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IN THE CENTRAL FAMILY COURT

No. ZE22P00651;
ZC22F00266; ZC22F00469

First Avenue House
42-49 High Holborn
London, WC1V 6NP

Thursday, 15 June 2023

Before:

HER HONOUR JUDGE LYNN ROBERTS

(In Private)

B E T W E E N :

AB

Applicant

- and -

CD

Respondent

THE APPLICANT appeared In Person.

MR LANSMAN (instructed by Morrison Spowart Solicitors) appeared on behalf of the Respondent.

J U D G M E N T

JUDGE ROBERTS:

- 1 I am again concerned with applications relating to the former relationship between AB and CD. Mr B represents himself today and Mr Lansman again represents Ms D.
- 2 Today's applications relate principally to Family Law Act 1996 applications. I have been provided with two bundles of documents, the main one being the Family Law Act applications, but I also have one for the previous Children Act proceedings. Mr B produced additional papers today, which I have looked at. Most of what was in them I have seen before and are in one or other of the bundles.
- 3 On 16 May 2023, I gave a judgment in the Children Act proceedings between Mr B and Ms D. I found that Mr B was unacceptably abusive to Ms D, to her solicitors, to my court staff, to Cafcass staff and to the London Local Authority X staff. I found that there was no need for a trial in Mr B's application to spend time with his son P, as I was able to determine at that hearing there could be no contact as it was unsafe for P, his mother, his mother's family, and no professional person or member of court staff could be further exposed to Mr B's abuse.
- 4 I extended the non-molestation order which the court had previously made to protect Ms D and P. I made a prohibited steps order to protect P. I made a s.91(14) order preventing Mr B from making further applications in relation to P for one year without first obtaining the leave of the court. I explained to Mr B on 16 May that any application he wished to make relating to P would first be considered by me before deciding whether it could go ahead. I said in my judgment that the litigation was being used by Mr B to further abuse Ms D. I also said that Mr B's applications were taking up an unreasonable amount of court time.
- 5 The next day, 17 May, Mr B issued an application to vary or discharge the non-molestation order of 6 April 2023. That is one of the applications which I am hearing today. I directed Mr B to file his evidence in support and to send a copy to the solicitors for Ms D. I understand that once again Mr B did not send his evidence to Ms D's solicitors, but the court has now done so. Unfortunately, this was only done today, and it became apparent from Mr Lansman's position statement that no evidence had been received by Morrison Spowart from Mr B. Ms D has not had the opportunity to respond, but I do not think it is necessary to give her time to do so.
- 6 It is of note that the non-molestation order of 6 April 2023 was made without notice but has subsequently been confirmed at a hearing on 20 April 2023, of which Mr B did have notice. Mr B did not attend that hearing. I think he said that he was away and did not have sufficient time to get to the court. He had been served by email on 17 April. It is not clear whether or not he resides at the address which is provided to the court and to the mother's solicitors.
- 7 The order of 6 April was made following an application by Ms D to extend a previous non-molestation order she had received last year which was about to run out. Mr B's application to discharge the order of 6 April should therefore be understood as being an application to discharge the order of 20 April as well. I also extended the non-molestation order on 16 May, and I shall consider Mr B's application ought to be to vary or discharge that order. I shall return to that application shortly, and this application is opposed by Ms D.
- 8 On 19 May, Mr B sent in an application for a non-molestation order against Ms D. He said in the statement that the police are looking into charging Ms D with stalking and threatening

him, that Ms D's mother had been arrested for stalking and harassing him. I have no evidence that any of that is true. This application is opposed by Ms D.

- 9 On 2 June 2023, Mr B issued an application for myself and HHJ Hughes KC not to be involved in any hearing concerning himself or Ms D. Judge Hughes has not dealt with this matter since June 2022 as far as I can see. She has retired and only sits occasionally as a deputy circuit judge in retirement. Judge Hughes will therefore play no part in any proceedings relating to Mr B or Ms D. I interpret this application as an application for me to recuse myself. In his application in relation to myself, Mr B considers that I am biased, but gives no reasons for anybody to conclude that that is the case.
- 10 I am aware that Mr B has appealed my decisions of 16 May, but that is not a reason for me to recuse myself. He mentions the Family Court being very secret in that application, but my judgment on his case has been published, it is on a publicly accessible website, and it had been picked up by the Press, so that makes little sense. This application is also opposed by Ms D.
- 11 The law on recusal is as follows: the House of Lords set out the test for actual or perceived bias in the case of *Porter v Magill* [2001] UKHL 67, namely whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the judge was biased. Mr B has failed to give me any examples which would suggest that a fair-minded and informed observer would consider that I am biased. I do not consider that I am biased, and I do not consider the fact that I have made orders which Mr B does not like is a reason to recuse myself. I therefore dismiss this application to recuse myself.
- 12 Mr B has put in another application since 16 May, date unclear, asking for the Children Act case to be moved to Bromley Family Court. This application is opposed by Ms D. I believe I already said in the hearing on 16 May that this was not something that would happen. Mr B wants it to go to Bromley in part, he says, because I should be removed from the case. As I have said, I am not recusing myself. The case is properly brought at Central Family Court, judicial continuity is important and there are no grounds in law why this case should be moved to another court. As Mr B does not have permission to make any application regarding P without my permission being obtained first, it would make no sense for the case to be heard in a different court. Our system is not one where a litigant who does not like a judge, or her decisions, can have his case moved to another court in the hope that another judge may take a different view. There has to be a good reason for a case to be moved and none has been put forward.
- 13 Under s.49 of the Family Law Act 1996, I have the power to discharge the non-molestation order. Under s.42 of the Family Law Act 1996, I can make a non-molestation order. However, in deciding both these applications I must apply s.42(5) of the Family Law Act. I must have regard to all the circumstances, including the need to secure the health, safety and wellbeing of each of Mr B and Ms D and of P.
- 14 I have read Mr B's evidence in support of his application to discharge the non-molestation order and in support of his application for a non-molestation order, and I have listened to him today. Much of his statement has been cut and pasted from a previous statement, and it seems to me that the behaviour he complains about took place, if it took place at all, in 2021. The only matters which, as far as I can tell, he is saying have happened recently has been that he says, though Mr Lansman says it is not accepted, that Ms D has messaged him since

the hearing on 16 May. He has not shown me such a message and the fact that there may be a message in itself does not support the making of a non-molestation order. The other fresh evidence seemed to be that he has made a complaint against the long-suffering Ms Owen, Ms D's solicitor, and that of course does not support an application for a non-molestation order either.

- 15 As far as I could tell, his main complaint about the non-molestation order against him is that it protects P as well Ms D. Previous judges and I have found that to be necessary. There is nothing in Mr B' statement, or in what he has said to me today other than bare assertion, to support either his application for a non-molestation order or to support his application for the discharge of the existing non-molestation order.
- 16 In my judgment, Mr B has issued his numerous applications since my judgment of 16 May 2023 for the purpose of harassing Ms D and for the purpose of taking up the time of the court. In my judgment, Ms D and P still need the protection of the non-molestation orders which this court has made. Both Ms D and P's safety and wellbeing require the non-molestation order to continue. I do not find that Mr B requires or is entitled to a non-molestation order against Ms D. I do not have any evidence that a non-molestation order is needed to secure Mr B's health, safety, or wellbeing.
- 17 I consider Mr B' application to discharge the non-molestation order against him to be another application totally without merit. Similarly, I consider Mr B' application for a non-molestation order against Ms D to be totally without merit. I find that the application for the case to be moved to Bromley Family Court to be totally without merit. I find the application which I have interpreted as an application for me to recuse myself to be totally without merit. I therefore dismiss all of the applications Mr B has made which have been listed today.
- 18 In addition to the four applications Mr B had made since 16 May, Mr B has emailed the court several times to the effect that his application to discharge the non-molestation order – or for a non-molestation order, it is unclear – is urgent, which it patently is not, and that it needed to be heard earlier than today's date. He also emailed the court, telling the court staff not to put his application for me to recuse myself in front of me, which they obviously ignored. He also attended the court in person to try to get an earlier hearing. He has also posted at least one further abusive message about my court staff.
- 19 The amount of court time being taken by Mr B is very great. My staff are very hardworking and very hard-pressed. They do not have the time to spend on applications which have no merit. Similarly, I am extremely busy and have urgent cases to deal with which do need judicial time. I have had to spend a totally unreasonable amount of my time in the last six weeks on matters relating to Mr B, and this has to stop.
- 20 Mr B's reaction to the order I made under s.91(14) was to issue four more applications which may or may not have been covered by the s.91(14) order. Clearly, the ones relating to the Family Law Act were not. I therefore have concluded that I have to take stronger measures. Pursuant to pt.4.8 of the Family Procedure Rules, the court has the power to make a civil restraint order against a party to proceedings. Practice Direction 4B sets out in detail how this works, and the consequences. Practice Direction para.3.1 sets out that an extended civil restraint order may be made where a party has persistently made applications which are totally without merit. Paragraph 3.2 gives the court power to make an extended civil restraint order which will restrain Mr B from making applications in any court concerning

any matter involving or relating to or touching upon or leading to the proceedings with which I am concerned today and on 16 May, without first obtaining the permission of an identified judge. A subsequent paragraph sets out more detail.

21 In his position statement, Mr Lansman asked me to consider the making of an extended civil restraint order, but I am making this of my own motion. Over the past 14 months, Mr B has:

- In May 2022 issued two applications to vary or discharge an order he entered into by consent on 26 April 2022.
- On 31 May 2022, he emailed the court that he does not wish to pursue such applications.
- On 20 June 2022, his applications about non-molestation orders were dismissed. Ms D was not present, though represented, as P was in hospital.
- On the same day, he emailed that he wanted to appeal that order.
- On 24 June 2022, Mr B applied without notice for a non-molestation order against Ms D. Central to his complaint appears to be that Ms D did not attend court on 20 June 2022 although he knew the reason why.
- On 27 July 2022, Mr B tells the court he does not wish to pursue his application for a non-molestation order against Ms D.
- On the same day, he issued an application to vary or discharge the non-molestation order made against him on 26 April 2022.
- On 26 October 2022, he told the court that he was not pursuing his application to vary or discharge the non-molestation order against him.
- On 7 November 2022, he appealed the case management decisions – not the ones in relation to the non-molestation orders – made by the magistrates on 26 October 2022.
- On 9 December 2022, his appeal was dismissed as totally without merit. He subsequently put in another appeal against the same order of 26 October 2022, which was dismissed summarily.
- On 6 April 2023, the court made a further non-molestation order without notice against him, and that order was continued on 20 April and expanded for a year on 16 May. The court also extended the scope of the non-molestation order, and Mr B was present.
- Since 16 May, Mr B has made four further applications which I have found to be totally without merit.

22 The various applications to vary or discharge the non-molestation orders have been pointless and, as I have said, totally without merit. Mr B has taken up, over the past 14 months, a massive amount of HMCTS staff time, and I have no doubt the same applies to Morrison Spowart, Ms D's solicitors. He is, in my judgment, using proceedings as another way to

torment Ms D who has been forced to be repeatedly in court or to deal with litigation over the past 14 months. This has to stop.

- 23 The overriding objective requires me to ensure that resources are applied fairly, and this case has had an unreasonable amount of time spent on it to the detriment of other cases. I have no doubt that Ms D and her family's ability to live their lives in peace and to focus on looking after P has been negatively affected by this relentless litigation. I have, within Children Act 1989 proceedings, made an order under s.91.14 against Mr B. His response was immediately to issue four further applications which either were or were not covered, as I have said, by that order.
- 24 I therefore today make an extended civil restraint order so that Mr B will be restrained until 15 June 2025 from making applications in the Family Court or in the County Court concerning any matter involving or relating to or touching upon the Children Act proceedings or Family Law Act proceedings with which I have been dealing, without first obtaining the permission of myself, Judge Lynn Roberts, or, in my absence, HHJ Sapnara. Secondly, Mr B may apply for amendment or discharge of this order, but only with the permission of myself or, in my absence, HHJ Sapnara. Thirdly, Mr B may apply for permission to appeal this order and, if permission is granted, may appeal this order. Mr B must, if he wishes to apply for permission to appeal this order to the High Court, he must do so within 21 days of today's date.
- 25 The extended civil restraint order I make today means that Mr B may not apply to the Family Court for any order in relation to Ms D, P, or her family, nor may he apply in the County Court for any order in relation to Ms D, P, or her family, without first seeking the permission of myself or, in my absence, HHJ Sapnara. That is for the next two years.
- 26 Although I made the s.91.14 order for one year, the fact that Mr B's reaction to it was to make four more applications, his behaviour today during which he continually interrupted my judgment, started prancing around the court with a t-shirt with I do not know what on it about me, and the fact that he called me "a fucking retard" during the judgment before he was removed, all means that I consider it necessary to make the extended civil restraint order for two years.
- 27 Mr B should further note, and it would be helpful if this was included in the order so that Mr B can refer to it, that pursuant to pt.4.8 of the Family Procedure Rules, if he seeks to appeal this order or if he seeks leave to make an application, even if he would otherwise qualify for fee remission, he is required to pay the required fee. If his application succeeds, the fee will be refunded to him. To be plain, so that Mr B understands, and I think we will have to have another transcript so Mr B can read or have this read to him, he can no longer make applications without first paying the fee.
- 28 If Mr B makes such an application in the Family Court or in the County Court which is in breach of this order, in other words without first obtaining permission to do so, it will be automatically struck out without the judge having to make any further order and without the need for the other party to respond to it. If he repeatedly makes applications for permission which are totally without merit, the court may direct that if he makes any further applications for permission which are totally without merit, the decision to dismiss the application will be final and there will be no right of appeal.
- 29 If Mr B wishes to seek permission as set out in this order, he must first serve notice of the application on Morrison Spowart, Ms D's solicitors, and that notice must set out the nature

and grounds of the application and provide Ms D via Morrison Spowart with at least seven days within which to respond. Having obtained the response, Mr B must then make his application for permission in writing and must include Ms D's response, if any, to the notice served. His application for permission will then be determined without a hearing. My clerk was intending to provide Mr B with a printed copy of the relevant Practice Direction to assist him, but we will probably put that in the post to him instead.

- 30 Once again, I express the hope that Mr B will access whatever help or support he needs so that change can be achieved for the sake of all concerned. That is the end of the judgment.

LATER

- 31 I am going to make the order as sought because I agree that the State should not have to pay costs which result from baseless applications, abusive behaviour, unreasonable conduct, and Mr B has caused the public purse, in the form of the Legal Aid that Ms Owen has been working under, such huge expenditure to date.
- 32 I am concerned now with the four applications which have brought us here today and the, to my mind, modest amounts that have been asked for, together with the amount which relates to the pro bono work, for which I am extremely grateful. Mr B, in my judgment, should be responsible for those amounts and I will order it as asked.

CERTIFICATE

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This transcript has been approved by the Judge

