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IN THE FAMILY COURT

CASE NO: XX17C01779

IN THE MATTER OF THE CHILDREN ACT 1989

24th September 2019

Before HHJ Wildblood QC

Re A (Children) (Parental alienation)

The names of counsel and solicitors are omitted for the purposes of anonymisation of
this judgment.

HHJ Wildblood QC:

1. In a recent report to the court, one of this country's leading consultant child and adolescent psychiatrists, Dr Mark Berelowitz, said this: *'this is one of the most disconcerting situations that I have encountered in 30 years of doing such work.'* I have been involved in family law now for 40 years and my experience of this case is the same as that of Dr Berelowitz. It is a case in which a father leaves the proceedings with no contact with his children despite years of litigation, extensive professional input, the initiation of public law proceedings in a bid to support contact and many court orders. It is a case in which I described the father as being *'smart, thoughtful, fluent in language and receptive to advice,'* he is an intelligent man who plainly loves his children. Although I have seen him deeply distressed in court because of things that have occurred, I have never seen him venting his frustrations. It is also a case in which the mother has deep and unresolved emotional needs, fixed ideas and a tendency to be compulsive.
2. No professional has suggested that there is anything about this father that renders him unsuited to have contact with his children; there have been consistent recommendations throughout the eight-year history of these proceedings from a wide spectrum of professionals that contact should take place between the father and the children. All professionals involved in this case have concluded that the mother has alienated the children from the father. In an exceptional but accurate use of language Dr Berelowitz said this: *'the mother has done very much more than simply not promoting the children's relationship with their father. Indeed, it is my impression that she has, at best, allowed the demonisation of the father and, at worst, actively encouraged this demonisation on the basis that it is right to do so... She is unable to perceive herself as being an agent or a cause.'*
3. In a previous judgment I said this:

'I have no doubt that the three experts are right to say that this mother has alienated the children from their father. The relationship between this mother and these children is deeply enmeshed and their perception of this father is skewed and dominated by the mother's own emotional vulnerability. The mother has a deeply entrenched set of beliefs which are not receptive, at present, to the reasoning of others. I find that she is aware of the consequences of her actions upon the children's emotional welfare but considers that her actions are justified.'
4. Of the children it is said that they are generally polite, intelligent, compliant and obedient. There are very positive reports about them from their schools. However, in a demonstration of the misplaced empowerment of these children that is associated with the mother's alienation, I have received a communication from one child refusing to have meetings with 'any more social workers, therapists, psychologists, psychiatrists, guardians, et cetera.' The children refused to meet Dr Berelowitz or engage with the Guardian. They will have nothing to do with their father or his family. They would not even acknowledge cards or presents that he has sent. When he wrote entirely appropriate letters and cards to them, the children expressed unjustified and illogical complaint about their contents. They also express false memories of how he has behaved towards them in the past.

5. Given the truly exceptional nature of this case, I intend to release this judgement for publication subject to any contrary submissions that I might hear. The judgement will therefore be heavily anonymized. Prior to releasing the judgment, I gave three further judgments, in one of which I explained why I was publishing this one; I do not intend to publish any of those three judgments because there is nothing of public interest in them. I also delayed the publication of this judgment to allow any party that wished to appeal this decision (or the decision to publish) the opportunity to do so in accordance with a timescale that I reduced under Rule 52.12 (2) (a) of The Civil Procedure Rules 1998. No party has done so.
6. My intention in releasing this judgement for publication is not because I wish to pretend to be in a position to give any guidance or speak with any authority; that would be presumptuous, wrong and beyond my station. However, this is such an exceptional case that I think it is in the public interest for the wider community to see an example of how badly wrong things can go and how complex cases are where one parent (here the mother) alienates children from the other parent. It is also an example of how sensitive the issues are when an attempt is made to transfer the living arrangements of children from a residential parent (here, the mother) to the other parent (the father); the attempts to do so in this case failed badly.
7. In anonymising this case I will not refer to the ages, sexes or any other identifying features of the children beyond saying the children are the natural children of this mother and this father. I will refer to 'residence' and 'contact' for the purposes of shorthand; I am well aware, of course, of the current terminology in section 8 of the Children Act 1989.
8. Today I have made an order giving permission to the local authority to withdraw public law proceedings relating to all the children. Although, in a report of Dr Berelowitz, he was opposed to the closure of this case to the local authority, all parties before me accept that the public law proceedings should not continue and that there is no purpose in making supervision orders. Having considered the decision of MacDonald J in *A Local Authority v X, Y and Z (Permission to Withdraw)* [2017] EWHC 3741 (Fam) at paragraphs 47 to 53 together with Rule 1.1 (2) of The Family Procedure Rules 2010 (the over-riding objective), I approved the withdrawal of the public law proceedings. All parties accepted that the threshold criteria were met on both limbs of section 31 (2) at the time of the initiation of the proceedings (i.e. both on the basis of actual significant harm and likely significant harm at that time). All parties submitted, and I accepted, that the continuation of the public law proceedings and the making of supervision orders would serve no purpose now and, in these exceptional circumstances, would be contrary to the welfare of the children. The proceedings are left upon the basis that the GPs for the children will continue to have an involvement and will also have copies of this judgement and an earlier judgement that I gave (the earlier judgement is not to be published).
9. At an earlier hearing, I recorded the withdrawal of the private law proceedings that the father had initiated. With very great sadness the father acknowledged that matters had reached a point where he could no longer seek any private law orders in relation to the

children. The order from today will record the basis of his withdrawal and his hope that, in the future, the children will understand that what has happened is not of his making.

10. It is beyond doubt that, in the long-term, what has occurred within this family will cause these children significant and long-term emotional harm, even if they cannot understand that now. I have said it and so have all the experts in this case. I am afraid that the cause of that harm lies squarely with this mother; whatever may be her difficulties, she is an adult and a parent with parental responsibility for her children. That parental responsibility, which she shares with the father, requires her to act in the best interests of her children. It also required her to promote the relationship between these children and their father. She has failed to do so. She had adult choices to make; the choices that she made were bad ones and deeply harmful to the children.
11. The history of these proceedings is that they began by way of private law application by the father eight years ago (i.e. in 2011). That set of proceedings continued until 2014 when an order was made that the father should have indirect contact only with the children. In 2016 the proceedings resumed and continued until the father withdrew them recently. Public law proceedings were issued shortly after the failed attempt at transfer of residence occurred.
12. On my counting this is now the 36th time that the proceedings have been before the court. At least 10 professional people have been involved. The first full hearing on extensive evidence took place before me six years after the first private law application was made. There was an intended final hearing which took place on some evidence in 2014 but it has not been possible to obtain a transcript of the judgment or of the evidence. It led to an unsatisfactory arrangement for indirect contact only.
13. With all the benefit of hindsight, I consider that there were these ten factors which have contributed significantly to the difficulties that have arisen:
 - i) There was a failure to identify, at an early stage, the key issue in this case – the alienation of the children from their father by the mother. By the time that it was identified, the damage had been done.
 - ii) Overall there has been significant delay within these proceedings.
 - iii) At the early stage of the private law proceedings the case was adjourned repeatedly for further short reviews. I have counted that there were eight orders for review hearings in the first two years of the private law proceedings alone. That occurred, of course, before the current Children Arrangements Programme (PD 12B of The Family Procedure Rules 2010) came into force on 22nd April 2014. Paragraph 15.3 of that Programme now states: *‘While it is acknowledged that an interim order may be appropriate at an early stage of court proceedings, cases should not be adjourned for a review (or reviews) of contact or other orders / arrangements and/or for addendum section 7 reports, unless such a hearing is necessary and for a clear purpose that is consistent with the timetable for the child and in the child’s best interests.’* Therefore, I think it very unlikely that there would a succession of review hearings like this now;

this is an example of just how necessary the changes made by the Programme in this respect were.

- iv) At no point prior to my involvement in 2017 was there a full hearing on evidence to determine what was going on in this family. There were underlying and important allegations of fact that needed to be resolved but my comment is not limited to the absence of a fact-finding hearing. In my opinion, it was essential that there should be a definitive judgment explaining the difficulties within this family so that future work with the family members could be based upon that judgment.
- v) The use of indirect contact in a case where there is parental alienation has obvious limitations, as this case demonstrates. The father's letters, cards and presents were being sent by him into a home environment where he was 'demonised', to use the terminology of Dr Berelowitz. They served no purpose in maintaining any form of relationship between the father and the children. It is regrettable that there was not more perseverance in the earlier private proceedings to resolve the obstructions to contact.
- vi) These proceedings have seen a vast number of professionals. I have counted 10 and I am sure that I have omitted some. The difficulty that that creates is obvious. Each new person brings a new, personal and different insight into a case of this nature. Family members (especially children) are embarrassed about speaking of personal issues with strangers, develop litigation fatigue and learn to resent the intrusions into their lives by a succession of professional people. As the children have done, people reach a stage where they say: 'no more.'
- vii) A particular difficulty in this case has been the absence, at times, of collaborative working by professionals. A particular example of that occurred when an attempt was made to move the children to the father's care. The professionals involved with the court process and the schools had not had sufficient dialogue before that move was attempted and now have very strong and opposing opinions about what occurred and the merits of moving the children from the mother. Pre-planning for the move was inadequate, in my opinion. If professional people show their disagreements, as happened here on the day of transfer, it undermines the process and allows cherry-picking by family members of what they want to hear.
- viii) Early intervention is essential in a case such as this, in my opinion. It did not occur in this case. It took years (probably five) to identify the extent of the emotional and psychological issues of the mother. By that stage it was too late for there to be any effective psychotherapeutic or other intervention in relation to her, the children's views having already become so entrenched.
- ix) There is an obvious difficulty about how to approach the expressed wishes and feelings of children who are living in an alienating environment such as this. If children who have been alienated are asked whether they wish to have a

relationship with the non-resident parent there is a likelihood that the alienation they have experienced will lead them to say 'no.' Therefore, in this type of case, the approach to the wishes and feelings of children has had to be approached with considerable care and professionalism. To respond simply on the basis of what children say in this type of situation is manifestly superficial and naive. The children in this case have been expressing wishes that they should not see their father for many years now. The lack of an effective and early enquiry into what was happening within this family meant that there was no effective intervention. That, in turn, has led to the children's expressed wishes being reinforced in their minds. It has also resulted in the mother being able to say 'we should listen to the children', rather than addressing the underlying difficulties.

x) It was unfortunate that the joinder of the children to the second set of proceedings was so delayed. I was due to embark upon the first final hearing before me two years ago with these two parents appearing in person. It is fortunate that the case was adjourned for other reasons and I was able to take that opportunity to join the children. Any attempt to conduct these proceedings without the joinder of the children would have been even more complex and unsatisfactory.

14. I now need to say some words about the arrangements that were made for the children to move from the care of their mother to their father. About two years ago I heard three days of evidence and argument following which I gave a full written judgement. By my order I directed that the children should live with their father for just over seven weeks on the basis that they would not see their mother during that period. In my opinion, the handover went badly wrong; the children were extremely distressed and resistant to the attempts to place them with the father. The schools became very concerned about the level of distress that the children were showing, and the police became involved. Within a short period of time after the children started to live with their father, they ran away from their father several times, refused to eat and exhibited extreme distress. So extreme did matters become that, after further attempts at keeping the children with the father, they returned to their mother less than a month after the hearing. They have remained there since with the father having no more contact.

15. During the three-day hearing I heard evidence from three particular experts:

- i) The Guardian, Ms Siobhan Donovan;
- ii) Dr Nigel Blagg, psychologist.
- iii) Ms Karen Woodall, a psychotherapist and the leading therapist of the Family Separation Clinic in London.

16. I have been asked to comment on the arrangements that were made to transfer residence to the father. In particular, I have been asked to consider the work of Ms Woodall who led the arrangements for the transfer to the father and also offered him professional

guidance when the children first moved to him. I proceed only with considerable caution in this area of the judgment for a number of reasons:

- i) My role is to determine the applications before me. The issues that have been raised do not affect the outcome of these proceedings.
- ii) To examine all the issues that the various parties have placed before me would involve a hearing of about five days of evidence and at least two more in reading and judgment preparation. To do that fails on each of the five factors within Rule 1.1(2) of The Family Procedure Rules 2010 (the over-riding objective) and would take this case beyond the guidance in *Re W (A child)* [2016] EWCA Civ 1140 and *A Local Authority v M and D* [2003] EWHC 219 (Fam).
- iii) These proceedings need to be finished. They have gone on for far too long and with far too much distress to the family.
- iv) Any such hearing would be extremely expensive and could not be placed into my lists now until the end of March 2020. The experts would have to give evidence and Ms Woodall would almost undoubtedly have to be represented (as she was before me today).

17. However, as I stated at the hearing today, I do think that there are four points that need to be made. I heard submissions from all counsel in relation to them (including counsel for Ms Woodall) and no party (including Ms Woodall) wished for there to be any further hearings or any further evidence produced before me. The points are these:

- i) In written advice to the court two years ago Ms Woodall had said this: *'I have absolutely no doubt, based my extensive experience working with the children should these children be moved to live father, they would emerge from the alienated state of mind within a matter of minutes.'* I did not accept view at the hearing when I considered it. Today Ms Woodall acknowledged that she was being over-confident when expressing that opinion.
- ii) In her evidence at the final hearing Ms Woodall stated that she thought that the children had a 'strong but suppressed attachment' to their father which, when re-awakened, would lead to a successful transfer. Dr Blagg and the Guardian gave evidence to the contrary, saying that the passage of time and the reaction of the children to their father demonstrated that their attachment to him was weak. At the hearing when they gave evidence I accepted the opinions of Dr Blagg and the Guardian. I consider events have shown Dr Blagg and the guardian to be right - the fragility of the children's attachment to their father has been demonstrated very plainly. Ms Woodall retains her opinion and, I have to recognise, this is an issue of differing professional opinions and case dependent.
- iii) I think that the plans for the transfer of the children to the father involved an underestimation of the likely reaction of the children. Although other experts commented upon those plans, they were devised, principally, by Ms Woodall. I

do think that her opinion about the nature of the attachment between the children and the father must have influenced the plans that she devised. I recognise, however, that the plans that she created were available for scrutiny by the court and by the other witnesses. Further, it is important to note that the Family Separation Clinic revised its protocol shortly after the transfer was attempted; although one advocate suggested that I should attach the new protocol to this judgment I consider that it would be inappropriate for me to do so since I neither disapprove of nor endorse it. This case has been a steep learning curve for many. A matter of concern to me, and learning (since I was the judge in charge), was the absence of full and careful discussion with the children's schools notwithstanding that the transfers took place there.

iv) Following on from the above I think that the extent and depth of the children's alienation from their father and resistance to him were under estimated. That, however, is said with the benefit of hindsight and it could not possibly be right to suggest that the responsibility for that lies with one person. Three experts recommended immediate transfer of residence. Ms Woodall recommended that the transfer should be 'permanent' (meaning long-term) whereas the other two experts supported a short-term transfer with a review – the guardian proposed only a transfer of only two weeks with a review. In any event as matters transpired, I did not follow the advice of Ms Woodall and even so the transfer and period of residence with the father proved to be deeply traumatic.

18. In making the above comments I do wish to record that Ms Woodall was a court appointed expert in this case and, although she may not be registered with a specific professional body and does not practise in an area that is subject to statutory regulation (as I understand it), she does have supervision from a highly respected consultant child psychiatrist, lectures on issues relating to parental alienation and gives evidence frequently before courts. All that is important, no doubt, when considering her role as an expert in accordance with the annex to PD 25B of The Family Procedure Rules 2010.

19. My final words in this judgment must be directed to the father. This has been a long, heart-breaking and expensive set of events for you to endure. I am truly sorry that this is the outcome and I do hope that you will find some happiness in the future despite all that has occurred.

HHJ Stephen Wildblood QC
24th September 2019.