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IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
[2021] EWHC 2601 (Fam)



No. FD19P00058

Royal Courts of Justice
Strand
London, WC2A 2LL

Wednesday, 24 February 2021

IN THE MATTER OF THE CHILDREN ACT 1989

Before:

MR JUSTICE KEEHAN

(In Private)

Re A and B (Parental Alienation: No.2)

B E T W E E N :

THE FATHER

Applicant

- and -

THE MOTHER

Respondent

MISS J. BAZLEY QC (instructed by Keystone Law) appeared on behalf of the Applicant.

MR E. DEVEREUX QC (instructed by Sears Tooth) appeared on behalf of the Respondent.

J U D G M E N T

(via Microsoft Teams)

MR JUSTICE KEEHAN:

- 1 This judgment should be read with the judgment that I gave in this matter on 25 November 2020.
- 2 I am, of course, dealing with Child A who is 14 years of age, and Child B who is 11 years of age. On 25 November, I found that the mother had caused both of the children serious emotional harm in alienating them from their father and I decided on the powerful evidence before me, supported by the expert opinion of Dr Braier and Ms Karen Woodall, that I should transfer residence from the mother to the father. That is the order that I made. I provided that there should be a period of therapeutic intervention by Ms Woodall to repair the emotional damage the children had suffered, to assist the children in settling with their father, and to assist the mother to understand the role that she had played and the harm that she had caused the children, so that, in the course of time, it would be possible for contact to be re-established between the children and the mother.
- 3 As part of that process, I set out a potential roadmap of when contact could restart in ideal circumstances and again, subject to positive progress, how the contact could increase over a period of time. On the advice of Dr Braier and Ms Woodall, it was me who told the children the outcome of the case in the afternoon of 25 November at the Royal Courts of Justice in the presence of Ms Woodall. The children did not take the news well.
- 4 Most regrettably, the day after on 26 November, in the evening, both Child A and Child B left their father's home and went to the home of a friend of the mother. It became necessary, unfortunately, to obtain the assistance of the Metropolitan Police to secure the return of the children to their father. I, via my clerk, was notified of this event because the solicitor for the father required an approved copy of the order I had made on 25 November to give to the police. The children were returned. It was obviously a very difficult time for the children, for the father, and for his wife Ms A.
- 5 Most regrettably, just a few days later on 2 December, the children left their father's home again. On this occasion, they went to the home of their former tutor Ms G, a very close friend of the mother, who was, as Miss Bazley helpfully reminded me, formally a *McKenzie* friend for the mother at times when she was previously unrepresented. Ms G refused to engage with returning the children to their father. Instead, for reasons I do not understand, she made contact with the emergency duty team of Westminster City Council Children's Services department. When I was notified of this in the late hours of 2 December, I made a without notice out of hours collection order. Before that collection order could be effected by the tipstaff, the Metropolitan Police had once again become involved and, regrettably with the use of some force, secured the return of the children back to the home of the father.
- 6 I, of my own motion, listed this matter on 8 December when in light of the events of the last few days, I suspended the roadmap and then ordered the matter to be listed before me on 11 January. On 11 January, criticisms were made on behalf of the mother of the work undertaken Ms Woodall but they were not pursued at that time. There was also raised the issue of the children being joined as parties but no formal application had been made on behalf of the mother, hence this listing today. Since 25 November, the children have only had indirect contact by letter with their mother and she has sent a letter to them.
- 7 I had the benefit of a report from Ms Woodall dated 17 February 2021 in which, and at great length, which I do not mean in any sense critically, she set out the work that she had done with the father, with Ms A, with the children, and with the mother. Most significantly, she

told me in that report that the extent and depth of the damage suffered by the children had emerged to be greater than she or Dr Braier had thought as the children have engaged in the therapeutic process. Over the course of the last three months, she told me, and I accepted, great strides have been made and the children are beginning to settle well. However, hugely significantly, they remain fragile and they remain vulnerable to being split once more from their father. They are hypervigilant to the feelings of adults but most particularly hypervigilant to the feelings of their mother. From the description given by Ms Woodall, the work undertaken by the father and by Ms A has been nothing short of heroic in terms of the time and the effort that they have devoted to the children and seeking to repair the damage that has been done to both of them by the mother.

- 8 Mr Devereux QC on behalf of the mother submitted that the mother had accepted my judgment and had sought to engage with Ms Woodall. The mother had sent, at the request and with the advice of Ms Woodall, a text to the children when they had run away and she has met with Ms Woodall from time to time.
- 9 Quite extraordinarily and outwith my experience, the mother disclosed a videotape taken of a therapeutic session she had with Ms Woodall to her solicitors. Equally extraordinarily, those solicitors then sought to engage in correspondence with Ms Woodall about the contents of a confidential therapeutic session. Criticisms were made of Ms Woodall by the mother's solicitors in terms of what was termed to be the unfair criticisms that she was making of the mother. That was dealt with in correspondence. However, today Mr Devereux made complaint that the mother has been denied and never had an opportunity to challenge Ms Woodall about her report and about various criticisms that are made of her.
- 10 What today became, as was presaged by the position statement filed on behalf of the mother for the purposes of this hearing, was a wholesale onslaught against the professionalism, the expertise, and the objectivity of Ms Woodall. I deprecate in the strongest possible terms that that action was taken. I consider the criticisms that are made of Ms Woodall's professionalism, expertise, and objectivity to be totally without any merit whatsoever and I have, I should make it plain for the avoidance of doubt, complete confidence in the professionalism, the expertise, and the objectivity of Ms Woodall. She has worked unbelievably hard over the course of the last three months. She has had experience of working with this family for over fifteen months, of assisting the children to settle with their father, and to start repairing the emotional damage that the mother did to them.
- 11 Mr Devereux submitted that it would be unfair for anyone, including the court, to conclude that the mother had not accepted the court's judgment and had not engaged in this therapeutic process.
- 12 By her acts to date and by her conduct of this litigation since my judgment in November, I am in no doubt and find that the mother has done everything that she can to frustrate my judgment, to frustrate the placement of the children with the father, and to frustrate the reparative therapeutic work that Ms Woodall has been doing. She has constantly gone to her solicitors who have raised questions about the approach of Ms Woodall. Ms Woodall has noted that the mother either does not understand what Ms Woodall is saying to her or she does not accept what Ms Woodall is advising her to do in the therapeutic process. In those circumstances, as was raised in the previous hearing by both Dr Braier and Ms Woodall, Ms Woodall questioned whether the mother had reached the ceiling of the change and insight that she is able to effect.
- 13 I have no confidence, on the totality of the evidence before me, that this mother has engaged with the therapeutic process so as to reflect on her past behaviour and to consider how she

can change. It is plain beyond peradventure, as set out in my earlier judgment, that this mother caused serious and deep emotional harm to the children. However, both at the substantive final hearing and now, I can evince no evidence that she acknowledges or accepts the harm she caused the children and I can evince no evidence that she is making any real progress to change. Absent that recognition and absent that change, it is very difficult to see how, safely and in the welfare best interests of the children, contact in any form can be resumed.

- 14 Complaint was made that Ms Woodall is not able to give a date of when the mother will speak to and/or see her children. That, it would appear, completely ignores the evidence given by Ms Woodall both in her written report and in her oral evidence. She is undertaking delicate and difficult work with the children, with the father, with Ms A, and with the mother. There needs to be positive progress made by the children and by the mother so that the children are not at risk of splitting again if they have contact with the mother, and the mother is not a risk of causing further emotional harm to the children risking the security and stability of their placement with the father. In those circumstances, where the children are so very fragile and vulnerable, Ms Woodall needs, just as the court, to proceed with extreme caution in reaching an evaluation based on experience and knowledge of the family as to when the time may be right for the mother to have contact by telephone, by letter, or directly with either one or both of these children.
- 15 That view that I have formed of the mother and her motives is reinforced by the applications that were pursued at this hearing today. Of somewhat minor importance are two applications for disclosure of material relating to the events of 26 November and 2 December against the Metropolitan Police and Westminster City Council Children's Services department. There is no live issue, as far as I am concerned, before this court to which that disclosure would be relevant, or necessary, or proportionate. It is, once again, a litigation tactic that has no regard at all to the welfare best interests of these two children and both applications are dismissed.
- 16 Of greater concern is the heavily pressed argument that the children should be granted party status to be represented by a guardian and, notwithstanding the widespread criticism made by the mother of Ms Woodall, she, it was said on behalf of the mother, should continue in her work but then the guardian would consider whether she was the appropriate person to carry on with the prospect that another expert might be instructed. I cannot conceive of a course of action which would be more likely to further harm and damage these children and undermine the progress that they have made so far, which, albeit small steps, is impressive given the depth of the damage and harm that they have suffered. It was pressed upon me that it was unprincipled not to obtain the wishes and feelings of the children.
- 17 As I found in my November judgment, I recognised then and I do now that the children would probably say they want to see their mother, or they would want to resume the fifty/fifty shared care package. However, the fact of the matter is, because of the harm and damage that they have suffered, these views do not reflect the true wishes and feelings of the children. As Peter Jackson LJ acknowledged in dismissing the application for permission to appeal made by the mother before Christmas, the wishes and feelings of the children, given the damage that they have suffered, are unascertainable, and that remains the case, I am satisfied and find, to date. However, what is more, I entirely accept and understand the expert opinion of Ms Woodall that were the children to be asked what their wishes and feelings are, at this time in the midst of the delicate therapeutic work they are undertaking, it would be harmful and detrimental to their welfare best interests and, in these circumstances, I could not countenance that being done.

- 18 There are circumstances where children in parental alienation cases are suitably and appropriately joined as parties. Once again, I am completely satisfied and find that to join either Ms A or Child B as party to these proceedings would be wholly inimicable to their welfare best interests. It would draw them into the litigation which, as I have found, the mother has used wrongly to her own ends. It would move their focus away from working therapeutically with Ms Woodall and settling in the care of their father. It would be nothing short of disastrous for these children to join them as parties at this stage in these proceedings and that application, having regard to what is set out in rule 16.4 of the Family Procedure Rules and in Practice Direction 16 is empathetically dismissed.
- 19 I remain gravely concerned about the role taken by the mother in these proceedings. Miss Bazley on behalf of the father submitted that I should conclude these proceedings today to bring the litigation to an end and to the benefits that that would bring not only for the father and Ms A but also, and importantly, for the children. It was submitted that having confidence in Ms Woodall, I could leave the task of future contact to her, and I acknowledge the potential advantages that have been identified by Miss Bazley. However, it is no adverse reflection of Ms Woodall at all, or of my confidence in her and her work, that I consider that at this stage in the proceedings, it would be an abdication of my duty to make the welfare decisions about these children were I to conclude the proceedings today.
- 20 Ms Woodall, in her report and in her oral evidence, considered that with work proceeding well, the court could be in a position before Easter, in late March, to make a decision as to whether the route map previously identified in November, or a modified version of it, could be approved and put in place. I would hope that that future hearing which will take place may well be the last hearing in these proceedings. If I am able to make decisions about future contact between the mother and the children, and if I was able to approve a route map similar or the same as that that was set out in my November judgment, in those circumstances, it may well be that I could and would be persuaded that having set out the principles, it would thereafter be for Ms Woodall to oversee the increase and the changes in the contact that the mother had. However, as I emphasised, that may be the case and it may be what I decide but it will very much depend on what progress has been made between now and that hearing in March, and what engagement there has been both by the children and the mother.
- 21 Having initially travelled to Russia after the decision to be with her family, the mother had recently returned to her flat in Marylebone which is but a few minutes away from the father's home. It was suggested at the beginning of this hearing that the mother had moved there before the father. That is true. However, the mother moved there in the knowledge that that is where the father and Ms A intended to move and the mother moved to Marylebone notwithstanding the father sending her a communication (I think an email) imploring her to reconsider moving to Marylebone because, as she well knew, that is where the father and Ms A were going to move.
- 22 The pressure that that now puts on the whole family, particularly the children, has restricted their liberty and freedom to leave the family home because, of course, there is the ever-present risk that the children will bump into their mother wholly unprepared and probably wholly unready for a meeting with her. That has added to the difficulties that the father has had with the children in, for example, not being able to permit Child A to go off by herself to the local shop. It would be some indication of the mother's understanding of the circumstances of the children if she would take immediate steps to move out and move away from her property in Marylebone, whether to Chelsea or anywhere else. I am satisfied that the father, working in such a dedicated way as he has to help his children, has been under enormous pressure and anything that can relieve that pressure on him and enable the

children to move about their local community more freely is obviously to the inestimable benefit of the children and would be in their welfare best interests.

- 23 The mother must understand that unless she comes to a point where she can recognise the harm she has caused and she can positively engage with Ms Woodall, without bringing in lawyers, and demonstrates a genuine desire to re-engage with safe contact with her children, the prospects for the future of contact do not look good and that would be unfortunate for the two children most of all, whose welfare best interests are central to my thinking and my decision today.
- 24 That is all I propose to say.
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