

BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SRCHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE..... ..ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA..... ..ASSOCIATE JUSTICE
BEFORE HER HONOR: CEANEH D. CLINTON JOHNSON.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: BOAKAI N. KANNEH.....ASSOCIATE JUSTICE

Versus

) APPEAL

GROWING OUT OF THE CASE:

Versus

) PETITION FOR
) CUSTODY

Hawa Chara of the City of Monrovia, Liberia.....Respondent)

Decided: May 20, 2026

This appeal is before this Court on an appeal announced Hawa Charra, appellant herein from a ruling made by the Sixth Judicial Circuit Civil Law Court, Montserrado County, where the court ruled awarding custody of two minor children to Adolphus Morris G. Dahn-Gleekia, appellee herein. The appellant, being totally dissatisfied with this ruling of the court, excepted and announced an appeal to this Court.

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and that the appellant had abandoned and delegated her responsibilities to her mother who had also brought in other family children to live with them which had then resulted in poor living conditions for the minor children; that he had rented an apartment for the children and the appellant but the appellant had persistently refused to occupy the apartment on grounds that the children must remain with her mother who is residing in a shanty structure not conducive for habitation and that the money he gives regularly for support for his children are split amongst the appellant other relatives living with her mother; that even though he provides consistent support for his kids, the children are left to eat spoiled food, to the extent that the children's teachers from school have complained about the unhealthy food; that the appellant is only holding on to the children under the pretense of caring for financial gain from him and she is clearly not in the interest of the children; that he is a mining engineer who is gainfully employed with the Ministry of Mines and Energy as Deputy Inspector General of Mines and is also a lecturer in Mining Engineering at the University of Liberia, where he lives comfortably and has hired the services of a maid to take care of the children and that he filed the petition for custody so as to get full custody over his children and properly care for them and give them the best possible home training and quality education.

The appellant filed her response to the petitioner's petition denying the averments in the said petition and averring that: the petitioner's rant about providing child support to the children who are his children is just a legal bluff as the children are his children and therefore his responsibility and that the appellee is not supporting her or her mother or anyone in their household as he is trying to insinuate; that the level of support given by the appellee to the children is insufficient and inadequate and the gap that is created is being filled by she and her mother in ways and manners that complements the support being given by the appellee; that she is a business woman and that her mother makes garden and it is from these avenues that they gather resources to support the other relatives that are staying with them; that it is she and her mother who had provided other support for the children that the money given by the appellee cannot provide; that the house that she and her mother along with the children live in is not deplorable and shanty as claimed by the appellee but the appellee has described it this way in order to denigrate she and her mother and portray them not as human beings; that she has refused to move to the University of Liberia, Fendall Campus one bed room apartment because the same does not accommodate everyone of her family members to whom she and her mother are responsible; moreover, she (appellant) would be deprived of running her business and going to school if she were to move to the apartment at Fendall, because it is her mother who can sit in for her when she is not around the children and it is only prudent for she and her mother and all the children to be together for their proper well-

being; that if the children had ever taken bad or spoilt food to school, she would have been the first to be alerted by the school authorities, as she is the primary caretaker of the children and the one who has direct contact with the school but the appellee's only intention is to create a bad image for her and her mother in order to falsely claim that they are not properly taking care of the children in order to deceive the court into awarding custody of the children to him; that the appellee is never home but always travelling out of town due to the nature of his job and that even when he is intown, he is usually not home with the children and the children are left to be alone or with a woman he once claimed to be his niece who was staying in the same apartment with them, when they (appellant and appellee) were in an intimate loving relationship, but who later turned out to be his girlfriend and that the children are not safe when they are alone with her; that the children ages should be considered as they are four and two years respectively and that separating them from their biological mother would hinder their growth and development. The appellant then prayed the court to deny the said petition.

The appellee filed his reply basically reiterating his petition and praying that the trial court award him custody of the children.

After pleadings had rested, the disposition of law issues was held and the matter was ruled to trial. During trial, the appellee produced two witnesses and four rebuttal witnesses, while the appellant produced two witnesses. After arguments and the production of oral and documentary evidence by both parties, the trial court ruled in the appellee's favor granting him custody over the children.

The appellant excepted and announced appeal. The appellant filed her bill of exceptions and completed every necessary legal step to have this appeal heard on its merits.

The appellant has primarily argued in her bill of exceptions that the appellee is unfit to have custody of the children because, they are still very young, that the appellee is not married and that the woman he currently has at home as a partner was first introduced to the appellant as his niece who then lived with both she and the appellee and that the said lady will not properly care for the children and their well-being is not secure with her; that the children were ill-treated when the Omega Magisterial Court temporarily put the appellee in custody of the children which later prompted the court to deny the appellee full custody of the children; that the appellee doesn't love the children as he is claiming because it is only when she sought relief through the Ministry of Justice onward to the Omega Magisterial Court before the

appellee reluctantly agreed to provide support to the children; that the appellee claims to have a monthly income of about Three Thousand United States Dollars (US\$3,000.00) but only gives One Hundred and Fifty United States Dollars (US\$150.00) plus a bag of rice as support for the children, which shows that the appellee does not love the said children; moreover, the said amount should be increased for the proper well-being of the children.

The trial court based its ruling primarily on Chapter 4, subchapter 4.1 of the Domestic Relations Law and went on to further rely heavily on the appellee's financial capacity to award custody of the children to him on grounds that the best interest of the children will be met by the father as he is financially competent to take care of the children and that the appellant is not financially potent to properly care for the children.

We quote some relevant part of the trial judge's ruling for the benefit of this opinion, the trial judge ruled that: *"The petitioner (appellee) having legitimized the two minor children and further demonstrated his ability and capacity to support them as evidenced by payment receipts, which show monies paid to the respondent (appellant) for the education, upkeep and sustenance of the children, this court says the petition for custody as filed by the petitioner is proper and justified. This court says further that even in the event that the respondent had demonstrated the capacity to provide for the needs of the two minor children, which is not the case at least by the plethora of evidence adduced by the parties during the trial, the priority for custody will be to the father consistent with Subchapter 4.1 of the Domestic Relations Law of Liberia"*.

The trial judge ruled further that: *"this court is not unaware of the fact that under the circumstances, the best interests of the children must be sought at all times. It is in this regards that this court is of the candid opinion that respondent is not properly situated to provide for the general welfare of the two minor children, especially so when the evidence in this case shows that she has absolutely no stable source of income to undertake such responsibility and the records before this court is replete with documentary and as well as oral testimonies of witnesses, that the petitioner is better positioned financially to perform his parental duties toward his two minor children"*.

As clearly evident from the excerpts quoted from the trial judge's ruling, the core or the spine of the trial judge's ruling is the appellee's financial capabilities which the trial judge equated to being a satisfaction of the best interests of the child standard.

We now begin our review to determine the legal validity of the trial court's ruling.

We start by quoting the Domestic Relations Law, Rev. Code 9:4.A.4.1. This section of the law provides: *"A married woman is a joint natural guardian with her husband of the minor children of their marriage while they are living together and maintain one household. Each such parent shall be equally charged with their care, nurture, welfare and education. When such parents are living in a state of separation, the father shall be the custodian of the minor children of the marriage as against the claim of any person whomsoever; but if he is unable or morally unfit to perform his parental, legal, moral and natural duties toward his children or for any other reasons he fails or neglects to perform such duties, upon petition to a circuit court for a writ of habeas corpus or other appropriate relief and a showing in the proceedings thereon of such inability, moral unfitness or failure on the part of the father; the minor children of the marriage shall be entrusted to the mother or some other person who is capable of performing such duties. If the father is dead or absent, the mother shall have custody of the minor children of their marriage unless it is established that she is unable or unfit or failing to perform her duties toward them".*

The above quoted position is the guiding principle of child custody in our jurisdiction; however, this principle has been interpreted to extend beyond financial capabilities as proof of being fit to perform his parental, legal, moral and natural duties toward his children.

The appellant has argued and proven through records certified to the court that after she and the appellee separated, the children remained in her primary care and that the appellee did not voluntarily provide financial support to the children but only started doing so after she initiated child support proceedings against him; therefore, his claim of love and care for the children are unfounded. This fact, though not dispositive, is relevant to assessing the appellee's demonstrated commitment to the children's welfare.

The appellant's second major argument is that the lady cohabiting with the appellee was previously introduced to her and the children by the appellee as his "niece," and that she lived in the family home under that pretense until the appellant discovered that she was not a niece of the appellee but rather his lover, and this discovery was the source of the parties confusion that led to their separation. The appellant did not rebut this testimony, nor did he provide a satisfactory explanation for this deception.

Such deception by the appellee bears directly on the emotional stability and moral environment of the appellee's home. Children thrive in environments characterized by honesty, predictability, and trust. A household in which a central adult figure was previously misrepresented to them raises legitimate concerns about the psychological and moral atmosphere in which the children would be placed. Whoever the appellee wants to have as his partner is his prerogative, but we consider such conduct highly relevant to the emotional and moral environment in which the children would live if placed in the father's custody. Children require a home characterized by honesty, trust, and predictability, and a central adult figure whose identity was misrepresented to them undermines that trust and may cause confusion and insecurity.

Under the Children's Law of Liberia, children have the right to be protected from abuse and exploitation and to enjoy a stable, nurturing environment. While the record does not show physical abuse, the deliberate misrepresentation of a cohabiting partner's identity is inconsistent with the transparent and secure environment that the law seeks to guarantee.

The appellant has also argued and testified that the appellee's employment and other activities keep him frequently away from home. This Court based upon this evidence can reasonably infer that, if custody were granted to the father, the children would spend substantial time under the care of the appellee's partner, rather than under his direct supervision; it is usually generally acceptable to award custody to the parent who is more available to provide consistent, hand-on-care, especially for younger children as in this case.

The record is clear that the mother has been the children's primary caregiver since birth. She resides with her own mother, who assists with childcare when the mother is absent. The children attend school from her residence, have established routines there, and are emotionally bonded to her. It is important that in custody proceedings, courts take key notice and recognize the importance of continuity of care, the ages of the children in question as in this case, they are of tender ages, six (6) years and four (4) years old respectively, and particularly where the children are thriving in their present environment

What is striking about all of these assertions made by the appellant is that they were never rebutted by the appellee, and even though the appellee brought in four rebuttal witnesses, none of them rebutted these statements made by the appellant as per the analysis herein

It is the law in this jurisdiction that evidence not rebutted is deemed admitted.

The appellee on the other hand primary argument is that the appellant is not financially potent enough to properly cater to the needs of the children and that she lives in a house with her mother and other relatives who are all surviving on the support that he sends monthly for his kids. The appellant and her mother, who were the only witnesses for the appellant rebutted this assertion by the appellee.

The appellee did not prove that the children are in a hostile environment, or in an environment where they are not loved and care for or an environment that is not in their best interest. He only proved that he earns more and has a stable job to support the children, but it is palpable that in all cases involving custody of minor children, the primary consideration by the court should be the best interest of the child/children.

We are baffled by the trial judge's overreliance on the appellee's financial capacity, in the midst of the exhibitions of key allegations raised by the appellant which were never rebutted, to justify him being fit in every capacity to be awarded custody over the children, the law doesn't only recognize financial capacity. We do not in this ruling downplay the importance of financial capacity in deciding custodial rights of children but said financial superiority alone does not and should not be the sole determiner of custody. The Children's Law speaks of an "adequate standard of living" for the child, not the highest possible standard. The record shows that the mother has been providing for the children's basic needs, with the assistance of her own mother, their grandmother. There is no evidence that the children are deprived of food, shelter, education, or medical care in her custody. The father's greater income, therefore, does not, by itself, justify uprooting the children from their established environment. We think that the trial court placed undue emphasis on the appellee's financial capacity over the appellant without taking into consideration other factors that are more germane to the wellbeing of the children such as exemplary home -life, humane treatment to the children, and respect for parental responsibility among others.

This Court established the guiding principle in child custody cases when it held in the case, *Mrs. Warti Nancy Robinson-Bility vs. Mr. Sidikie Musa Bility*, Supreme Court Opinion, March Term 2023, that in all cases involving custody of minor children, the primary, predominant and compelling consideration is the best interest of the child/children, and the court in granting custody must take evidence to prove moral fitness, financial ability, etc. for the children's welfare among others in order to grant custody. This recent interpretation of the statute, to a

certain extent lowers the priority of the father as the primary custodian on the ground of being the father alone.

We, today, reaffirm this holding and say that in deciding custodial rights over minor children, the best interest of the child or children shall be the guiding standard. This holding is supported by the provision quoted from the Domestic Relations Law which shows that, even though the primary rule is that the father is the custodian of minor children when the parents live apart, that rule is not absolute as the law expressly yields where the father is "unable or morally unfit" or "fails or neglects" to perform his duties, in which case custody may be entrusted to the mother or another suitable person.

In custody matters involving minor children, the determinative inquiry is not the comparative economic strength of the parents nor any asserted entitlement to custody as a matter of right. The controlling consideration is the child's welfare, embracing both moral and physical wellbeing, which the trial court must assess on the basis of evidence, not assumption. A court errs when it disposes of a custody dispute solely on financial grounds without judicially scrutinizing every item of evidence bearing on allegations of parental unfitness, moral character, stability of home life, humane treatment of children, demonstrated commitment to parental responsibility.

Although the father is ordinarily regarded as the natural custodian of minor children, that presumption yields where the evidence shows him to be unfit or unstable; likewise, the mother's claim must rest on the strength of her own suitability. The paramount and overriding obligation of the court is to ensure that custody is awarded in a manner that best secures the child's overall wellbeing.

The best-interests inquiry typically includes, among other things, the child's emotional ties to each parent, the stability of each proposed home, the parents' past performance of parental responsibilities, their willingness and ability to meet the child's needs, and the practical availability of each parent to provide day-to-day care.

The records show that the appellant is the primary caregiver to the kids. The appellant has been the one handling the children's daily routines, schooling, and social environment, which are all centered in her home.

On the contrary, the appellee's delayed assumption of support obligations, his frequent absences, and the deception surrounding his cohabiting partner, taken together, rebut any presumption in his favor. The mother's consistent caregiving, the stability of her home, and the presence of the maternal grandmother as an additional caregiver strongly support the conclusion that the children's best interests lie with her and we so hold.

Before we close this opinion, we deem it necessary to touch on the monthly support that the appellee provides for the children. The records reveal that the appellee provides a monthly support of One Hundred and Fifty United States Dollars (US\$150.00) with a bag of rice. We consider this amount infinitesimal to meet the general well-being of the children, especially so, where the appellee himself had testified that he is gainfully employed and makes more than Two Thousand United States Dollars as a monthly income. Giving the children ages and their need to live decently, it is our considered opinion that the appellee pays an amount of Seven Hundred and Fifty United States Dollars (US\$750.00) monthly for the two kids along with the one bag of rice. We must clarify that this amount is for the general daily upkeep of the kids and does not cover school fees, hospital bills and other events that may occur in the children's life.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the lower court is reversed. The Clerk of this Court is ordered to send a mandate to the lower court commanding the judge presiding therein to resume jurisdiction and give effect to this ruling. Costs are ruled against the appellee. IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLORS TOMMNY N. DOUGBAH AND RANDALL J. GRANT APPEARED FOR THE APPELLANT. COUNSELLOR ZAIYE B. DEHKEE, I, APPEARED FOR THE APPELLEE.

Reversed.