

[JOSEPHIDES, J.]

1969  
Oct. 13

PANAYIOTIS ANDREOU,

*Petitioner,*

PANAYIOTIS  
ANDREOU

v.

v.

VALERIE PANAYIOTI ANDREOU THEN  
VALERIE BURNS

VALERIE  
PANAYIOTI  
ANDREOU THEN  
VALERIE BURNS

*Respondent.*

(*Matrimonial Petition No. 4/67*).

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*Matrimonial Causes—Abandonment of petition for divorce—Petition for divorce served on respondent—Ex parte application for abandonment—Dismissed—Petitioner ought to have applied by summons.*

*Abandonment of petition for divorce—See above.*

*Petition for divorce—Abandonment—See above.*

*Advocates—Advocate's conduct in divorce proceedings—Counsel for petitioner addressing letter to respondent's solicitors suggesting that certain information regarding the child of the marriage should be suppressed by a welfare officer etc.—Prima facie case for consideration by the Disciplinary Board of the Bar Council—Section 17 of the Advocates Law, Cap. 2 (as amended).*

The facts sufficiently appear in the ruling of the Court.

### **Application.**

Application for leave to abandon a matrimonial petition for dissolution of the marriage on the ground of desertion.

*J. Mavronicolas*, for the petitioner.

The following ruling was delivered by:

JOSEPHIDES, J.: Although this is an undefended husband's petition it has a rather long history. It was filed on the 31st January, 1967, but no appearance was entered on behalf of the wife. The petitioner was asking this Court to dissolve the marriage on the ground of desertion.

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The petition came on for hearing before me on the 19th March, 1968, when I heard the petitioner and his brother. I thereupon made certain directions in the matter as I was not satisfied with the evidence adduced before me. My directions are on record and, *inter alia*, I asked for an official birth certificate of the child and a welfare report from the welfare officer in the area in which the child was residing in England. I specified the particulars which were required to be included in the welfare officer's report. Subsequently, on the 4th May, 1968, I gave further directions as it appeared from the correspondence which was produced in evidence that there had been some previous proceedings in England which were not shown or stated in the present petition. My directions are on record and they should be deemed to be incorporated in this decision. I concluded my directions as follows: "After the filing of this affidavit (by the petitioner) and of the material directed by the Court on the 19th March, 1968, petitioner's counsel to apply to Court to have the case put back in the list for further hearing".

About eight months passed and nothing was done to comply with these directions when Mr. Mavronicolas, acting for the petitioner, filed a notice dated the 16th January, 1969, addressed to the Registrar of this Court stating that the petition "is hereby withdrawn without prejudice". I directed that the matter be put back in the list before me and Mr. Mavronicolas appeared on the 4th February, 1969, in Court to support his application for withdrawal of the petition. It was then that, in answer to a question from the Court he produced a copy of a letter he addressed to the wife's solicitors in England on the 21st March, 1968. As Mr. Mavronicolas was not ready to address me on the legal points I gave him time to consider the legal position and to prepare himself to address the Court on another day; and to apply to the Registrar to refix the case when he was ready to do so.

The case was subsequently refixed for the 23rd September, 1969, when Mr. Mavronicolas filed another notice, dated the 10th September, 1969, informing this Court that he had instructions not to proceed with the present petition as a divorce had already been issued against the present petitioner in the High Court of Justice in England. The matter came on before me on the 23rd September, 1969, when I gave further time to Mr. Mavronicolas to consider the position and address me

(a) on the question of the abandonment of the petition; and  
(b) regarding the statement in his letter to the wife's solicitors dated the 21st March, 1968, which I quoted to him and is to be found recorded in the minutes of the Court of the 23rd September, 1969.

It should here be observed that a petition on behalf of the wife was filed in the High Court of Justice in England on the 24th July, 1968. That is petition No. 7900 of 1968, Divorce Registry, Somerset House, London, W.C.2 between Valerie Violet Alma Andreou, petitioner, and Panayiotis Andreou, respondent. The notice to the respondent is dated 25th July, 1968.

In the English petition express reference is made to the petition before this Court but it is further stated that the present petition had been abandoned. These are briefly the relevant facts.

- (a) With regard to the *abandonment* of the petition, there is no doubt that the Court cannot dismiss the petition without notice to the respondent (wife) as the petition has been served on her (Rayden on Divorce, tenth edition, page 679, para. 8). Consequently, the *ex parte* application for abandonment is dismissed and the petitioner will have to apply afresh by summons.

In this connection I hereby direct that copy of these proceedings be sent to the High Court of Justice in England for their information and any action that they may consider necessary in the circumstances.

- (b) The second question which has to be considered is the statement of counsel, Mr. Mavronicolas, in his letter dated the 21st March, 1968, to Messrs. Charles Robinson and Son, the wife's solicitors (of 2, Lampton Road, Hounslow, Middlesex, U.K.). The statement reads as follows:

“ You will therefore assist the issue of the divorce by asking the area welfare officer to make a good report about the child (without mentioning that the child is not duly provided with anything such as food, education, clothing etc.). Kindly explain to your client Valerie the position so that she will give proper answers to the questions of the welfare officer who will visit her at your request.”

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Having heard Mr. Mavronicolas, after giving him due notice on the 23rd September last, I am of the view that there is a *prima facie* case for consideration by the Disciplinary Board of the Bar Council, under the provisions of section 17 of the Advocates Law, Cap. 2 (as amended), and I hereby direct that copy of these proceedings be sent to the Disciplinary Board for any action that they deem necessary in the circumstances.

*Order accordingly.*