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At the Supreme Court in Jerusalem
Sitting as the High Court of Justice

HCJ 2940/92

In the matter of:

- 1. F. Abu Lil**
- 2. A minor boy**

both represented by attorney Rami Yuval, of HaMoked:
Center for the Defence of the Individual
founded by Dr. Lotte Salzberger
2 Abu Obeidah Street, Jerusalem 97200
Tel. 02-283555; Fax. 02-894438

The Petitioners

v.

- 1. Military Court in Ramallah**
- 2. Military Commander pursuant to the
Order Regarding Supervision of Minors'
Conduct**

The Respondents

Petition for Order Nisi

A petition is hereby filed requesting that the Honorable Court direct the Respondents to appear and show cause why the decision of Respondent 1, of 29 April 2002 (Misc. Mot. 256/91), in which the appellant's appeal of the decision of Respondent 2 requiring her to give a bond relating to the behavior of Petitioner 2 was denied, is not nullified.

The grounds for the petition

1. Petitioner 1 is a resident of the Qalandiya refugee camp. She has seven children, among them Petitioner 2, who is a fifteen-year-old minor.
2. On 27 August 1991, Petitioner 2 was arrested on suspicion of "throwing stones." He was released a few hours later, after having suffered injuries to his head and right elbow.
3. Upon returning Petitioner 2 to his home, the soldiers ordered his father, I. A. L., and his brother, S. A. L., to appear the next day at the Civil Administration in a-Ram.

4. I. and S. appeared as demanded. The soldier [at the Civil Administration], who did not identify himself (he introduced himself as “Captain Abu Mor” which was obviously not his name), told them that, because Petitioner 2 had thrown stones, the father was required to post a bond in the amount of NIS 3,000.
5. The father, I., is deaf and mute and almost mentally disabled; in any event, he is unable to supervise his minor son.
6. “Captain Abu Mor” insisted that the brother S. pay the money. After “Captain Abu Mor” went to the family’s house and saw the poverty in which they lived, he reduced the amount to NIS 1,500, and then to NIS 1,000, the amount marked on the voucher that he gave to S. at the house. The voucher is attached hereto and marked P/1.
7. At that stage, S. contacted Hamoked: Center for the Defence of the Individual, an association founded for the purpose of “providing assistance to persons who fell victim to acts of violence, maltreatment, or violation of their fundamental rights by the authorities, particularly persons who require assistance in filing their complaints with the authorities,” as stated in its Articles of Association, with whose help he appealed the decision (File 229/91, Military Court in Ramallah).
8. Prior to the hearing on the appeal, the demand for payment was cancelled. Attached hereto is a letter of 1 October 1991 from Captain Avinoam Sharon, assistant to the legal advisor for Judea and Samaria in criminal matters, and marked P/2.
9. Following this change in the position of Respondent 2, the court cancelled the demand for the bond, and it appeared, at that stage, that the troubles of the family had ended.
10. However, simultaneous with the cancellation of the demand for payment by the brother S., Petitioner 1 was summoned to the offices of the Civil Administration, where she was demanded to pay, instead of her son S., the sum of NIS 2,000 as a bond to ensure the conduct of Petitioner 2.
11. The soldier who spoke with Petitioner 1 introduced himself by the pseudonym “Abu Mor.” When she asked him why the amount was so high, he said, in Arabic, “I want it that way.” Another soldier who was present pointed out to “Abu Mor” that the sum was excessive.
12. “Abu Mor” did not inform the Petitioner of her statutory right to appeal (Section 2A of the Order Regarding Supervision of Minors’ Conduct (Imposition of Bond) (Temporary

- Order) (Judea and Samaria) (No, 1235), 5748 – 1988, and did not provide her with a form that was issued by the authority for this purpose.
13. The Petitioner contacted Hamoked: Center for the Defence of the Individual, which filled the appeal for her.
 14. On 12 January 1992, a hearing was held before Respondent 1, Judge Major Isaacson sitting, and on 29 April 1992, the honorable court gave its decision in which it denied the appeal, however the judge was the Honorable Major Tsarum.
 15. The Petitioner will argue that that the decision contradicts the principle of double jeopardy, that a person not be tried twice for the same act. The act that is the subject of the proceedings is the lack of supervision over Petitioner 2 by his parents, and this act, as stated was heard and decided.
 16. In this matter, Petitioner 1 will argue that, contrary to Section 4 of the Order, the Petitioner was not given to right to be heard. Providing a person with the right to make his case before an individual who is not empowered to decide in these circumstances does not satisfy the said duty.
 17. In this matter, the Petitioner will argue that, when a person is given the right to “state his arguments,” as provided in the said Section 4, and it is not stated before whom, it is obvious that the intent is to a person who is so empowered, and the Etgar rule (T(1)29) does not apply.
 18. The Petitioners will argue that, insofar as Petitioner 1 cares for a husband who is deaf and mute, she is unable to provide proper supervision of Petitioner 2. The said order regarding the supervision of children assumes that the parents (as a team composed of two qualified adults) have the ability to supervise their minor children. This assumption does not apply in our case, and this fact was made clear to the Respondents, who completely ignored it.
 19. The Petitioners will argue that the procedure whereby a ruling is made by a judge who did not conduct the hearing is improper, even if oral evidence was not given.
 20. The Petitioners will argue that, when a mistake clearly appears in a judgment, the court will interfere in the erroneous decision.

2 June 1992

[signed]

Rami Yuval, Attorney
Counsel for Petitioners