

IN THE FAMILY COURT AT PORTSMOUTH

Portsmouth Combined Court Centre
Winston Churchill Avenue
Portsmouth PO1 2EB

Tuesday, 11 July 2023

BEFORE:

HIS HONOUR JUDGE LEVEY

IN THE MATTER OF GF (A MINOR)

JUDGMENT
(Approved)

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Unit 1 Blenheim Court, Beaufort Business Park, Bristol, BS32 4NE
Web: www.epiqglobal.com/en-gb/ Email: civil@epiqglobal.co.uk
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1. JUDGE LEVEY: This application is made in respect of NGF, born in April 2012. Her father is DF and her mother is NG. Ms G is not present today, but there has been correspondence between her and the court office, in which she indicated, first, that she was not inclined to oppose the application, and second, querying whether she needed to attend. She is not here, but I am satisfied that she is aware of the application and of the hearing, and I therefore propose to proceed.
2. I have a statement from Mr F in support of his application for termination. I think, essentially, the reason for the application is that he has no continuing relationship with N. N is subject to a care order made in favour of Hampshire County Council in 2015.
3. There was a little while ago a process of attempting to start contact. I think it is fair to say that there is opposition from within the maternal family, but nevertheless, the local authority has a duty under section 34 of the Children Act as far as contact is concerned, and there was some discussion about that, I understand, some little while ago between the allocated social worker and Mr F. That did not go anywhere, as I understand it, and at the last hearing on 19 June, the local authority did attend and gave me some understanding of that history, but in particular it was made clear that N does not wish to see Mr F at the moment.
4. So, Mr F makes this application to reflect, I think, the nature of his relationship with N at the moment. I have had some discussion with him this morning not only about how this application will look from N's point of view but also considering the future, the position after N reaches the age of 18, for example, and how this application is granted may affect her thoughts as far as Mr F is concerned in the future. He has advised me nevertheless to make this order.
5. It is an unusual situation. The court has power under section 4(2A) to terminate parental responsibility. It reads, "A person who has acquired parental responsibility under subsection (1) shall cease to have that responsibility only if the court so orders." I understand that Mr F has parental responsibility as a result of his name being on the birth certificate. Subsection 3 of section 4 provides that the court may make an order under subsection 2A on the application of any person who has parental responsibility

for a child, and so Mr F is entitled to make the application on that basis, and if satisfied, I am able to make the order.

6. What is unusual is that this is Mr F's application. The reported cases in the Red Book concern applications where there is a very significant risk of harm to the child, not in a situation like this where there appears to be no current relationship.
7. I must consider N's welfare as my paramount consideration. I understand that considering the welfare checklist is not mandatory, although it is a useful checklist for the court, and I note in particular in the commentary from *Re A (Termination of Parental Responsibility)* [2014] 1 FLR 1305, and *Re D (Withdrawal of Parental Responsibility)* [2015] 1 FLR 166, the principles appear to be these: (a) the significance of parental responsibility is the contribution to a child's welfare that status confers on the adult concerned. The concept of parental responsibility describes an adult responsibility to secure the welfare of their child, which is to be exercised for the benefit of the child, not the adult. (b) If the circumstances are such that the court would not conceivably make a parental responsibility order where one does not already exist, then the circumstances are likely to indicate that parental responsibility could be promptly terminated: *Re P (Terminating Parental Responsibility)* [1995] 1 FLR 1048. (c) The court should consider that it is appropriate to terminate parental responsibility where there is no element in the bundle of responsibilities that make up parental responsibility which the father could, in present or foreseeable circumstances, exercise in a way that would be beneficial for the child.
8. Finally, where the Article 8 rights of a parent conflict with the Article 8 rights of the child, it is the rights of the child that take precedence.
9. In this case, it is relevant at the moment that N apparently does not wish to have contact with Mr F. She is of an age to have a view, although not, I would suggest, such as to be determinative. As far as risk of harm is concerned, I think that is difficult to formulate at the moment. Certainly, findings have been made as far as Mr F is concerned in the past, but that is in the past, and the present position is unclear, and I would be reluctant today without more to conclude that contact poses a risk of harm to

N. Indeed, the local authority have had discussions with Mr F about the possibility of contact starting.

10. The real question that the court has to engage with here concerns whether the circumstances are such that the court will not make a parental responsibility order, or whether there is an element in the bundle of responsibilities which the father could not or is unlikely to exercise in the foreseeable future.
11. There is the justification and reason for the decision. Mr F has no relationship with N at present. He is not exercising any of the rights that go with parental responsibility. He has notice, of course, of meetings from the local authority. That would stop when the order is made. He would not be consulted in the way that he has been, but he is not and will not be exercising any aspect of responsibility or fatherhood as far as N's life is concerned.
12. I would not be prepared to go as far as to say that this is a case where the court would not make a parental responsibility order, particularly where there has been a commitment to her, which there certainly has been in the past. But, given that Mr F is a father who wishes his parental responsibility to be terminated, it is difficult, in my judgment, to take it that N's welfare is not met by the granting of the order terminating parental responsibility. It cannot, in my view, be in accordance with the welfare of a child for a father to hold parental responsibility if he does not wish to and intends not to exercise any future responsibility or part in her life.
13. For all of those reasons, I am satisfied that N's welfare is met by the making of this order, and I make an order terminating Mr F's parental responsibility for N.

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Unit 1 Blenheim Court, Beaufort Business Park, Bristol BS32 4NE

Email: civil@epiqglobal.co.uk

This transcript has been approved by the Judge