

NA (Applicant) v (1) ZA (First Respondent) (2) A (3) K (4) Q (5) H (By their Children's Guardian) (Respondents) & Croydon London Borough Council (Intervener) (2015)

[2015] EWHC 2188 (Fam)

20/07/2015

Barristers

Alistair G Perkins

Court

Family Division

Practice Areas

Public Children Law

Summary

Supervised contact between a father and his four children in a contact centre should progress so that contact was extended in duration and so that supervised contact should take place first in the community and then at the father's home; although there was a risk that the father would continue to act as he had in the past, namely by seeking to undermine the children's relationship with their mother, that risk was outweighed by the risk to the children's welfare of maintaining the status quo, the children having expressed a clear wish to progress contact.

Facts

The court was asked to decide how contact between a father and his four children, who were aged between four and 13, should progress.

The father had been born in England to Pakistani parents. The mother, who had been brought up in Pakistan, married the father in an arranged marriage in 1999. The marriage began to fail in 2006. In 2008, the mother complained of physical abuse by the father and moved with the children to a refuge. In 2009, she travelled with the children to Pakistan to see her father. While there, the father and members of his family insisted on a reconciliation and put pressure on the mother to stay in Pakistan; among other things, she was forced to surrender her passport and those of the children. In 2011, the mother managed to return to England. She began proceedings here and the children were made wards of court. The father and the children subsequently returned to England. In care proceedings, the judge decided that the children should be rehabilitated to the care of their mother. He found that the father and the paternal family had excluded the mother from the children's lives, caused them to believe that she had abandoned them, which was false, and turned them against her. He also found that the father had no empathy for the children and was manipulative, callous and ruthless in wanting his own way, taking no

responsibility for his actions. However, the children had been having good-quality contact with their father in a contact centre. They had also shown a clear wish to see their wider paternal family.

Held

It was in the children's best interests for supervised contact to progress in the manner recommended by the local authority and the children's guardian, namely for contact to be extended in duration and to progress via supervised contact in the community to supervised contact at the father's home. It was a case of balancing two competing risks. On the one hand, the risk presented by the father within the context of contact was plainly established. The risk was that he would, as he had been found to have done in the past, seek to undermine the children's relationship with their mother to the point where that relationship broke down. That that remained an extant risk was amply established by, among other things, the father's view that he had done nothing wrong. On the other hand, there was a strong countervailing risk grounded in the children's wishes, feelings and emotional needs; the older children had expressed a clear wish to progress their contact with their father. Not to take the step of moving contact onto a more "normalised" footing gave rise to the risk that the children would become frustrated and disenchanted with the adults in their lives, particularly the mother. The balance came down in favour of progressing contact in the way suggested. Further, while there was a prima facie welfare case for permitting the children now to have contact with members of their extended paternal family at the home of the father, having regard to the history and very particular circumstances of the case, until a contact risk assessment of the paternal family members was available, it was not possible for the court to reach a properly informed final decision on whether and to what extent it was in the children's best interests for those paternal family members to be introduced to supervised contact. Although there was a need to conclude the proceedings as a matter of some urgency, a final order governing contact between the children, their father and any members of the paternal family whom a risk assessment assessed as being able to promote safe contact should await the outcome of that risk assessment (see paras 53-57, 59, 61 of judgment).

Permission

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