioner, the Respondent says that the only child of the marriage was born in Germany on the 9<sup>th</sup> day of April 2010 and not the 9<sup>th</sup> day of August 2009 as he alleged. The photocopy of the child international document evidencing the date of birth of the child together with that of the Respondent is hereby

pleased(sic), and shall be relied upon during the trial of this petition.

19. The fact contained in paragraph 18 above among others will actually portray the **'I don't care'** altitude(sic) of the petitioner who has never for once called to ask after the welfare of the only child of the marriage nor sent money for the Child's school fees and upkeep no matter how small.
20. The respondent says that this is a demonstration of the fact that the petitioner has abandoned the upkeep and the educational needs of the only child of the marriage to the respondent while the petitioner is wallowing in ostentation from the proceeds of the car wash business he had established with the proceeds from the Respondent's vehicles.
21. The Respondent says that when she pressed further that the petitioner must account for the proceeds of the two vehicles, the Petitioner returned the vehicles to her mother and kept the proceeds to himself while the Respondent is battling to repay the loan from which the vehicles were bought.
22. The petitioner says she decided to let sleeping dogs lie if that is the only thing that will salvage her marriage but to her greatest surprise the petitioner slammed a divorce proceeding against

her when the petitioner knew she is still trying to repay the loan up till date to no avail.

**CROSS PETITION**

23. Cross petitioner prays this honourable court for a decree of dissolution of the marriage between the petitioner and the cross petitioner to which the matters pleaded in the foregoing paragraphs relate.

24. The cross petitioner say that the marriage has broken down irretrievably on the following grounds:

a) That the petitioner is guilty of desertion which has lasted for at least two years immediately preceding the presentation of this cross petition, having failed, refused and or neglected to use the money sent to him by the Respondent to process his travelling documents so as join the cross petitioner in Germany.

b) That the parties have lived apart for a continuous period of at least two years immediately preceding the presentation this cross petition and the petitioner does not oppose the marriage being dissolved.

25. The cross petitioner repeats and relies on all the facts contained in paragraphs 1 to 24 above in this cross petition and state further as contained here under.

26. That the cross petitioner has not in any way connived at or condoned any of act or conduct of the petitioner complained of.
27. That the cross petition has not been presented in collusion with the petitioner.
28. The cross petitioner therefore prays:
- (i) That the said marriage be dissolved on the ground of this cross petition.
  - (ii) That the petitioner cause be dismissed.
  - (iii) That the petitioner should be ordered by this Honourable Court to be paying the sum of ₦50.000(sic) monthly to the cross petitioner to assist her in taking care of the up keep of the only child of the marriage, his education needs and others incidental expenses relating to the child.
  - (iv) That the cross petitioner may have such other or further reliefs as may be expedient.ö

**“REPLY TO ANSWER AND CROSS PETITION**

The petitioner in reply to the answer/cross petition of the respondents

In these proceedings says as follows:

SAVE AND EXCEPT as hereinafter expressly admitted the petitioner denies each and every allegation of fact contained in the respondentø

answer and cross petition as if each an(sic) every allegation of fact contained in the petition is traversed seriatim.

2. The petitioner admits paragraph 24 of the cross petition that the marriage has broken down irretrievably.
  - b. The Petitioner denies the facts upon which the respondents/cross petitioner relies on for the break down of the marriage.
  - c. The petitioner further replies that he is not guilty of desertion because he actually went to the German Embassy several times to apply for visa and was turned down, the Petitioner shall rely upon the letter of refusal of Visa from the German Embassy and his international passport.
  - d. The petitioner reiterates every fact contained on the grounds for dissolution that indeed the mother of the respondents brought Armed Policemen from Area Force Command State (CID) to harass the Petitioner and his parents and that other people that where(sic) present at the meeting where(sic) Chief Ojo, Barr. Aghahowa, from the respondent's family and Pastor Ojo who also accompanied the petitioner alongside his parents, that the respondent/cross petitioner who was not in Nigeria at the time of the incident and is not in position to say categorically that it was untrue.

3. The Petitioner replies that he has never lifted his hands to beat up the respondent/cross petitioner because he is a firm believer that every woman should be nurtured and cared for as mother, sisters and wives and that as a husband to the respondent/cross petitioner he held her too to(sic) much in high esteem to even think of threatening her safety and security in any way, this is despite the several provocative statements made by the Respondent/Cross Petitioner.
4. The petitioner replies that he has never subtly or forcefully extorted money from the respondent/cross petitioner, that he was an already established car dealer before his marriage to the respondent/cross petitioner. That the issue of setting a business together only came up when he was swindled by fraudsters (sic) in his business.
5. The petitioner replies to paragraph 8 that he was never a party to the said issue.
6. The petitioner replies that the money the respondent/cross petitioner sent was for the purchase of 2 vehicles, which the parties intend to use for transportation business, that the vehicles were duly purchased, and that before the take-off of the transport business, the respondent/cross petitioner demanded that he returned the vehicle to her family which he



did, as supported by paragraph 21 of the respondent/cross petitioner answer.

7. Further more the petitioner replies that although the respondent does not reside in Nigeria as a loving and responsible husband who desires communion with his wife that he calls her often to have friendly conversation only to be barraged with diverse baseless and unfounded accusations of infidelity and being fetish by the respondent even though she is well aware that the petitioner is a committed Christian and a church worker.
8. The petitioner replies in response to paragraph 12 of the respondent's answer that the respondent always rubs it in the face of the petitioner of his lack of a formal education in the guise of aiding him to secure admission to an adult education center.
9. The petitioner denies paragraph 17 of the respondent cross petition and holds the respondent to the strictest proof thereof.
10. The Petitioner replies that the transport business never started as the respondents is well aware off so there was no issue of proceeds to be remitted.
11. The petitioner replies that the respondent cross petitioner intentionally refuses him from speaking to her or their son despite all attempts made by him. Furthermore the petitioner

states that the present he sent to the child of the marriage during his past birthday was returned unclaimed, even though it was sent to the same address that this petitioner was sent to . the petitioner shall rely upon the gift at trial.

12. The petitioner denies deserting the respondent and puts the respondent to the strictest proof thereof.
13. The petitioner pays N5,000 which will be reviewed.
14. The Petitioner prays as follows:
  - i. That the marriage be dissolved on the ground that the marriage has broken down irretrievably as per the Petitioner petition dated 2<sup>nd</sup> October 2013.
  - ii. An order dismissing the respondent/cross petitioner's Answer and Cross Petition dated 13<sup>th</sup> January 2013.
  - iii. That Access be given to the Petitioner to communicate with his son.

In proof of his case, the Petitioner gave evidence as follows: That the Respondent is his wife having married her on the 11<sup>th</sup> day of September, 2009 at Oredo Marriage Registry, Benin City and he tendered the Marriage Certificate which was admitted as Exhibit A. He said after the Marriage they lived at No.9 Igbinidu Street, Off Aerodrome Close, Benin City and the marriage produced a son by name Divine Iwinosa Alohan on the 9<sup>th</sup> day of April, 2010. He said the Respondent left for Germany and when she came back she accused him of being

fetish, of infidelity and insincerity to her and they were always quarrelling. He said after she went back, he went with his pastor and family members to Respondent's family house to settle some issues, but the Respondent's mother brought armed policemen to arrest him and his family. He told Court he did not connive or condone with the Respondent in respect of this Suit.

Under Cross-examination, Petitioner told Court that Respondent was based in Germany when he met her and after the marriage she went back to Germany where his son was born and they both came home a year after he was born.

He told Court that Respondent sent him money to buy two vehicles for transport business and when her family was disturbing him he took the two cars to her father's house. He said before then, the Respondent accused him of not remitting any money to her since the business started.

He said he later wrote to the Respondent's father to refund the bride price and the letter was tendered and admitted in evidence as Exhibit B.

He told Court that he did not return the vehicles because he was accused of embezzlement and not being able to account for the money.

This is the case for the Petitioner.

Thereafter the Learned Counsel for the parties filed written addresses which they both adopted on the 30<sup>th</sup> day of October, 2014.

In the written address of the Respondent/Cross Petitioner filed by F. Onokurefe Esq. Learned Counsel canvassed two issues for determination which are as follows:

- i. Whether having regards to the conduct of the Petitioner, the Court can hold that the marriage broken down irretrievably on account of the acts of the Respondent/Cross Petitioner.
- ii. Whether the Petitioner can abandon the maintenance, care and educational needs of the only child of the marriage to the Respondent/Cross Petitioner.

In his submissions on ISSUE ONE, Learned Counsel for Respondent, Cross/Petitioner merely high lighted the facts in the pleadings before the Court.

In respect of ISSUE TWO, Learned Counsel relied on Section 1, 3(1) (2) and Section 4 of the Child, Rights Act to the effect that in every action concerning a child, the primary consideration of a Court of law should be what is the best interest of the child in a given case. He urged Court to grant the reliefs of the Respondent/Cross Petitioner.

The Learned Counsel for Petitioner raised three issues for determination as follows:

- “1) Whether from the evidence adduced by the Petitioner the marriage between the parties could be held to have broken down irretrievably.**
- 2) Whether the Respondent has met with the required standard of proof for the Court to hold that the marriage has broken down irretrievably on account of the Respondent and Cross Petitioner.**

- 3) **Whether the Respondent is entitled to a monthly allowance of ₦50,000 by the Petitioner as maintenance for the child of the marriage.”**

Learned Counsel relied on the authority of Section 70 (1) Matrimonial Cause Act of 1990 and the case of NNANA VS NNANA (2006) 3 NWLR (Part 966) page 1 (Part 2) to support her case.

**COURT:**

I have carefully considered the Petition, the evidence in proof of it, the Answer and Cross Petition and the Reply to the Answer and Cross petition. I have also considered the Written Address of both Counsel for the Petitioner and Respondent.

The issues for consideration are:

- (1) Whether the marriage has actually broken down irretrievably.
- (2) If issue (1) is answered in the affirmative, what is the appropriate amount for the upkeep of the only child of the marriage?

In consideration of the first issue, it is the Prayer of the Petitioner as well as that of the Respondent that the Court grant their reliefs for the dissolution of the marriage.

In the evidence of the Petitioner, he reiterated his prayer for the dissolution of marriage. His evidence is uncontroverted and unchallenged as the Respondent/ Cross Petitioner never appeared in Court despite being represented by Counsel in

Court. In their pleadings, both parties gave the reason for the break down of the marriage to desertion. Petitioner in paragraph 8d of his Petition alleged that the Respondent moved out of the matrimonial home with the child of the marriage since 2011.

In paragraph 24a and b of the Cross petition, the Respondent alleged the same desertion on the ground that the Petitioner refused to process his travel documents to Germany to join the Respondent despite the fact that Respondent sent him money several times. She stated that Petitioner is guilty of desertion for at least two years immediately preceding the presentation of her Cross petition.

It must be pointed out that pleadings of the parties cannot be evidence for the Court to rely upon. See the case of EZENNAH VS. ATTA (2004) NSCQLR VOL. 17 Page 615 at 659 per Kalgo, JSC (as he then was).

There is uncontroverted evidence before Court:

- (1) That both parties married at the Oredoy Marriage Registry, Oredo Local Government Area, Benin City, Edo State on 11<sup>th</sup> day of July, 2009 and were issued with a Marriage Certificate ó Exhibit A.
- (2) There is evidence that the parties cohabited at No. 9, Igbinidu Street, Off Aerodrome Close, Benin City after the Marriage.
- (3) There is evidence that the Marriage produced a son, Divine Iwinosa Alohan born on 9<sup>th</sup> day of April, 2010 in Germany.

- (4) There is evidence that Respondent is based in Germany before and after the marriage.
- (5) There is evidence that sometime after the visit of Respondent in 2011 the parties started having problems which they could not resolve.
- (6) There is evidence that the Petitioner wrote Exhibit B to Respondent's father for refund of the bride price.

These pieces of evidence are uncontroverted. The inference the Court can deduce from the above facts is that the two parties are no longer interested in the marriage. The Matrimonial Causes Act provides as follows in:-

**“Section 15. (1) A petition under this Act by a party to a marriage for a decree of dissolution of the marriage may be presented to the Court by either party of the marriage upon the ground that the marriage has broken down irretrievably.**

**(2) The Court hearing a petition for a decree of dissolution of a marriage shall hold the marriage to have broken down irretrievably if, but only if, the Petitioner satisfies the Court of one or more of the following facts:-**

**(e) That the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the Respondent does not object to a decree being granted.”**

In this case, the parties have lived apart since 2011 when Respondent last visited the Petitioner.

Moreover, there is no objection by the Respondent to the dissolution of the Marriage. In the case of **OMOTUNDE VS OMOTUNDE** (2001) NWLR (part 718) 255 and Selected Matrimonial Cases by Funmi Quadri Vol. 1, page 255, the Court held that where the parties want a divorce the Court is bound to grant it. Adekeye JCA (as she then was) stated that:

“The law behind the Section 15 (2f) as far as living apart is concerned, is not interested in right or wrong or guilty or innocence of the parties. Once the parties have lived apart, the Court is bound to grant a Decree. The pleadings pointed at the living apart of the parties.”

In the case of **KALEJAIYE VS KALEJAIYE** (1986) Vol. 11 QLRN 162, Oguntade J.S.C (as he then was ) stated: the Modern position of divorce is to grant it as painlessly as possible.



I hold therefore that the parties having lived apart for more than 2 years; that the marriage solemnized at the Oredo Marriage Registry, Benin City on the 11<sup>th</sup> day of July, 2009 has broken down irretrievably.

- (1) The Marriage is hereby dissolved.
- (2) I pronounce an Order of Decree Nisi.
- (3) The Decree Nisi shall be made absolute at the expiration of three months from today unless sufficient cause is shown to the contrary.

The Respondent/Cross Petitioner at paragraph 28 among other prayers, prayed Court:

**“(iii) That the Petitioner should be ordered by this Honourable Court to be paying the sum of N50.000(sic) monthly to the Cross Petitioner to assist her in taking care of the up keep of the only child of the Marriage, his education needs(sic) and others(sic) incidental expenses relating to the child.”**

In his answer to the Cross petition, the Petitioner in paragraph 13 offered to pay the sum of N5,000. This was also substantiated in his evidence before the Court although the Respondent/Cross Petitioner did not testify. The Court on the authority of Section 71 (1) of the Matrimonial Causes Act is mandated to regard the interest of the child as the paramount consideration in making orders in respect of the custody, welfare, advancement or education of children in a marriage.

In the course of the proceedings, the Court ordered both Counsel to meet to discuss the issue of the maintenance but Petitioner was adamant insisting that he will only pay N5,000 monthly. It is surprising to Court that Petitioner never bothered to ask for the custody of his own child. If the child were with him, is it N5,000 that he will use for his maintenance, education, clothing, feeding, medical expenses e.tc?

There is evidence before me that the Petitioner has a car wash outfit although he did not state his income. I have considered the fact that there is a need for the Petitioner to be a part of the life of his son by the Respondent/Cross Petitioner.

Therefore, I order that access be granted to the Petitioner to visit his child anytime he wants to and the Petitioner is hereby ordered to pay a monthly sum of N25,000.00 ( Twenty Five Thousand Naira only) for the maintenance of the child: Divine Iwinosa Alohan till he is 18 years of age. This sum is subject to periodic review. Custody of the product of the marriage is hereby given to the Respondent/Cross Petitioner.

HON. JUSTICE V. O. EBOREIME  
JUDGE  
14<sup>th</sup> November, 2014

**COUNSEL:**

JOY OZIEGBE (MRS) FOR PETITIONER

F. ONOKUREFE FOR RESPONDENT/CROSS PETITIONER