

8th April, 1986.

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Court of Appeal

Representation by Mr M  
to D.C. Calcutt, Esq., Q.C. a single  
Judge of the Court of Appeal.

**Judgment.**

**D.C. Calcutt, Esq., Q.C.:** Mr. M of  
St. Saviour, Jersey, has applied to me for a grant of legal aid in respect of his appeal,  
and I should just set out very briefly what the circumstances are, as I understand them.  
This was a marriage in respect of which there were three children, whose names are  
A , D and R ,  
and in respect of the marriage a decree nisi was pronounced on the 22nd July, 1985. The  
matter came before the Royal Court (Matrimonial Causes Division) in October, 1985,  
and on that occasion the wife was represented by Advocate Robinson. She was in  
receipt of legal aid which had been granted in the discretion of the bâtonnier, and the  
husband was represented by Mr. Whelan. He, as I understand it, was also on legal aid,  
again granted in the discretion of the bâtonnier. On that day, the 29th October, the  
Royal Court (Matrimonial Causes Division) made an order in respect of the children  
and other ancillary matters.

On the 18th November, 1985, the husband, who has appeared before me today,  
filed a notice of appeal, so that the matter will in due course come before this Court.  
He wishes to have legal aid in respect of the appeal which is pending before this Court.  
As I understand the position, the grant or refusal of legal aid is in the discretion of  
the bâtonnier, and of him alone. I have looked through the Court of Appeal (Jersey)  
Law, 1961, in order to see whether I can discover any provision under which I could  
grant legal aid to this applicant. Looking at Article 18 of the 1961 Law, it is in  
these terms:

"Powers which may be exercised  
by a single judge of  
Court of Appeal.

(1) In any appeal pending before the Court of Appeal under this Part of  
this Law, any matter incidental thereto not involving the decision of the  
appeal may be decided by a single judge of the Court, and a single judge  
may at any time make any interim order to prevent prejudice to the claims  
of any parties pending an appeal, as he may think fit.

(2) Every order made by a single judge of the Court of Appeal in  
pursuance of this Article may be discharged or varied by any judges of the  
Court having power to hear and determine the appeal."

Cont'd.....

Accordingly I have had to consider whether or not there is power under that Article of the 1961 Law to grant the legal aid which Mr. M. now seeks. In my judgment there is not. In my view, the grant or refusal of legal aid is a matter entirely for the bâtonnier and for him alone, and not for this Court. In those circumstances I take the view that even if I had thought legal aid was desirable in this case, I do not have the power or jurisdiction to grant the order which is sought. In those circumstances I must refuse this application.