

## S v G [2015]

### [2015] EWFC 4 (Fam)

14/01/2015

#### **Barristers**

Mark Jarman KC

#### **Court**

High Court Family Division

#### **Practice Areas**

International Children Law

#### **Summary**

Judgment arising from cross-applications concerning a 2 year old boy by which a mother sought permission to relocate to Russia and the father sought sole, or alternatively equal, care of the child in England. Mother's application granted.

#### **Facts**

In these proceedings, Mr Justice Peter Jackson was concerned with cross-applications relating to Daniel, a 2 ½ year old child. The Russian mother sought permission to relocate to Moscow, and the British father sought sole, or alternatively equal, care of Daniel in England.

The parents, both in their thirties, met on holiday in Goa. They married shortly after the child's birth. The mother moved to England to join the father when Daniel was about 13 months old. Their relationship broke down about 10 months later. Following an incident between the parents, the mother agreed to Daniel being placed in the care of the father at the request of a local authority. At the time of the hearing Daniel was in the "primary care" of both parents.

Paragraphs 3 and 4 of the judgment contain a succinct summary of the current law relating to relocation. In addition, the learned Judge considered the application of the Hague Convention 1996 in respect of the recognition and enforceability of the resulting order of the English court: see paragraphs 6 and 7.

Having heard the evidence of the parents, family members and an independent social worker, Peter Jackson J granted the mother permission to relocate to Russia with Daniel. The findings made are set out at paragraphs 42 to 99 of the judgment. In applying the welfare checklist in light of his findings, the learned Judge found that there was a distinct difference in the capacity of the parents to meet Daniel's longer term needs. The mother would be able to "show Daniel an example of energetic self-reliance, offering him a wider field of possibilities for his future than he would receive in the father's care or in shared care in England." Further, the mother believed in the importance of the father in the child's life,

but the father did not share in the same instinctive belief of the importance of time spent with the mother. The Judge held reservations concerning the father's ability to collaborate with the mother in parenting Daniel in the long-term and found that the paternal family was unlikely to be able to compensate for the difficulties the mother faced.

There was a degree of uncertainty in the arrangements for the child regardless of which country he lived in. The loss of regular time spent with the father could be sustained by means of regular contact.

The mother's plan to live in Moscow was practical and realistic. In short-term, the effect on the father of Daniel moving to Russia would be of extreme disappointment and sadness. However, he was likely to reassess his situation in the long-term.

### **Held**

Concerning the use of the Hague Convention 1996 to implement the contact order, Peter Jackson J stated that:

"118. The powers of the court extend internationally under the 1996 Convention, providing for recognition, registration and enforcement. There can be no guarantee that a (sic) order for contact will be complied with, but I consider the treaty powers to be a significant reinforcement to the already robust probability that the mother will honour her obligations."

Finally, the learned Judge explained his reasons for departing from the evidence of the Independent Social Worker, which included her lack of experience, and an over emphasis on certain aspects of the father's case such the alleged difficulty in maintaining contact with the child whilst in Russia.

The order granting the mother permission to relocate is reproduced at paragraph 124 of the transcript.

### **Permission**

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