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IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION



No. ZC18P01363

Royal Courts of Justice
Strand
London, WC2A 2LL

Monday, 5 July 2021

Before:

MR JUSTICE KEEHAN

(In Private)

Re A and B (Parental Alienation: No.4)

B E T W E E N :

THE FATHER

Applicant

- and -

THE MOTHER

Respondent

MS 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 Cloud Video Platform)

MR JUSTICE KEEHAN:

Introduction

- 1 I am once again concerned with two children: Child A, who was born on 1 May 2006 and is now fifteen years of age; and Child B born on 10 March 2009 and so he is twelve years of age.
- 2 The father is the applicant, and the respondent to these proceedings is the mother. This judgment should be read with the previous judgments that I have given in this matter.
- 3 This is listed as the final hearing of the application. The parties are at least agreed that this should be the final hearing and at the conclusion of the hearing today I should make final orders in respect of the care and contact arrangements for both Child A and Child B.
- 4 Neither parent was required to give evidence and I heard evidence from the expert psychotherapist, Karen Woodall, who has been involved in these proceedings initially with Dr Braier and more latterly on her own for some two years.
- 5 The principal issue for me to determine is what contact there should be between the children and their mother going forward.

Expert Evidence

- 6 I had the benefit of a final report from Ms Woodall dated 28 June of this year. In it she sets out her very clear conclusions and very usefully sets out a road map for contact for the foreseeable future over the next three years or so.
- 7 It was put to Ms Woodall by Mr Devereux QC, on behalf of the mother, that she had not obtained the wishes and feelings of the children. Ms Woodall was quite clear that she had. During the course of her last meeting with the children on 24 June, which lasted for some one hour and forty-five minutes, the children were clear to Ms Woodall that they did not want to know the details of the arrangements that were going to be made for their contact with the mother and that they were content that that was left to the adults. I had the sense that Child A felt this more keenly than Child B.
- 8 When pressed on the issue, Ms Woodall explained that given those views it would in terms be positively harmful to have pressed the children further and to have taken them line by line through the road map. I have no hesitation in accepting her evidence.
- 9 The road map does set out and provides for very restrictive contact to the mother, both supervised direct and supervised indirect contact by Zoom. It was submitted on behalf of the mother that the times of three hours or four hours from time to time for the duration of the contact was arbitrary. Ms Woodall explained that it was not arbitrary; that it was difficult to be clear about what times and what duration would be in the children's welfare best interests because of the unpredictability of the mother, but the times set out in the road map were her best assessment of what would meet the welfare best interests of the children.
- 10 Ms Woodall also explained both in her report and in her oral evidence that, in terms, the mother had not changed one jot since the judgment I gave in November 2020 when I decided that the residence of the children should transfer from the mother to the father. The mother has not and does not accept that judgment. The mother has not and does not accept that she, as I found, has caused positive harm to the children in her alienation of the children

from the father. She has not effectively engaged with Ms Woodall in the therapeutic work that she attempted to undertake with the mother. It appears from her report and from her evidence that matters have got worse rather than better as time has progressed.

- 11 Ms Woodall says that the mother has been, effectively, hostile from time to time towards Ms Woodall. Ms Woodall gave the example of her giving very clear guidance to the mother on the content of a video she would make in respect of Child B's then forthcoming birthday. Ms Woodall explained that, completely contrary to Ms Woodall's guidance, the mother included matters in that video that she had been advised by Ms Woodall not to include.
- 12 Ms Woodall spoke in her evidence about the last face to face meeting that she observed between the children and the mother. She told me that the children are hypersensitive to the mother's feelings. In the last session the mother was, as she put it, churlish. She described the contact as being painful to observe and that Child A, in particular, had experienced it as walking on eggshells because she did not know and was concerned about how her mother would respond to her.
- 13 It is in light of all those factors, the lack of engagement, the lack of acceptance of her past role, that has led Ms Woodall overall to recommend the very restrictive contact that she has set out in the road map.
- 14 Happily, the children, both Child A and Child B, have made huge progress since November 2020. I well remember the adverse reactions of both of them when I gave them the news as to the decision that I had made. They are now integrated in the care of their father and his wife, Ms A, and they are progressing extremely well. It is a reflection of the hard work by the father and his wife under the guidance of Ms Woodall that the children are now at this stage that they are in their relationship with him. But both remain at risk of splitting again if the mother's adverse influence is allowed to have an effect upon them.
- 15 I have no hesitation in accepting the report and recommendations of Ms Woodall.

The Law

- 16 I remind myself that the welfare best interests of Child A and Child B are the court's paramount consideration (s.1(1) of the Children Act 1989). I have regard to those factors in the welfare checklist at s.1(3) of the 1989 Act insofar as they are relevant to the circumstances of this case. I have regard to the Art.6 and Art.8 rights of the mother, the father and importantly the children. But I bear in mind that, where there is a tension between the Art.8 rights of the children on the one hand and the parent on the other, the rights of the children prevail (*Yousef v. The Netherlands* [2003] 1 FLR 210).

Analysis

- 17 I accept the submission of Mr Devereux that what is proposed in the road map set out by Ms Woodall is immensely restrictive, but I have to reach the sad conclusion that it is not only necessary but it is proportionate to the risks that the mother presents to both of the children. I am satisfied that a no lesser course will afford the protection necessary for both Child A and Child B to flourish and thrive in their father's care and to enable them to achieve the best that they can throughout their lives.
- 18 The mother has simply not moved on. As I have mentioned already but it is worth repeating, she does not accept my judgment of November 2020. She does not accept she has caused any harm to the children. She operates by being enmeshed with the children and their feelings. She cannot separate out her feelings and her wishes from the children's

feelings and the children's wishes. She has demonstrated repeatedly that she is unable to advance further in her thinking and in her feelings and she has, as I accept and as advised by Ms Woodall, reached a ceiling beyond which she cannot move and because of that she poses a serious risk of harm - emotional and psychological harm - to both Child A and to Child B.

- 19 It is in those circumstances I am satisfied that it would be wholly contrary to the welfare best interests of either child for there to be more extensive contact than that proposed and set out by Ms Woodall in her report. If the mother should move on, if she does accept the judgment, if she does accept her adverse role in the children's lives up to and including November 2020, then it may well be in the welfare best interests of the children for her to contact to be less restrictive and to be increased. As matters stand, I have no confidence that the mother would be able to achieve that and I have no confidence that it will in fact prove appropriate in the future for the mother to have wider and longer contact with the children.
- 20 The issue was raised as to whether there should be a third party to mediate in terms if the parents were to disagree on how contact was progressing. I agree there should be such a person and I agree that it should be Ms Woodall. Her knowledge of this family and of the functioning of the mother is immense and it would be wholly contrary to the interests of the children at this stage to bring in another person.
- 21 It was submitted on behalf of the father that the costs arising from any future involvement of Ms Woodall should be borne solely by the mother because it is her intransigence that has resulted in the need for Ms Woodall to be involved. I do not agree. Where the parents do disagree in the future on the way forward and where it is necessary for Ms Woodall to become involved to mediate a change or a continuation in the arrangements for contact, I take the view at this point that the appropriate order is that those costs of Ms Woodall are divided equally between the mother and the father.
- 22 The father also invites me to make a child arrangements live-with order in favour not only him but of his wife, Ms A, so that without in any sense displacing the role of the mother as the mother of both children, Ms A has parental responsibility for the children. I agree it is in the welfare best interests of the children that Ms A, as a day to day joint carer of the children, should have parental responsibility for them. Accordingly, I will make a child arrangements order in favour of both the father and Ms A.
- 23 There is a draft order before the court. The majority of that appears to be agreed, but I will hear further submissions on the precise drafting of the order before approving a final order.

Conclusion

- 24 I will make the child arrangements live-with order as I have described in favour of the father and Ms A, and I approve the future contact between the children and the mother for the foreseeable future as being in the terms as set out by Ms Woodall in the road map contained in her final report. I also agree that this should be a final order to bring these proceedings to a conclusion, but that any further applications in respect of these children - whether brought by the mother, the father or the relevant Local Authority - will be reserved to me in the first instance.
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CERTIFICATE

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Official Court Reporters and Audio Transcribers
5 New Street Square, London, EC4A 3BF
Tel: 020 7831 5627 Fax: 020 7831 7737
civil@opus2.digital*

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