[2024] EWFC 375

Case No: MA19P02184 / MA21P01785

IN THE FAMILY COURT

Royal Courts of Justice, Strand, London, WC2A

Date: 10/12/24

Before :

Williams J

- -

In the matter of Re M (Extension of Extended Civil Restraint Order)

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- -

The Father - **Litigant in Person**

Hearing dates: 10th December 2024

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Approved Judgment

This judgment was handed down remotely.

This judgment was delivered in private.
The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity and other confidential matters relating to the children must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

.....

WILLIAMS J

Williams J:

1. The application before me today relates to an Extended Civil Restraint order that was made against Mr M by MacDonald J on 20th October 2022 which provided as follows;

> *It is ordered that you be restrained from issuing claims or making applications in any court specified below [any court] concerning any matter involving or relating to or touching upon or leading to the proceedings in which this order is made without first obtaining the permission of The Honourable Mr Justice MacDonald.*

2. The order was to remain in effect until 22 October 2024. The order itself does not say whether it was made under the provisions of FPR 4.8 and PD4B or CPR 3.11 and PD3C although the judgment refers to the ECRO regime provided by FPR 4.8 and it was made within Family Court proceedings at the end of a hearing in which MacDonald J struck out contempt proceedings brought by Mr M against a solicitor who acted for his son (via a children's guardian) in contested Children Act 1989 proceedings: M […] -v-Ireland [2022] EWFC 113. The Case numbers were MA19P02184/MA21P01785. Although it is redundant given the date of this hearing, the jurisdiction under FPR PD4C 3.9(a) specifies a maximum period of 2 years whereas CPR PD3C 3.9(1) specifies a maximum period of 3 years and the ECRO of MacDonald purports to run for 2 years and 2 days.

3. His judgment followed a hearing which took place on 22 July 2022 and the judgment was handed down on 10 October 2022. In it he identified some of the background which led to the making of the ECRO and which remains relevant today. He also referred to Mr M's habit of filing documents with the court which he did not have permission to file and sending Family Court documents to organisations without permission of the court. MacDonald J said this;

> *[13] Mr M […] was clearly dissatisfied with the course of the proceedings under the Children Act 1989 and remains so. As I have noted, both prior to and following the judgment of DJ(MC) Carr, Mr M […] launched multiple sets of litigation aimed at those he considers to be responsible for what he considered, and considers, to be a miscarriage of justice in the family proceedings. Primarily, Mrs M[….], Mr Ireland and Dr Hellin. At times, the litigation pursued by Mr M […] has also touched others involved in the proceedings. The litigation ancillary to the family proceedings pursued by Mr M[…] has ranged across actions in defamation against the mother, the maternal family and the mother's General Practitioner, applications for non-molestation orders against the mother, civil actions in the Kings' Bench Division for "fraud and deception" against the mother, Mr Ireland and Dr Hellin (albeit it is not entirely clear whether those actions were ever in fact issued), an application for committal for contempt against Dr Hellin, and proceedings under the Protection from Harassment Act 1997 against Mr Ireland. Most recently, Mr M […] has issued a C2 application form naming Mr Ireland as the respondent and which seeks to "deem the evidence of an unregulated court expert as inadmissible" in the now concluded family proceedings. Mr M […] has also made complaints to the Solicitors Regulation Authority, the Information Commissioner, the Charities Commission, the British Psychological Society and to Members of Parliament*

[15] On 28 October 2021, Mr M […] applied to commit Dr Hellin for contempt of court, before replacing that application with a revised application against Dr Hellin on 15 February 2022 following the loss of his appeal on 27 January 2022. That latter application was dismissed by Deputy Circuit Judge Jordan on 24 February 2022 as totally without merit. Mr M [….] appealed that decision to the High Court, which appeal was dismissed by Mrs Justice Arbuthnot on 7 April 2022, again as being totally without merit.

[66] In contrast to the failure, as identified above, to provide in his statements a particularised and detailed account of the alleged contempt, the statements provided by Mr M [….] contain highly detailed and involved descriptions of the manner in which Mr M [….] considers he has been wronged in the family proceedings and highly detailed descriptions of the mistakes and omissions he considers were made by professionals and the court in the family proceedings. In his statement dated 6 June 2022, filed ostensibly in support of the application to commit, Mr M […] ranges across the conduct of the judges who dealt with the proceedings, the instruction, by consent, of Dr Hellin to provide an expert psychological assessment and the alleged adverse role in the family proceedings played by Mr Ireland. As the statements provided by Mr M […] progressed, including that in support of his latest C2 application, they moved even further away from the objects of ensuring compliance with a court order or seeking to bring to the attention of the court a serious contempt and towards an increasingly acute preoccupation with the role of Mr Ireland and Dr Hellin in the outcome of the family proceedings. The statement in support of the latest C2 application issued by Mr M […]evidences, Mr M[…]'s view that he needs to stop what he considers is Mr Ireland's pernicious influence in the family proceedings:

4. At the conclusion of the hearing Mr Justice MacDonald struck out the committal application for failure to comply with the rules relating to committal, failure to comply with the procedural requirements and as being an abuse of process. He identified that the application was totally without merit.

5. Having determined that issue he went on to consider the ECRO issue and said;

Having regard to the evidence before the court is beyond dispute that Mr M[…] has persistently made applications which are totally without merit, seeking to repeatedly to re-litigate in other arenas issues from the family proceedings which have been decided. Those applications include the appeal against the orders of DJ(MC) Carr dated 1 July 2021, the application to commit Dr Hellin dismissed as totally without merit on 24 February 2022 and the appeal against that decision, dismissed by Arbuthnot J as totally without merit on 7 April 2022. Further, Mr M […] has indicated before this court his intention to launch yet further litigation against Mr Ireland in the King's Bench Division. Within this context, I am entirely satisfied that it is appropriate in this case to make an extended civil restraint order for the maximum initial period of two years.

6. Mr Justice MacDonald was identified as the 'managing judge' in accordance with FPR PD3C 3.9(c) and so any applications by Mr M for permission to bring an application had to be made to Mr Justice MacDonald. On 19 June 2024 Mr Justice MacDonald made an order substituting Mrs Justice Knowles as the 'managing' judge; she having been appointed as the Family Presiding Judge for the Northern Circuit.

7. Over the course of his tenure of the role of managing judge Mr Justice MacDonald dealt with several applications for permission made by Mr M which were dismissed as totally without merit. They are as follows

   i) 28 May 2023: Mr M's application for a non-molestation order against the mother.

   ii) 19 July 2023: Mr M's application for the discharge of the non-molestation order made against him

   iii) 6 February 2024: Mr M's application for permission to issue an application for permission to appeal against the order of 1 July 2021 in proceedings MA19P02184.

   iv) 23 May 2024: Mr M's application to discharge the Family Law Act order of 1 July 2021.

   v) 19 June 2024

      a) MA 23P02471: Mr M's application dated 18 March 2024 for permission to issue an application under CPR Pt 8 in the KBD for disclosure of documents relating to the instruction of an expert. This

      b) MA21F00014: Further application dated 2 February 2024 to discharge NMO of 1.7.2021

      c) MA23P02184: Application dated 16 January 2024 for permission to issue an application for permission to apply for judicial review.

8. In several of these applications Mr Justice Macdonald recorded that

   "…the applicant is again seeking to re-open and re-litigate the issues determined in, inter alia, the proceedings numbered MA19P02184/ MA21P01785."

9. I note that Mr M sought permission to appeal the order of 1 July 2021 which was refused by HHJ Jordan on 27 January 2022. In the course of submissions to me today Mr M referred to that appeal also relying (at least in part) on his contention that there were procedural irregularities in relation to the instruction of Dr Hellin. In the judgment of DCJ Jordan of 27th January 2022 he identifies the Grounds of Appeal as set out below and concluded that none had any reasonable prospect of success and he would not allow an amendment to the Grounds to bring into play the case management issues. His identification of the Grounds was as follows;

   The first four grounds set out in the skeleton allege that Dr. Hellin has an undisclosed conflict of interest as she knows the respondent. Both Dr. Hellin and the respondent failed to disclose this. Dr. Hellin's report was unsatisfactory because she repeated dishonest facts stated by the respondent and the order was unlawful as it was obtained by fraud and deception, added grounds that the District Judge's case management decisions were unfair and did not allow for a factual matrix.

10. Mr Justice MacDonald also gave directions in respect of Mr M's application apparently made on 28 October 2023 for permission to appeal the ECRO or for its discharge. Given that Mr M had also indicated an intention to seek permission to appeal from the Court of Appeal Mr Justice MacDonald adjourned the decision on the application.

11. On 2 May 2024 Lord Justice Moylan dismissed Mr M's application for an extension of time to bring an appeal against the ECRO of 20 October 2022 and his application for permission to appeal. Moylan LJ certified the application for permission to appeal as being totally without merit. The grounds of appeal upon which Mr M relied included

    i) *The facts upon which the ECRO was made were "misstated" to the judge. The judge was not aware of the significant procedural irregularities that had taken place. However, the person who pursued the ECRO was undoubtedly aware of what had happened.*

    ii) *A recording of the hearing of the cross examinations in the case is "missing and cannot be found".*

    iii) *There was also an unlawful and groundless application for a non-molestation order made by a Solicitor who made the application with intent to corrupt the Children Act Proceedings. This is the Solicitor who pursued the ECRO being imposed.*

    In dismissing the application Moylan LJ identified that procedural irregularities in the proceedings that the ECRO was imposed in are not relevant to whether the judge was entitled to make an ECRO; that a missing transcript was also not relevant to the making of the ECRO and a groundless application for an Non Molestation Order made by the solicitor who sought the ECRO was an immaterial and irrelevant matter.

12. On 20th June 2024 a section 91(14) order made by DJ Carr expired. Mr M issued an application in the Family Court for a child arrangements order. Following her appointment as the managing judge these applications were considered by Mrs Justice Knowles. She also considered and gave directions on whether the ECRO should be extended.

    i) MA24P01307: on Mr M's application for permission to issue an application for a child arrangement order she refused the application as being totally without merit. She reviewed the initial judgment of DJ Carr and said this

    Mr M [….] has not advanced a case that he has changed. In fact, his conduct during the currency of the ECRO outlined above suggests entirely otherwise. Moreover, his repeated attempts to appeal or otherwise undermine the basis of DJ Carr's order suggest that he has not gained insight into his own behaviour or taken on board the contents of the July 2021 judgment. I note that the C100 application was made within days of the 91(14) order expiring. The Father's aspiration that [the child] should be reunited with him coupled with his application for a lives with order suggests that Mr M […] intends once more in new children litigation to undermine the previous orders made by DJ Carr in July 2021. I am fortified in coming to that conclusion by perusal of the

judgment of MacDonald J reported as M […] v Ireland (Striking out Proceedings for Contempt) [2022] EWFC 113 which evidence a relentless campaign by Mr M […] to right the perceived wrongs of the family court's decision in July 2021. The history resulted in Mac Donald J making the ECRO which remains in force today.

ii) On the issue of the extension of the ECRO she directed Mr M to provide submissions limited to 5 sides of A4 paper as to whether the order should be extended.

13. On 16 August 2024 Mr M filed a five page 'Submissions' document in compliance with the direction referred to above.

14. On 15th October 2024 Knowles J gave further directions which brought together the extant application for the discharge of the ECRO which Macdonald J had adjourned pending the determination by the Court of Appeal of the application for permission to appeal and the issue of whether the ECRO should be extended. She listed the application for a hearing on 25 November 2024 and directed that no further submissions would be considered by the court save the written submissions received on 16 August and 13 September 2024 in response to the directions order of 14 August 2024 and no further documents were to be included in the Bundle save for those specified; this prevented Mr M filing any further documents save for '*additional submissions from counsel*'. She also extended the ECRO until 20 December 2024 to maintain the status quo pending the hearing on 25 November 2024.

15. Notwithstanding the direction that no further documents were to be included in the Bundle Mr M subsequently filed a document entitled '*Up to date position statement and further submissions 15/11/24 (in lieu of verbal submissions on the 25/11/24)* which ran to 82 pages. He included it in a Bundle for the hearing before me,

16. On 21 November 2025 Mr Justice Keehan gave directions because Mrs Justice Knowles was unable to hear the applications on 25 November 2024 and he directed that the matters of the extension of the ECRO and the application to set aside the original ECRO be heard by me on 10 December 2024. He directed that no further written submissions by Mr M would be considered.

17. Mr M subsequently filed a document entitled *'Submissions following Mr Justice Keehan's direction to list the matter before the Honourable Mr Justice Williams on the 10/12/24'*. This ran to 52 further pages with further extracts of documents running to another 40 odd pages. He also submitted a 594 page Bundle for the hearing before me which did not comply with Knowles J's direction. He also included some 417 odd pages of transcripts of the Children Act proceedings including the judgment of Deputy Circuit Judge Jordan refusing him permission to appeal against the order of DJ Carr of 1 July 2021.

18. On 1 November 2024 Mr M issued a C2 seeking permission to proceed with three applications which from his observations in documents and today I believe may relate to applications he has submitted to the Solicitors Disciplinary Tribunal against 3 solicitors who perhaps acted in the Children Act proceedings.

19. In preparation for the hearing, I requested a Bundle from Mr M together with a Position Statement. This resulted in a 219-page bundle which still included the 82 page '*Up to date…*' document dated 25 November 2024 and the 52 pages '*Submissions following …*'. He sent in a 3-page Position Statement.

20. At the commencement of the hearing Mr M asked for permission to use his telephone to record the proceedings as he wanted it for his own record. That being the only reason advanced and as the proceedings are being recorded and Mr M is able to request a transcript of the hearing, I refused to exercise my discretion to permit him to take his own recording. He also sought to hand up hard copies of what he described initially as a bundle of authorities but which in fact appeared to be the transcripts which had been removed from the original 594-page Bundle. I declined to accept them. I also made clear that the submissions I had read were those which he sent in compliance with Knowles J's order of 14 August 2024 and the 3-page Position statement. Mr M began to make an application to adjourn because he did not consider that the applications would be heard correctly that the daily cause list did not accurately record the time the hearing was commencing and that he wanted another shot. Although I offered him time to consider his application, he did not pursue it and proceeded to make submissions on the set aside and extension of the extended civil restraint order.

21. Mr M appeared to have a lengthy written note of the submissions he wished to make, and he commenced those submissions. He asked me to allow him permission to hand up a sheaf of 10 documents which he said he would refer to in his submissions and I permitted this. Mr M proceeded to make his submissions. I do not intend to set them out at any length as they were focused on points which have already been considered by DCJ Jordan, Moylan LJ and MacDonald J. He focussed on a submission that the original order of DJ Carr was void ab initio because Dr Hellin's instruction was not FPR compliant, that there was an undisclosed conflict of interest between Dr Hellin and the mother, that the mother's solicitor and the mother had misled the court about the psychological toll the proceedings were taking on her and had obtained non-molestation orders by deception (it was said she had seen a GP on 7 Jan 2020, but the GP letter said it was 8 Jan 2020). He said that if the original order was void ab initio for procedural irregularity all his efforts to challenge it which had led to the making of the ECRO were not vexatious litigation but part of a process to put right an injustice. In part those submissions replicate the core points he makes in his '*submissions pursuant to the order of 14/8/24 of Mrs Justice Knowles*' and his Position Statement. They are;

Submissions

i) The underlying proceedings in which the ECRO was imposed have suffered with a significant procedural irregularity which is catastrophic to the safety of any order subsequently made including the ECRO.

   a) Missing critical transcript (June 2021);

   b) No CVs provided before expert appointment;

   c) FPR PD 25C requirements not followed;

d) Fact-finding hearing wrongfully denied;

e) Expert, Kate Hellin and Respondent, the mother having an alleged prior connection.

ii) The appeal that was one of the applications that were cited as meritless did not consider the above significant procedural irregularity. Additionally, there is an extant application for permission to appeal with the grounds of the above significant procedural irregularity.

iii) A judge sufficiently involved in the unsafeness of the proceedings had significant findings by the JCIO made against him, this after collusion between a lawyer involved with that Judge.

iv) The lawyer that sought the ECRO being imposed which seemingly was only to put a lid on the impropriety now has restricted practice imposed on him by his regulator for financial irregularities and this after a prosecution for the same in 2020 and this after a rebuke by the SRA in 2016.

v) A recording of the only evidential hearing (including cross examinations) is 'missing and cannot be found' so therefore a verbatim transcript is unobtainable.

vi) The previous managing Judge of the ECRO was biased and had external pressures in the judging of the 'totally without merit (TWM)' applications that were deemed so during the currency of the ECRO.

Up to date Position Statement

vii) Procedural Impropriety: The ECRO has not been renewed or extended in accordance with the procedural requirements set out under Civil Procedure Rules (CPR) Practice Direction 3C, which governs Civil Restraint Orders (CROs). Specifically

a) Evidence was cited as "the case papers" and the papers considered by Mrs Justice Knowles have to this day not been provided. it is suggested that presumption to extend has taken place to which the authorities do not permit.

b) It would be simply wrong in law for the court to extend an ECRO that serves the purpose of creating a barrier to a serious miscarriage of justice from being overturned where there are procedural irregularities catastrophic to the safety of the underlying proceedings.

viii) Lack of Justification for Extension

a) Under CPR Practice Direction 3C, an ECRO should only be extended if there is evidence of persistent, vexatious, or abusive litigation behaviour. It is denied that the applicant has engaged in such behaviour since the ECRO was granted, he merely has attempted to overturn the serious miscarriage of justice and his applications to do so have been

wrongly rejected without hearing to allow submissions of the significant procedural and other irregularities.

b) The applicant merely seeks to overturn a miscarriage of justice for where there have been procedural irregularities catastrophic to the safety of the underlying proceedings

ix) Unlawfulness of Extension

a) Extending the ECRO without adhering to proper procedural safeguards would violate applicants right to a fair hearing under Article 6 of the European Convention on Human Rights (ECHR).

b) Any decision to extend the ECRO must meet the test of proportionality. In this case, there is no ongoing harm or misuse of court processes to justify an extension.

x) Prejudice to the Respondent

a) The continuation of the ECRO would cause significant prejudice to the applicant, including limiting access to the courts for legitimate claims.

b) A single example of this is where the ECRO was cited as a reason to refuse an application to application to re-establish contact with his son, this is far outside of what is the purpose of an ECRO.

The Legal Framework

22. Although Mr M refers to the CPR civil restraint order regime it is the Family Procedure Rules regime which applies in this case. Fortunately, the regimes differ little in their wording; the most significant difference is that the CPR regime provides that an ECRO may be extended for up to 3 years whereas the FPR regime provides for no greater than 2-year extensions.

23. Pursuant to FPR PD 4B 3.10 the court may extend the duration of an ECRO if the court considers it appropriate to do so, but the duration of the order must not be extended for a period greater than two years on any given occasion.

24. The question of whether an extension is appropriate has been considered in a number of authorities including;

i) Society of Lloyd's v Noel [2015] EWHC 734 (QB), Lewis J. makes a distinction stating, '*the court is not dealing with the question of whether to make a new extended civil restraint order – where the question is whether the individual has persistently made claims or applications which are totally without merit*.'

ii) The Chief Constable of Avon and Somerset Constabulary v Gray [2016] EWHC 2998 (QB), where Warby J observed at [7]:

"The test for the grant of an extension is different: it is whether the court "considers it appropriate." This plainly makes sense, as a person who has already been subject

to a GCRO will in principle have had no opportunity to issue any TWM claim or application, other than an application for permission to proceed, or to vary or discharge the GCRO".

iii) Ashcroft v Webster [2017] EWHC 887 (Ch) HHJ Paul Matthews at [38] asserts that the test as to whether a further ECRO should be extended '*is quite different from the test for the first ECRO"* the court should not go back to the beginning and ask whether it would be justified in imposing a further ECRO. That would give "*double credit*" to the applications or claims which justified the ECRO in the first place. Rather, the test for extending an ECRO is simply whether the court considers it "appropriate" to do so. In considering the 'appropriateness' of whether an ECRO should be extended, *all* the circumstances must be considered, including the vexatious litigant's conduct which resulted in the making of the initial ECRO.

iv) Ghassemian v Chatsworth Court Freehold Company Ltd and another, and other actions [2019] EWHC 3646 (Ch) Mr Justice Birss at [25] in the judgment said, '*the rule itself (PD 3C.3.10) provides that the test for the court when considering whether to extend a civil restraint order is simply "whether it would be appropriate to do so*."

v) Glass Slipper Live Events v Event 1 Ltd [2022] EWHC 519 (Ch), Mr Justice Trower said 'the "core question" is usually whether the party against whom the order was originally made has taken steps which indicate a continuing willingness to persist in unmeritorious litigation.' Relevant circumstances can include repeated unsuccessful applications or breaches of an existing ECRO, but "wider considerations" also come into play. This can include conduct that amounts to "pestering those for whose benefit the ECRO was originally made with excessive or onerous correspondence".

25. An application to set aside an order may be made and granted by the jurisdiction conferred by section 31F(6) Matrimonial and Family Proceedings Act 1984 and under FPR 4.1(6) which give the court the power to rescind or revoke an order. The interplay between appeals and set aside has been considered in cases such as Edwards-v-Golding [2007] EWCA Civ 416 and CS-v-ACS (Consent Order: Non-disclosure: Correct Procedure) [2016] 1 FLR 131. The grounds on which a court may set aside an earlier order include material non-disclosure, fraud, material mistake, material change in circumstances.

Discussion

26. In this case I do not think the issue of setting aside the ECRO is distinct from the issues around the extension of the ECRO. If he is wrong about the July 2021 decision representing a mis-carriage of justice even if he could identify some other procedural reason for setting it aside (he argued before me that the closeness of Macdonald J and Moylan LJ as the Head and Deputy Head of International Family Justice somehow was worrisome) it would not make much difference as the number of TWM applications that Mr M has made since October 2022 (see the history set out above) would plainly bring him within the reach of FPR PD4B he having persistently made applications which are totally without merit and so a totally fresh ECRO could be made. However, that does not fall for consideration because he cannot establish either the mis-carriage of justice or any matter which establishes fraud in relation to the

granting of the ECRO, material non-disclosure relating to the ECRO or mistake relating to the decision to grant the ECRO or any other matter.

27. The core theme which underpins both the set aside application and his opposition to the extension of the ECRO is his case that the original decision of DJ Carr represents a miscarriage of justice from which all his other applications have flowed and that if the court accepts that there are procedural improprieties or irregularities that led to a serious mis-carriage of justice then it follows that all his subsequent applications seeking to challenge that were in fact meritorious rather than TWM and thus there **was** no basis for making an ECRO and there is **now** no basis for extending the ECRO.

28. Mr M has pursued this line of challenge ever since the decision was originally reached. It is apparent from the grounds of appeal that were considered by DCJ Jordan in January 2022, and which led to the dismissal of the application for permission to appeal from the decision of DJ Carr. It is evident from the judgment of Mr Justice McDonald dealing with the contempt application. It is evident from the decision of Moylan LJ in the refusal of the application for permission to appeal against the ECRO. It is evident from various of the applications which Mr Justice McDonald has certified TWM during the currency of the ECRO and it is evident in the decision of Mrs Justice Knowles of 14 August 2024. It was the principal focus of his oral submissions to me but there is no more force in his criticism of the alleged procedural mis-steps in the instruction of Dr Hellin, or the alleged conflict of interest, or the alleged mis-leading of the court as to the mothers psychological distress and her ability to work, or the absence of a separate fact-finding hearing or the absence of a transcript of the questioning of Dr Hellin today than there was when he ran those arguments on the various occasions he has previously. Re-arranging the words or the order they are presented in might enable Mr M to say they haven't been considered before but plainly they have in their substance. They have been considered and judge after judge has determined they provide no basis for granting permission to appeal against the July 2021 order, for discharging the January 2021 non-molestation order or for granting permission to appeal against the ECRO. I decline to descend into any detailed analysis of the arguments as that would be to extend to Mr M the luxury of yet another reconsideration of well-ploughed and sifted material. On the basis of the determinations reached by so many judges the finality principal plainly outweighs Mr M's unsubstantiated 'fraud unravels all' submission. Having heard Mr M for about an hour or so and having read his submissions and many other documents it is abundantly clear that he is unable to accept any determination of any judge which runs contrary to his beliefs. Like the man who refuses to give up the search for the hard drive allegedly containing 8000 units of crypto currency (now worth £600m) supposedly buried deep in a landfill Mr M is clinging onto an illusion; he seeks a pot of gold (a determination that DJ Carr's decision was wrong) at the end of a rainbow which never has and never will exist. He has pursued every possible avenue in the court system (and many outside it) to seek challenge the decision of DJ Carr and has failed. The sooner he accepts that reality the sooner he will be able to move on with his life and perhaps demonstrate to the court that he has changed in some beneficial way which might open the door to a renewed application to have a relationship with his son which is not limited to professionally supervised indirect contact. If he cannot, he is destined to a Groundhog Day life where he will continue to relive his arguments played out through either repeated applications of a similar nature to those already

refused or ever more ingenious vehicles which might appear different but are ultimately disguised versions of long discredited arguments.

29. His arguments against the extension of the ECRO – in so far as they are not a re-tread of the arguments about mis-carriage of justice are also without foundation. Curiously the one point he might have made which had some validity was that the ECRO was 2 days longer than the Rules permit but that could have been rectified by a simple 'slip-rule' amendment rather than it rendering the ECRO void. I shall deal with them briefly

    i) It is evident that the Case Papers relied on by Knowles J to extend the ECRO were the orders and applications and judgments she has read.

    ii) The ECRO is not being extended to prevent a serious mis-carriage of justice being over-turned. There is nothing which establishes a mis-carriage occurred. Mr M has had multiple opportunities to excavate one and has failed. It is to prevent meritless repetitious applications either in themselves as a waste of time or being used as a vehicle to harass the targets.

    iii) Far from there being no evidence of persistent, vexatious or abusive litigation behaviour there is abundant evidence of precisely that; not that that is a pre-requisite for the court to determine that it is appropriate to extend an ECRO.

    iv) Mr M has had ample opportunity to make his case as to whether there should be an extension. There is no breach of his Article 6 right to a fair hearing.

    v) In this case there would be no disproportionality in extending the ECRO. It would be wholly proportionate to do so and to seek to limit the exposure of the targets of Mr M's applications but also to minimise the amount of court and administrative time that is absorbed by dealing with his usually meritless applications.

    vi) There is no prejudice to the applicant – or at least no disproportionate prejudice. If he has a meritorious claim, he will have a good chance of securing permission. If he continues to bring unmeritorious applications, they will be prevented. Knowles J refused his application for permission to bring a section 8 Children Act application because she considered his track record showed he had not changed and so there was no merit in re-visiting the order made by DJ Carr. The court has provided Mr M with a means by which he can seek to exercise his Article 8 rights.

30. Mr M's future relationship with his son lies to a significant degree in his hands. If he can show he has changed and that reconsideration of his relationship with his son might have purpose and might promote his son's welfare that would open the door. On his track-record of the last 4-5 years, if that trajectory is maintained, he is likely to find it hard to persuade any judge that the court should consider the position afresh until sufficient years have passed that his sons own views might become determinative of an application. As time passes the life that his son has led under the order of July 2021 will shift the balance of the welfare checklist but so long as Mr M continues to excavate the landfill searching for the elusive and illusory bitcoin cache of injustice so it will reinforce the conclusion the court reached as to the risk he poses

to his son. His quest becomes self-defeating and the boy he last saw when he was 4 or 5 may be a man before they ever re-connect and if that comes to pass what will Mr M answer to the question that son might pose: why dad? Was it more important to prove mum and everyone else wrong than it was to see me?

Conclusion

31. There are no grounds to set aside the ECRO. I consider it wholly appropriate on the history of unmeritorious applications Mr M has brought since October 2022 and his current and apparently unchanged adherence to the mis-carriage of justice and his consequent inability to apply any filter to his actions to extend the ECRO for the maximum period possible. The ECRO will run from 4pm on 20 December 2024 until 3.59pm on 20 December 2026.

32. That is my judgment