

Re B (A Child) (Relocation: Sweden) (2015)

[2015] EWCA Civ 286

26/03/2015

Court

Court of Appeal (Civil Division)

The appellant father appealed against an order made in November 2014 permitting the respondent mother to relocate permanently to Sweden with their five-year-old daughter. The mother had lived in Sweden with her family until 2007, when she moved to London and began a relationship with the father. The relationship began to deteriorate shortly after the daughter's birth in 2010. In 2011, following a holiday, the mother wrongfully retained the daughter in Sweden, returning only when compelled by a court order. Following the return, the parents lived apart and engaged in what the judge described as an "attritional war" about their daughter, each accusing the other of negligence and worse. The mother's life between 2013 and 2014 was disturbed and disordered. She was drinking heavily and had become involved in an inappropriate relationship which imperilled both herself and her daughter. The local authority became involved in November 2013 after the daughter sustained a number of minor injuries. In July 2014, it discharged the child protection plan, though it still considered the daughter to be a "child in need". The mother claimed that she was isolated and unhappy in the UK, and sought to relocate to Sweden where she had family and support. She produced a psychologist's report which suggested that her chronic low mood might impact the quality of her parenting, and that being forced to remain in London would precipitate a substantial decline in her emotional well-being. The judge considered those views to be highly relevant and found them to be confirmed by his own observations of the mother. He found that a return to Sweden would give the mother stability and security. He found that the father was unable to separate his own needs from his daughter's best interests, and that should she remain in London, he would continue to make endless complaints and allegations. He acknowledged that neither the CAFCASS officer nor the social worker supported the mother's application, but found that a return to Sweden gave the daughter a better prospect of a healthy and safe life than did remaining in London. The father submitted that (1) the judge had failed to give proper weight to the views of the social worker and CAFCASS officer and had given insufficient reasons for not following their advice; (2) the value of the psychologist's evidence was reduced because he was treating the mother; (3) the judge had erred in making adverse findings about him; (4) the judge had failed to take account of the impact of the move on the father-daughter relationship, and had failed to consider the risk that the mother might not promote that relationship.

(1) First, although the judge's treatment of the social worker's evidence was brief, he had not erred in declining to give weight to her views. Her position was that had the local authority been fully aware of all the circumstances in July 2014, it would not have discharged the child protection plan. However, that assertion was not borne out by the evidence. Second, while the advice of an experienced

CAFCASS officer had always to be given careful consideration, the judge had highlighted two flaws in her assessment. He was entitled to take a different view from hers, and he had given clear and valid reasons for doing so. He had assessed the parties over the course of a week's hearing and had the advantage, unavailable to the social worker and the CAFCASS officer, of not having to reach a decision until he had seen and heard everything (see paras 34-42 of judgment). (2) The judge had been entitled to rely on the psychologist's report. It was not the case that a psychologist or a psychiatrist could say little of value simply because he had a therapeutic relationship with the subject of his report. It was for the judge to assess the extent to which, if at all, he might be partisan. The judge had compared the psychologist's opinion with his own view of the mother and found it confirmed (para.45). (3) The judge's adverse findings about the father played a key part in his decision. He was entitled to place weight on what the father said in evidence and to look at the whole picture. There was nothing to support the assertion that the judge ought not to have reached the conclusions he did about the father's character. His finding that the father would continue to make allegations detracted significantly from any protective influence that the father might have. In any event, the question of protection faded into the background once the judge found that the mother's behaviour resulted from her isolation and unhappiness, which would be cured by a return to Sweden (paras 48-50). (4) There was nothing in the argument that the judge had not properly considered the issue of contact between father and daughter. He had in mind the impact of the move on the father's contact, and had been acutely aware that distance would inevitably impair the father's ability to participate in his daughter's day-to-day life. As he was entitled to, he proceeded on the basis that contact provisions could be enforced in Sweden, and he warned the mother of the consequences of failing to adhere to them (paras 51-52).

A judge had not erred in permitting a mother to relocate permanently to Sweden with her five-year-old daughter, against the wishes of the father and against the advice of a social worker and CAFCASS officer. The judge had provided clear and valid reasons for his decision and had been entitled to reach the conclusions he did.

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