

Can a Mother be Denied Custody of her Child Based on her HIV Status??

The case is a petition for the dissolution of Marriage filed by the Husband against his HIV+ wife demanding custody of the children owing to her status.

Lawyers Alert, on behalf of the Respondent, equally filed a cross-petition praying the court for the dissolution of the marriage and custody of the children. Lawyers Alert posits that denying custody of children on grounds of HIV+ mothers' amounts to stigma and discrimination.

Issues for Determination

The issues Lawyer Alert will raise for determination on behalf of the Respondent in the Respondent's written address include:

1. Whether the marriage has not broken down irretrievably (on account of the Petitioner's irresponsible behaviour which the Respondent cannot reasonably be expected to live with him.
2. Whether a HIV+ Mother be denied custody owing to her status, and if this does not amount to stigma and discrimination based on the HIV and AIDS Non Discrimination Act 2003.
3. Whether the Respondent is not entitled to recover from the Petitioner the value of her Toyota Corolla car with Reg. No. EQ877 ABC, Engine No. 2104132E and Chasis JTIGOEE9000320532.

The court entertaining the case is High Court of Justice, Gboko, Benue State. Lawyers Alert acknowledges its partnership with Urgent Action Fund Africa, UAFA in the determination of this matter.

The matter came to a conclusion, but not in our favour. Lawyers Alert however, went on to appeal against the case. Details of the case on appeal will be given, as they emerge.