

Case No: VS13P00027

IN THE BRISTOL FAMILY COURT

Bristol Crown Court Date: 12/06/2015

Before:

HIS HONOUR JUDGE WILDBLOOD QC sitting as a Judge of High Court.

Between:

Roger Williams Applicant - and - Rebecca Minnock First Respondent

-and- Ethan Freeman Williams (by his guardian) Second Respondent

Mr Kenny for Mr Andrew Butt There being no appearance by the mother

Hearing dates: 12th June 2015

JUDGMENT

HHJ Wildblood QC:

1. Yesterday I gave an extemporaneous judgment about the difficulties that I had encountered in finding legal representation for Mr Butt. In that judgment I described how disappointing it is that the impact of two decisions appears to have passed by so many lawyers. Those decisions are *Re Ramet* [2014] EWHC 56 (Fam), which is a decision of the President of the Family Division, and *Kings Lynn and West Norfolk Council v Michelle Bunning and the Legal Aid Agency*. Cases like this have to be dealt with expeditiously because they concern the liberty of the subject. Acting under the authority that I undoubtedly have as a judge sitting in the High Court, I granted legal aid in the manner suggested in those authorities. Mr Kenny of 3PB chambers in Bristol and Ms Iona Phillips, of Lyons Davidson who instructed him, stepped in and provided a very high quality of service to the court and to Mr Butt.

2. There has been considerable press coverage of this case and I am very grateful to the press for the assistance that they have given. The press are the eyes and ears of our society and have a vital role to play within it; the quality of press reporting has been very high, in my opinion and I would ask that the same effective relationship between the court, the press and the police should continue in the best interests of Ethan.

3. The mother has apparently spoken to a newspaper and has expressed her fears for her future relationship with Ethan if she does come out of hiding. I think it important that the legal position is made clear.

4. Family life can be very demanding and parenthood poses lifelong responsibilities and demands. Family law proceedings are exceptionally stressful for all concerned. Under the stress that arises people may, wrongly, behave in ways that are impulsive and damaging to the welfare of children. Where a parent does behave in way that is wrong it is very important that matters are put right by that parent as soon as possible. The more time that goes by the more emotionally harmful it is for a

child to be in the circumstances in which Ethan now finds himself. This mother must not see herself as being backed into a corner because there is a very simple solution for her – come forward with Ethan. The strain on this mother now must be immense and, from what I know at present, it appears that matters have simply snowballed from an impulsive decision made by her on 27th May 2015. That strain will only increase with the passage of time and, I know from what she has herself said, she understands that it is only a matter of time before she and Ethan will be found.

5. No one can simply ignore that orders have been made which the mother has disobeyed; if I said otherwise it would send out a signal that the court will ignore breaches of its own orders, a signal that would be absurd and utterly wrong. Rather than act through the legal system the mother has chosen to take matters into her own hands. No parent, be it a mother or a father, should ever behave in that way. The mother has been legally represented in hearings before the District Judge. There has been an exceptionally high level of investigation and three major court hearings in which the mother's allegations against the father have all been rejected. If the mother had any valid dissatisfaction with the orders of the District Judge she could have sought permission to appeal from them as is provided by Rule 30 of The Family Procedure Rules 2010; she did not do so. The remedy for dissatisfaction with a court order relating to a child does not lie in making off with the child into hiding. The father, who has suffered immense emotional and financial stress from these proceedings also and has had to fight off false allegations over a number of years, has responded appropriately to court orders and has complied with them; if he had behaved as the mother has done, how would she regard his actions? The mother having acted in direct breach of court orders means that I cannot state what steps might be taken against her for those breaches when she is found and, by this judgment, I do not do so.

6. However, I think that it is important for the public and the mother to understand that, in relation to the functioning of the family court when making orders concerning Ethan, there are clear legal provisions. Everything possible will be done to ensure that Ethan has an effective relationship with both of his parents. There is no doubt at all that Ethan is a boy who is much loved by both of his parents and that they both want what they perceive to be best for him.

7. I am a circuit judge and so I do not pretend to speak with any authority; that voice of authority belongs with more senior judges than me. However, as a family lawyer of 35 years standing I think it essential that I set out my understanding of the legal position. The court is a public authority for the purposes of section 6 of the Human Rights Act 1998. As such it must ensure compliance with the European Convention on Human Rights. By Article 8 of that Convention it is provided that 'everyone has the right to respect for his private and family life, his home and his correspondence'. The right of a parent to spend time with his or her children is an essential element of family life. Interference by a court with that right can only be justified under Article 8(2) of the Convention if it is i) necessary; ii) proportionate to the issues in the case and iii) in accordance with the law.

8. The law, in this country, is provided by the Convention compliant provisions of Section One of the Children Act 1989. By that section the welfare of the child, Ethan, is the paramount consideration. The court must consider the welfare of the child by having regard, in particular, to various matters that are set out in a statutory welfare checklist in section 1(3) of The Children Act 1989. Nature, case law and common sense demand that it be recognised that it is the interests of a child to have an effective relationship with both parents if that can possibly be achieved.

9. Further, it is stated by case law that there must be exceptional circumstances, supported by cogent reasons, before a court concludes that it is in the interests of a child for the child not to have

contact with a natural parent. I do not understand there to be any suggestion from anyone that the mother should be deprived of all contact with Ethan in the future.

10. I hope that helps to promote an understanding in the public and also in the mother of just how seriously a court will strive to maintain relationships between this child and both of his parents, whatever the future may now hold and whatever the mother may now have done.

HHJ Stephen Wildblood QC 12th June 2015

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