



IN THE HIGH COURT OF JUSTICE

No. FD15P00129

FAMILY DIVISION

**[2015] EWHC 2491 (Fam)**

Royal Courts of Justice

Friday, 21<sup>st</sup> August 2015

Before:

MR. JUSTICE HAYDEN

B E T W E E N:

LONDON BOROUGH OF TOWER HAMLETS

Applicant

-and-

B

Respondent

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MR. BARNES appeared on behalf of the Applicant Local Authority.

MS. MORGAN QC appeared on behalf of the Respondent Father.

MS. FOTTRELL QC appeared on behalf of the Respondent Mother.

MS. MEUSZ appeared on behalf of B.

MS. LOGAN (a solicitor) acting on behalf of the children, through their children's Guardian.

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**J U D G M E N T**

(For revision)

MR. JUSTICE HAYDEN:

- 1 In this hearing, during the course of the past few days I have been concerned, primarily, with B, who is a young woman of sixteen years of age. I have also been concerned with her brothers. I do not propose to say very much or give any great detail about them, in order to minimise any risk that they, B, or this family, might be identified. B is intelligent, educated and ambitious. She aspires to study medicine at university; that has already been an ambition of hers for some time, although she is still only sixteen years of age. There was, and I use the perfect tense advisedly, no reason to believe that she would not have fulfilled that ambition. Her GCSE results, mostly taken a year early, are outstanding. She has amassed an array of A's and A\* grades, two of which arrived yesterday in the course of this hearing. It ought to have been, for her and her family, a happy day. It was not. Her prospects for the future have been severely jeopardised by her behaviour and that of her family. I will refer to this in more detail below merely observing here that the potential waste of her talent is tragic. She has been taught at home, as have all the children in this family, until the age of sixteen.
  
- 2 During the course of this hearing B wrote me a letter. That is not particularly uncommon for teenagers involved in litigation in the Family Court and who are keen to have their voice heard. What is, however, uncommon is to receive a letter so carefully written. The spelling, the grammar, the punctuation, is flawless. It is written in a clear hand and delivers a succinct message. In that letter she displays a strong loyalty to her parents and to siblings. She emphasises, that her education is very important to her. She points to the achievements of her elder sister, which are similarly stellar. She does, however, say nothing at all about how she comes to be in her present

predicament. Certainly she identifies no blame to her parents or, for that matter, to herself. She, like her parents, has chosen not to give evidence before me, knowing that I am entitled to draw adverse inferences from her refusal to do so. She and her parents have been sitting in court throughout. They have betrayed no emotion; they have been impassive and inscrutable as I have faced the challenge of deciding whether their family should be fragmented and their children removed. Their self discipline is striking. They have listened carefully. The mother has taken careful notes. They have revealed nothing in their responses.

- 3 The parents are represented by leading counsel: Miss Morgan QC on behalf of the father, and Miss Fottrell QC on behalf of the mother. B herself instructs her own solicitors and counsel, she having the undoubted capacity to do so.
  
- 4 This case comes before me consecutively with a number of other cases within the Borough of Tower Hamlets, each of which involves intelligent young girls, highly motivated academically, each of whom has, to some and greatly varying degrees, been either radicalised or exposed to extreme ideology promulgated by those subscribing to the values of the self-styled Islamic State.
  
- 5 Within the context of child protection these courts frequently, though not exclusively, see children whose advantages and opportunities in life are limited and circumscribed from the very beginning. In each of these cases however these young women have boundless opportunities, comfortable homes and carers who undoubtedly love them, but they have been captured, seduced, by a belief that travelling to Syria to become what is known as ‘Jihadi brides’ is somehow romantic and honourable both to them and to their families. There is no doubt, to my mind, that young women here have been specifically targeted, in addition to young men of course, but for different purposes. The reality is

that the future for such girls as we know, holds only exploitation, degradation and risk of death; in other words these children with whose future I have been concerned, have been at risk of really serious harm and as such the State is properly obligated to protect them. As capacitous adults they will, of course, be free to join whatever cause they wish, however ignoble others may regard it as being.

6 It is unusual in cases in the Family Division to make any factual reference to other cases, no matter how obliquely. I do so because, as I have already commented, in my judgment reported as *Tower Hamlets London BC v M & Ors [2015] EWHC 869 (Fam)*, they present a new facet of child protection where there is, as yet, limited professional experience or, for that matter, available training. I would observe however that over the months that I have been hearing applications in these cases, I have observed professional knowledge and understanding develop considerably.

7 In that judgment I observed as follows:

*‘the Family Court system, particularly the Family Division, is, and always has been, in my view, in the vanguard of change in life and society. Where there are changes in medicine or in technology or cultural change, so often they resonate first within the family. Here the type of harm I have been asked to evaluate is a different facet of vulnerability for children than that which the courts have had to deal with in the past.’*

During the course of exchanges in this case, my attention has been drawn to that passage, by counsel. Reading on, the following paragraph seems to me to be equally apposite:

*“What, however, is clear is that the conventional safeguarding principles will still afford the best protection. Once again this court finds it necessary to reiterate that only open dialogue, appropriate sharing of information, mutual respect for the differing roles involved and inter-agency co-operation is going to provide the kind of protection that I am satisfied that the children subject to these applications truly require.”*

It is those “conventional safeguarding” principles which I have kept in the forefront of my mind when analysing the issues presented by this case.

- 8 I turn firstly to the background, which I propose to set out summarily. On 6<sup>th</sup> December 2014, B was reported missing by her mother. Her mother stated that she may have travelled to Syria. This information, it is said, was given to the mother by B’s brother. The account was that she, B, had informed her brother of her plans, confidentially, that very morning, i.e. the day she was due to fly. The Metropolitan Police Service Counter Terrorism Command were alerted, and they were able, operating on a narrow time margin, to intercept the flight only minutes before it was due to take off and B was removed. She had therefore very nearly made good her intention to get to Syria. She was, in due course interviewed by the police and, as a minor, questioned in accordance with the Achieving Best Evidence guidelines. During the course of that interview she was frank about her intention to travel to the Islamic State.
- 9 This was one of the first of a number of cases of its kind. The Local Authority ultimately applied to me to make B a Ward of Court. I granted that application, and made structured provision for the securing of B’s passport. In a number of these cases I have referred to my intention in invoking the inherent

jurisdictional powers of this court as being to employ ‘a light touch’, by which I mean intervention which is least intrusive to the family but achieves proportionate objectives of child protection. I note that in order both to protect B in the future and to minimise the intervention of the State, I declined to authorise the removal of the passports by the Tipstaff of the High Court, as would be usual in such cases. I permitted the parents to give B’s passport and their own to their family solicitor, where they remain. It is illustrative of my attempt to encourage openness, cooperation and mutual respect. I was told by the advocates on behalf of the parents that they were keen to work openly and co-operatively with the authorities. In turn, I wanted to recognise their autonomy as a family.

- 10 An initial child protection conference took place on 16<sup>th</sup> April. The Social Services’ Department wanted to try to evaluate the capacity of the parents to protect and to safeguard their children. They discussed with them buying an internet monitoring device upon the advice of the police. The parents professed their willingness to engage. They were eloquent and fulsome in their assurances. B was made the subject of a Child in Need plan, predicated on the Local Authority’s evaluation of the parent’s positive potential to safeguard her themselves.
- 11 Matters, however, took a dramatic turn when, between 26<sup>th</sup> and 28<sup>th</sup> June of this year a protracted search of the family home resulted in a plethora of electronic devices being taken away for analysis by the Counter Terrorism Command. B was arrested on suspicion of terrorist offences. She was interviewed and this promising young woman now finds herself on police bail whilst further investigations continue.
- 12 On 12<sup>th</sup> August the parents and other siblings were arrested on suspicion of “possessing information likely to be useful to a person committing or preparing

an act of terrorism.” That is an offence contrary to s.58 of the Terrorism Act 2000 and carries a substantial custodial sentence.

13 The entire dynamic of this case had changed. For a very significant period, as I have outlined, both the police and a very experienced social worker had, in my assessment, been entirely convinced that both B and her parents were indeed co-operating openly and honestly with them and with the other professionals. It seems to me that this impression was very much reinforced by the significant fact that it was the mother who had herself informed the police of her daughter’s attempt to fly to Syria. That cast a positive glow, understandably, and the parents had been perceived, as I have taken some time to outline, as a protective force. The reality has proved to be something altogether different.

14 I have already referred to a very significant amount of what I will for shorthand call ‘radicalising material’ being removed from the household. During the course of this hearing before me I asked Mr. Barnes, on behalf of the Local Authority, to distil the material that had been removed into an easily accessible schedule identifying to whom the material was attributable. The schedule, which has not been disputed, requires to be summarised in detail.

15 There were a number of devices attributable to B herself:

- (1) A document headed “44 Ways to Support Jihad” with practical suggestions as to the support of terrorist activity;
- (2) “The Macan Minority” urging participation in Jihadi activity;

- (3) Internet searches relating to terrorist manuals and guides to terror activities. That also included queries as to the response times of the Metropolitan Armed Response Team and the Queen's Guard;
- (4) Internet searches as to the preservation of on-line anonymity, including, as confirmed by a police officer at an earlier hearing, the downloading of software to hide the IP address of the user's computer when on-line;
- (5) A downloaded version of "Mujahid Guide to Surviving in the West". Possession of that document is, of itself, a serious criminal offence. It gives guides to weapon and bomb making and to "hiding the extremist identity".
- (6) "Miracles in Syria". This contained information as to how to get to ISIS territory and many photographs of what are referred to as "Smiling corpses".

I had not understood what that meant, but I have been informed that it involves photographing the corpses of fighters whose faces are set in a smiling repose and said to reveal pleasure at their glimpses of eternal reward

- (7) "Hiraj to the Islamic State". This contained information and advice as to how to avoid airport security. It had particular advice in relation to females intending to travel to ISIS territory via Turkey.
- (8) Footage of attacks on Western Forces in the Middle East.

16 On one of the siblings devices there was the following:



- (1) Numerous articles, some in what are referred to as “glossy magazine format” urging flight to ISIS territory and recommending its “lifestyle”.
- (2) An edition of Islamic State News showing men being prepared for execution and asserting community support for it.
- (3) An edition of Islamic State News showing before and after shots of human executions.
- (4) A video of terrorist training.
- (5) A video containing images of actual executions and beheadings.

17 On another sibling’s devices there were the following:

- (1) A number of lectures and video biographies encouraging support for ISIS activities, including videos of attacks upon Western Forces in the Middle East.
- (2) ‘The Maccan Minority’, seen earlier in B’s own devices, suggesting that files had been shared between the siblings.
- (3) A document called “The Constance of Jihad”. This was a five hour lecture on the need to participate in fighting against non-Muslims.

18 Finally, from the parent’s own devices:

- (1) Lectures encouraging participation in armed attacks on non-Muslims.
- (2) Issues of Islamic State News showing the same executions as those seen on the devices attributed to one of the siblings, again suggesting file sharing.
- (3) Photographs of teenagers holding grenades.

- 19 Reducing the material in this way to this stark list was, at least to my mind, an important exercise. The impact of the material set out in this way is both powerful and alarming. It requires to be stated unambiguously, it is not merely theoretical or gratuitously shocking, it involves information of a practical nature designed to support and to perpetrate terrorist attacks. I have noted already but reemphasise that it provides advice as to how to avoid airport security, particularly for females. In addition, the videos of beheadings and smiling corpses can only be profoundly damaging, particularly to these very young, and in my judgment, vulnerable individuals.
- 20 It has not been necessary for me to view this material myself. Practically speaking, it is simply too voluminous for me to be able to do so within the timescales of the case and, like most reasonable people I should prefer not to unless it proved to be essential. In these cases, just as in cases involving, for example, child sexual exploitation, we, as the judges, lawyers and other professionals, are happily able to rely on summaries prepared by the police whose unenviable task it is to watch them. I have noted in my survey of the material that some of it relates to concealing extremist identity. It is not uncommon in my experience, which I am confident is shared by the experienced advocates in this case, for adults in public law proceedings or child protection proceedings more generally to seek to deceive social workers. Sometimes it can be successful for protracted periods. They may conceal a drinking habit, substance abuse, or a continued relationship with a violent partner. Usually these come to the surface eventually. I am bound to say I do not recall seeing deception which is so consummately skilful as has been the case here. I have found myself wondering whether some of the material may have educated this family in skilful concealment of underlying beliefs and activities.

21 The parents' joint statements require revisiting. Thus:

*“We are a very strong family unit and we are doing our very best to help prevent such a situation from reoccurring. We are keeping extremely close eyes on B and trying to be encouraging of her moving without ridiculing her for her actions to the extent that this incident forever haunts and affects her day to day living. I, the mother, am particularly sensitive of how we manage the situation which we view as very serious due to my work... I understand how to empathise and assist those in need of support through open questioning techniques and motivational encouragement, and have done this with B at great length since the incident to help understand what went wrong. We had thought that we were nearing a stage of putting the incident behind us, having worked together as a family, convening weekly family discussions and opening up about how to move on...”*

*“The police officer ‘x’ offered a piece of technology costing £79 which allows complete monitoring of the computers in the house. The instructions were followed and it was bought and a friend who is technologically minded (which neither of us are) installed it for us. The children are not aware of it. We completely understand the police and Social Service’s concerns, but we don’t want any intervention to further impact our family lives for the unforeseeable future. The risk in our minds is not high at present of B leaving the UK, particularly given that all of our passports are being held by our solicitors. We would agree with whatever measures are deemed necessary to prevent risk to B and following the explanation given at the initial child protection conference have agreed, or already carried out, the protective tasks itemised in the assessment report.”*

They were fulsome too in their praise for the social worker:

*“The new social worker explained her role and again seemed very sensitive to the need to limit and time her visits according to B’s studies. We have readily accepted the recommendations of the conference. We were impressed by the thoughtful and specific thought all there gave B. She did not feel like she was lumped together with other girls for no clear reason. The professionals at the meeting voiced confusion themselves about an initial child protection conference being held whilst the child is warded. The Chair expressed concern that it seemed a decision had been made that there must be a child protection done before the conference. In fact following the open and frank discussion at the conference, all professionals voted unanimously for a time limited Child in Need plan. We were very relieved, and repeat, we will grab with open arms practical and genuine offers of help in getting past this terrible event provided we think they will help. We also repeat we are so grateful to those who stopped S getting to Turkey.”*

- 22 Evaluating those passages alongside the material that was discovered in this household reveals that much of what was said was in fact an elaborate and sophisticated succession of lies.
- 23 The police found it necessary, as a precaution, to limit professional access to this family. The need for that, to my mind, was self-evident. It has, however, meant that I have limited information into the lives of the male children.
- 24 The Local Authority apply to remove each of the children from the household; not just B but the boys too. So corrosive and insidious are the beliefs in this household, it is argued, so pervasive is the nature of the emotional abuse, so complete is the resistance to intervention, and so total the lack of co-operation,

that the emotional safety of the boys, the Local Authority says, cannot be assured. I have some sympathy for that view. Nonetheless, in exchanges with Mr. Barnes on behalf of the Local Authority the following, to my mind, important facts have emerged. Firstly, it is conspicuous that radicalised material was not found on the boys' devices. Secondly, the boys, through a variety of sporting interests, have a much wider integration into society more generally and, on my, as yet, superficial assessment, a healthier range of interests. Between sport and study there is, I suspect, little room in their lives for radicalised interests. Thirdly, it was one of the boys who first sounded the alarm about his sister's flight. The exact account of that, like everything else this family says, must now be viewed with very great caution, but I strongly suspect there is a core truth that it was the action of one of the brothers that foiled B's flight to Syria. Fourthly, two of the older boys will be starting 6<sup>th</sup> Form education at college very soon, and accordingly they will be more exposed to professional scrutiny.

- 25 I will require a thorough intense and comprehensive social work assessment of the boys' circumstances. I will then be able better to decide whether their situation in this household is sustainable or not. Until I have the information I am not prepared to sanction their removal. It may or may not be necessary in the future. The balance of risk, it seems to me is, significantly different in the cases of the boys, at least at this stage. The Guardian supports such a course. Though I hope she will forgive me for saying so, I have not placed very much weight on her view. She was only appointed a few days ago. She has not had any opportunity to meet the children at all. She has an inevitably incomplete knowledge of the background of the case, and virtually no understanding of the wider issues, having, as she told me, never been involved in a case of this nature before. She is in an entirely invidious position. I am sympathetic to her

and I do not intend these simple statements of facts to be construed by her in any way as a criticism. They are not.

26 The social worker appointed in this case, by contrast, has in my assessment a deep, well informed and intelligent understanding of the issues. She has been working this case and with this family now for some time. It is in the nature of the proceedings that come before this court, in particular, that the actions of social workers often fall to be scrutinised and are from time to time found to be wanting and deprecated in judgments. The opposite situation arises here. This social worker has, in my judgment, made an outstanding contribution to the case. All those who have encountered her, the lawyers, the police, the guardians, have been impressed both by the extent of her knowledge of this family and by her professionalism. She has formed a very important, and in my judgment, highly effective link between social work and police operations. She has had to absorb and re-analyse her work in a dramatically changing landscape. She gave evidence. She told me she had forged a strong, open, working relationship with B, as she thought. She had been convinced, and she is not, I suspect, unhealthily sceptical, that she had achieved, in effect, a professional result with B.

27 It is obvious listening to her that despite everything that has happened, she has some affection for B and her professional concern remains. Now, she told me, B will not sit near her or talk to her. The social worker is not deterred. She continues to work to try to engage B in a meaningful dialogue. As she gave evidence, I took the view that this social worker, though saddened by the deception on a personal level, had merely girded her loins and resolved to try to re-forge the relationship. I am not able to identify her by name in this judgment, though I should like to have done so. To do so would only risk compromising the anonymity of the children. I have not lightly rejected her social work assessment in relation to the boys. Her understanding of B is

considerable, as I have emphasised, but I have the strong sense, which to her credit she readily acknowledged, that her knowledge of and assessment of the boys was far from complete. As I have said, the balance of risk, at least for the present, is different.

28 I have no hesitation in concluding that B has been subjected to serious emotional harm, and, at the very least, continues to be at risk of such in her parent's care. I can see no way in which her psychological, emotional and intellectual integrity can be protected by her remaining in this household. The farrago of sophisticated dishonesty displayed by her parents makes such a placement entirely unsustainable.

29 I return to the comparator of sexual abuse. If it were sexual risk that were here being contemplated, I do not believe that any professional would advocate such a placement for a moment. The violation contemplated here is not to the body but it is to the mind. It is every bit as insidious, and I do not say that lightly. It involves harm of similar magnitude and complexion.

30 I approach the Local Authority's proposals by considering B's needs at this juncture. I am required to do so by Section 1(1) of the Children Act 1989. What she needs, I find, is to be provided with an opportunity in which she can, in a peaceful and safe situation, be afforded the chance for her strong and lively mind to reassert its own independence. An environment in which there are the kind of vile images that I have described and the extreme polemic I have outlined, can only be deleterious to her emotional welfare. I hope she can be provided with an opportunity where her thoughts might turn to healthier and I hope happier issues. I have no doubt, as has been impressed upon me by her counsel, that she will find separation from her parents, particularly her siblings, to be distressing, though I note she was prepared to leave them to go to Syria. I do not doubt that the social worker will struggle to find a placement which

meets the full panoply of her welfare needs which has been emphasised on behalf of the guardian, but I entirely see why the Local Authority plans or proposals are, of necessity, only general in outline and, to some extent, inevitably inchoate. However, I am entirely satisfied that this social worker will make every effort to ensure the best possible option is achieved for B. That is the Local Authority's responsibility.

31 I am conscious that in relation to B and the proposed arrangements, the Guardian has voiced disagreement. However, just as I did not rely on her views when I agreed with her in relation to the boys, I am not persuaded by her 'thoughts' in relation to B. I think they can properly be regarded as 'thoughts' (the term she used in her evidence repeatedly) because she has, to my mind, simply not yet had the opportunity to crystallise her thinking into a coherent analysis.

32 B urges me to consider all the possible options. I have done. She points out in her letter:

“I am willing to be tagged and to have no internet access at home”.

Somebody has plainly drawn her attention to the President's recent judgment in the matter of X and Y [2015] EWHC 2265 (Fam); perhaps she even discovered it herself, I do not know. In that case the President sanctioned Tagging Orders. The risk here though is not primarily or indeed exclusively one of flight; it is of psychological and emotional harm from which tagging cannot protect her. Only a safe and neutral environment free from these powerful influences can, for the time being, secure her welfare interests and accordingly I endorse the Local Authority's proposals in respect of her.