

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

IN THE CENTRAL FAMILY COURT

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

Tuesday, 4 July 2023

Neutral Citation Number: [2023] EWFC 335 (B)

Before:

HER HONOUR JUDGE LYNN ROBERTS

(In Private)

B E T W E E N :

FATHER Applicant

- and -

MOTHER Respondent

ANONYMISATION APPLIES

THE APPLICANT did not appear and was not represented.

MS WILSON (instructed by Sadler Cross Family Law) appeared on behalf of the Respondent.

J U D G M E N T

JUDGE ROBERTS:

- 1 This is the final hearing of proceedings concerning two young children, who are two years and ten months old, Child A and Child B. They are the children of the mother and the father. Ms Wilson represents the mother and has done so extremely well. The father is not represented and does not appear. He has, however, attended all previous hearings prior to the final hearing, and has been represented in, I believe, all but one. He was represented by solicitors until sometime in the last three weeks.
- 2 I have read the bundle of the documents prepared for this hearing. I have heard oral evidence from the mother and from a family member. I have read a very useful skeleton argument by Ms Wilson and another document about the relevant legal principles.
- 3 There are four applications before me, the first is the father's application dated from August 2022, in which he seeks a child arrangements order, a spend-time with order, and an order prohibiting the mother from removing the children from this jurisdiction, and an order to assist in locating the children. His second application is dated 7 June this year, which is for permission to withdraw the August 2022 application.
- 4 The mother has applied in September 2022 for a child arrangements order to include a live-with order, a prohibited steps order to prevent the father from removing the children from the jurisdiction and from her care, an order permitting her to change the children's names, and her application for relief under the Family Law Act for a non-molestation order.
- 5 In response to his application for permission to withdraw his application, the mother applied on 14 June 2023 for a section 91(14) bar, so that the father does not start fresh proceedings, for there to be restrictions on the father's parental responsibility, and permission to adduce further evidence for the final hearing. I decided at the start of the final hearing that the hearing would go ahead, albeit the father is not attending. I also decided that I would not give the father permission to withdraw his applications in advance of the proceedings, but I would consider his application at the end.
- 6 Because the mother has made allegations of domestic abuse against the father, this hearing was originally set for five days, and was to include the fact-finding and the welfare aspect of the case. Although I could determine the mother's allegations in the context of her own applications, it seemed to me that it is appropriate for me to determine them also within the father's own applications. It would not be right at some time in the future, for the father to be able to submit to the court that he has not had his applications considered on their merits. It also seems to me from reading the papers and hearing the evidence, that the father is trying in some way to have the litigation moved to European Country A or even to European Country B. I had already decided at an earlier hearing that the jurisdiction to deal with the matters relating to these children was England and therefore, it would not be right for the father now to be able to proceed elsewhere.
- 7 It is difficult to be clear about why the father has decided not to attend the hearing. The court has not to date made any determination on the facts of what happened in the relationship. The court has decided that the children are habitually resident in this country and therefore, the applications could proceed. Otherwise, the court applied Practice Direction 12J, which meant that, in the interim period, it could not order any contact between the father and the children, because it was not safe to do so.
- 8 The week before the final hearing, the father emailed various people in Country A and in this country, including the police, the BBC, and various authorities in Country A, making

wholly unfounded allegations against myself, the police here and the judicial system as far as I can tell, among others. He seemed to be implying that the decisions on the applications had already been made, when they had not. He seems not to understand that the court had arranged the hearing which has taken place in the last couple of weeks, to determine the truth of the allegations made against him, amongst other things.

- 9 The father has not asked for an adjournment, and he has not asked to attend remotely. We have again today sent him the links so he could attend the judgment remotely, but again he has not taken that up. We have again had an interpreter booked for him attending, but that seems to be yet more wasted public money. The father seems to have taken objection to the court and to the mother's solicitors continuing to send him documents after he put in his application to withdraw. It seems that he does not understand that he has made an application to withdraw, but that it is for the court to decide whether or not he can do so. On the weekend before the final hearing, the father also suggested that ill health has prevented him from attending, but I can make no finding that this is the case, and in any event, the father did not respond when the mother's solicitors suggested that he could attend remotely.
- 10 All in all, I have decided to proceed with the hearing, despite the father's lack of attendance. The mother has made various allegations which need to be determined. The father has been fully involved in the proceedings until the last few weeks, and I have four statements from him and I understand his case.
- 11 Ms Wilson took me carefully through the case of Re Al Maktoum [2019] EWHC 3415 (Fam), a High Court case, in which the President dealt with the situation where the father did not participate in the hearing of allegations made by the mother. From that judgment I note the following principles which I have followed in this case. The burden of proof in respect of each allegation is on the mother to satisfy me on the balance of probabilities that it is more likely than not to be true. The father's failure to attend the hearing has not changed that. Neither the seriousness of the allegation, nor the seriousness of the consequences, should make any difference to the standard of proof to be applied in determining the facts.
- 12 The evidence of the father, as he has not attended, is hearsay, which is admissible. However, the court should have regard to the Civil Evidence Act 1994, section 4, in deciding what weight to give his evidence. In this case that means in particular, whether it would have been reasonable and practicable for the father to attend, and whether the person giving that evidence (the father in this case) has a motive to conceal or misrepresent matters. The President went on to set out that the judge must still fully and carefully scrutinise all of the evidence. The father's absence from the fact-finding process both personally in terms of giving oral evidence, and more generally in terms of calling other witnesses and actively participating in the process through representation was of relevance, in that it would fall to be considered as part of the exercise in attributing weight to the hearsay evidence that has been filed on his behalf.
- 13 I may give greater weight to the evidence of those witnesses who did attend, namely the mother and her relative, as they had taken an oath, confirmed the truth of their evidence and been ready to be cross-examined. The father's conduct of the litigation which may fall to be criticised is not a factor in determining the truth or otherwise of the facts which the mother asserts, and which predated the litigation. Of course, the reason I am carrying out a fact-finding hearing is to identify such past events as they may be relevant to the evaluation of risk in the future and determining what should happen to these two children. I have therefore, as I have said, decided to proceed with the fact-finding part of the hearing, and

the outcome hearing and I will apply those principles identified by the President.

- 14 Ms Wilson also sets out the law on fact-finding hearings, and I agree with that analysis. I am not going to set it all out in this judgment, as there really is not the time, but I must have Practice Direction 12J in mind, and the definitions therein are particularly relevant when it comes to coercive and controlling behaviour, which is an aspect well recognised of domestic abuse.
- 15 Coercive behaviour means an act or a pattern of acts of assault, threats, humiliation, intimidation or other abuse, that is used to harm, punish or frighten the victim. Controlling behaviour means an act or pattern of acts designed to make a person subordinate and/or dependent, isolating from sources of support, exploiting their resources and the capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.
- 16 In 2021 the case of *F v M* [2021] EWFC 4 (Fam) has a very important and increasing understanding of such behaviour, and I have reminded myself of that case. Similarly, the case of *M (A Child)* [2021] has been very important in understanding the vulnerability which can attach to a person who has been in a domestically abusive relationship. Such a person may not have understood at the time the nature of the relationship, and may not have behaved as an outsider might have expected. I have been guided by all these principles in this final hearing.
- 17 I granted the mother's application to adduce further evidence. This is because three of the documents she wished me to consider were English translations of documents the father submitted, attached to his recent C2 and to his statement dated 2 February 2023, and a fourth went directly to one of the allegations and is relevant.
- 18 Turning now to the witnesses and the evidence. Very helpfully, as the mother gave her evidence, Ms Wilson took the mother to the documentary evidence which has been submitted or disclosed which supports her case, but then also put to the mother in relation to each allegation what the father said about that allegation, and took her to any documentary evidence which he had relied on. This enabled me to assess the evidence in the round, I did not just consider the mother's case on each allegation. I, of course, have not had the opportunity to evaluate the father's oral evidence, but I am satisfied that the father has had every opportunity to participate fully in the proceedings, and has chosen not to attend, despite being directed by me to do so. He has been warned by the mother's solicitors that orders may be made in his absence, and he received the mother's C2 in response to his C2 in sufficient time for him to prepare. As I have said, an interpreter was available for him on the first day of the hearing and today, but the father has decided not to attend at all. I am satisfied that this hearing has been a fair hearing.
- 19 It is of course the case that the father started these proceedings in this country, only subsequently deciding to contest the jurisdiction. He then conceded jurisdiction twice in correspondence, only to contest it again in court. I determined jurisdiction, and a vast amount of evidence has been gathered for this hearing. It is difficult to find a reason for the father to seek to withdraw and to make various allegations of corruption against myself, the police and others, other than that he realised the weight of the evidence has been against him. It appears from what he has recently written, that he plans to litigate the same issues in Country A. Now that I have heard the case, I consider that the mother and the children have endured a lot from being involved in this case to date, and in my view, it would be abusive if the father sought to reopen the court findings in another jurisdiction.

- 20 The father's evidence has, because he has not attended, therefore all been hearsay. Through the evidence Ms Wilson was able to show me that I should have very real doubts about some of the documentary evidence which the father has produced. In contrast, I found the mother's evidence to be wholly consistent. The way she gave her evidence was very obviously from her own memory of the events. At times she showed me by her body language what had happened, how she felt and reacted. Her evidence was wholly credible. It was also, as I have said, put to her in relation to each allegation, the father's case and the documents he relied on, but on each occasion she was able to answer what the father had said in a way which I found to be wholly credible. I also found her evidence to be balanced. She gave credit to the father, where she did not have to do, for example saying after the birth of the children he was supportive at times.
- 21 I am also satisfied that the mother presents as a woman who, as a victim of domestic abuse, including coercive and controlling behaviour, was not able for some years to take action to protect herself. I accept her evidence that it took her time to appreciate her situation, that she lost trust in herself as a result of the father's threats to her. When the children were born, she was too scared the father would remove them from her care, as he threatened to do so.
- 22 I also accept her evidence that, in 2021, she saw the father was not only a danger to her but a danger to her children, she did decide she had to leave, but could only do so in a very careful and cautious way, because of the way the refuge system of Country A works, and so as not to alert him to her plans. Before it is possible to flee and be provided with safe accommodation there are various steps that a victim of domestic abuse has to take, and the mother took those steps. She was about to flee with the children when there was an attack of arson on the father's business, which meant he started to act in a paranoid way. Her freedom of movement, which had been restricted by him hitherto, was further curtailed. It became more or less impossible for the mother and the children to go out and about without the father, who was extremely suspicious of everybody and any cars that attended, for example, after the arson attack.
- 23 It was only when the family was in England, and there was the fortuitous intervention of an off-duty police officer in the East of England in May 2022, that enabled the mother and the children to get to a place of safety, and then everything changed. The mother, I find, has since then gained confidence because she received support from people trained in supporting people who have suffered from abuse. I recognise that the way the mother has presented to me in court in 2023, after a year of living in relative safety and when the father has not been present, is not how she would have presented during the years from 2016 to 2022, when she was made vulnerable by the abuse she was subjected to.
- 24 I also find her relative's evidence to be completely credible. She was able to corroborate aspects of the mother's evidence, and also provide evidence of her own experience of the father's behaviour. For example, she sets out in her evidence witnessing the father cursing and swearing whilst shouting at her in a parked car in 2016. How on the day before the mother gave birth to the children, she witnessed the father yelling and swearing at the mother in a very aggressive way, causing her to sob. How when the babies were still in hospital, she witnessed the father punch the bathroom door in the flat they were all staying in, causing the door to crack, and that he told the relative that he had left the mother on the street and indeed, the mother arrived fifteen minutes later. More recently, the mother had told her that the father had hit her with the car door on that occasion.
- 25 The relative told me in her statement about witnessing the father behaving aggressively and

rudely and in a derogatory and insulting way to the mother. She described an incident in December 2021 when she witnessed the father yelling and threatening the mother in front of the children, causing one to cry, huddling in the corner of the room, covering her ears, and the other to go to her mother to try to comfort her. I find the relative, like the mother, to be a witness whose evidence I can believe in its entirety. In contrast, for the father's case to be true, I would have to find that there has been a grand conspiracy against him. There has not been a grand conspiracy or any conspiracy against him.

- 26 The father alleges that the mother has forged various documents and possibly recordings, but I find this is not true and has not been the case. There is the example of the statement produced by the off-duty officer who assisted the mother on 3 May 2022. He recalls that, on that occasion, the mother told him of previous abuse, and that she had hidden a medical report about one of the father's assaults on her at her parents' home. That report deals with an assault on 15 July 2019, which I will deal with, which happened to be in Country A and it has now been produced. At the point when this had occurred in 2019 and in May 2022 there were no court proceedings and it makes no sense to suggest that the mother had made this up or forged a document before there was a separation or court proceedings.
- 27 The father's written evidence is full of flat denials and untruths. For example, he denies having a criminal record, but I have seen evidence that he has at least one conviction, notably for fraud including swindling. He has also produced exhibits which suggest that he is a diplomat, which he is not. The documents are clearly fake, and if one follows the QR codes on them one is taken to certificates listed in the official EU page of fantasy passports. The father says in his evidence that he has lived in the East of England throughout these proceedings, but his C100 gave an address in London. In his C2 from February this year, when he sought permission to put in yet another statement, he stated that he had not seen the exhibits to the mother's statement of January 2023 when he had prepared his evidence. However, careful reading of his statement in response to the mother's January 2023 statement gives a direct cross-reference to one of the documents exhibited to her statement, which he says he has never seen. This was clearly an attempt to mislead the court.
- 28 I find that the father's evidence is characterised by untruths, and where the evidence of the mother and the father clashes, I prefer the evidence of the mother and of her relative. I have, on the one hand, clear and consistent evidence from the mother, who has attended court and sworn before me that it is true. On the other hand, I have the father's evidence, which is clearly dishonest in numerous ways, and he has failed to attend court to confirm his evidence and to be cross-examined.
- 29 I now deal with the allegations. As Cobb J recommended in the case of *Re B-B (Domestic Abuse Fact-Finding) (Rev 1)* [2022] EWHC 108 (Family Court), I am considering them in clusters, so I shall first consider the allegations of physical abuse by the father against the mother.
- 30 Allegation one. In this allegation dating from February 2017, the mother described how the father hit her on the shoulder and pushed her, causing her to fall and hit her head on the table. She says the father reluctantly drove her to the hospital, where they advised her to have a CT scan. I have seen the report from the hospital. The mother told me, and I accept, that this was the first occasion she disclosed the violence she was experiencing from the father. The father alleges that the documents are fake, and that the doctor is known to the mother. I find that the documents are true, properly translated into English and that the doctor is not known to the mother and indeed, not known to another of the mother's relatives, as the father alleges. I find this allegation to be proven.

- 31 Allegation two. This is an allegation that on the very next day the father attacked the mother in the car, and caused her to hit her head against the glass window. The father took her to a different hospital that was closer to where they were. The mother told me that the father did not leave her side on this occasion. I have seen English translation of a letter from the hospital. The father says that the report of this occasion is fake and that he was not with the mother. I reject the father's account and find the document to be genuine and that the allegation is proven.
- 32 Allegation 2(a). The mother alleges that the father threw a box of peanuts at her face causing her mouth to bleed. I have seen a photograph of the injury. In addition, when the mother was first interviewed in this country, she referred to this incident having occurred giving the same detail. I reject the father's account that this occurred in play, and I find this allegation proven.
- 33 Allegation three. This allegation relates to 15 July 2019 and the mother described receiving two punches by the father in her face, causing her zygomatic bone injury, and nose injury which has never fully healed. The assault happened in Country A, and the report of this assault is the one which the mother hid at her parents' and which she told the police officer about on 3 May 2022. The mother told me that the father frightened her at the hospital so she could not report how the injury had occurred. I have read the English translation of the hospital report.
- 34 The father's account is that the mother had a long-standing injury to her nose and that the letter from the hospital is not from a doctor. I have also read texts from the father sent to her on the following day, in which he apologises and says how ashamed he is and that he should not have done this. I reject the allegations by the father suggesting that the hospital report is not by a doctor and that the mother had a previous nose injury. I find the allegation proven.
- 35 I should add I am particularly concerned that the attacks and injuries to the mother are repeatedly to her head which, in my judgment, are particularly serious and dangerous to her health and wellbeing.
- 36 Allegation four. This allegation took place on 4 July 2021 when the children were about ten months old. According to the mother they were asleep. She told me how the father was swearing and shouting at her, ran at her and headbutted her. He threatened to throw her off the balcony and, indeed, tried to do so. I have read a transcript from an audio recording in which the father admits having behaved in this way. I have read the relative's evidence in which she told me that the mother told her about this attack on the next day.
- 37 The father says this was a playfight, but I find the allegation proven, and again I am concerned that part of the assault involved an injury to the mother's head, and obviously attempting to throw the mother from a balcony is a particularly dangerous form of assault.
- 38 Allegation 4(a). This assault happened six months later in the car and in the presence of the children. The mother says that on Christmas day 2021 in the car the father punched her in the face again. The father's response is that this did not happen and if things were so bad the mother would have left. The relative sets out in her statement how the mother told her what had happened shortly afterwards, and that it was at that point that she and the mother started a plan for the mother and the children to flee to a place of safety. This plan did not come to fruition for weeks because of the arson attack which I have referred to, but fortunately the events of May 2022 happened which allowed the mother and the children to

leave the father. I find that allegation to be proven.

- 39 The next allegation is of physically mishandling the children and causing them emotional harm, allegation five. The mother described this incident which occurred on 17 April 2021 as being particularly shocking. She told me that the family was in the car and as the children were crying, the father stopped the car. The father took Child B onto his lap and then threw Child B to where the mother was sitting in the back of the car. He then started driving, grabbed the mother's hair, pulled her face down and started to choke her. The mother said that he told the children to say goodbye to their mother as he was going to kill her.
- 40 The relative saw the aftermath of this, and it was on this occasion that the mother first told her of the nature of the relationship. The father denied that he would have acted in such a way to the children, but I find this allegation proven.
- 41 The next cluster of allegations relate to the father verbally abusing the children or the mother in front of the children and causing them emotional harm, allegation six. There is copious evidence in the mother's evidence of the father shouting and swearing in front of the children, together with audio recordings of him doing so and text message evidence. An example is calling the children 'ass kids'. The father denies doing this, and I find that he did and that it was emotionally harmful to the children.
- 42 Allegation seven described an occasion on 9 April 2021, when the father swore at the mother in front of the children in the car, but then also started to drive away without the children being strapped into their car seats. I not only had the mother's evidence, but had the evidence from text messages properly translated, which supports this allegation which I find proven.
- 43 Allegation nine. This is an allegation of assault that, in my experience, is not made up as it is so specific and unusual. The mother describes how she borrowed a screwdriver when the family was staying in a hotel in London, she borrowed it from hotel staff. She needed it to insert batteries into a toy which the children had. She says that the father grabbed the screwdriver in anger and held it to her neck and threatened to stab her. The mother says this caused the children to become hysterical. The father's story in reply changed, but in essence he denied the existence of a screwdriver, or that one was needed. I have seen photographs and other evidence supporting the mother's account and I find this allegation proven.
- 44 Allegation ten. The allegation by the mother here is that the father was annoyed that the children were playing with the light switches and in response he turned off all the lights and then attacked the mother. The children were frightened by both things. The father responded by saying that the children could not reach the light switches. The mother has produced photographic evidence of the children being able to reach the light switches at the relevant time to support her case, and I find this allegation proven.
- 45 Allegation eleven. This allegation, the mother says, took place on 3 May 2022 in the East of England, and was the incident which, in effect, started these proceedings off as the mother and the children were assisted to leave the father. The mother says that the father was insulting her and threatening her and put Child A on the ground so that he could assault the mother.
- 46 In addition to the mother's evidence I have the police evidence. The father says it was the mother who was swearing, but I accept her evidence that she was not and does not, and I find

this allegation proven. It is clear to me that the mother and the children were the beneficiaries on this occasion of happenstance and what has become the final separation from the father was not planned in any way.

- 47 The next cluster of allegations relate to the father behaving in a coercive and controlling way towards the mother. Allegation thirteen. In this allegation the mother sets out how the father advised the court that he was living in London, in his C100 and in his witness statement of August 2022. The mother was in a refuge but planning to continue her education in the East of England, and she and the children were living there. The father knew of her academic connection. The mother says that the father was in a car in the East of England on 19 December 2022, staring at her and the children as they were out, and this caused her to have to change all her plans and move the children again.
- 48 The father says that the mother knew that he was living in the East of England, but I accept her evidence that she did not and could not. I find that this was behaviour by the father designed to frighten the mother, and to cause further disruption to her life. It was part of his coercive and controlling behaviour. It is most unfortunate that as a result the mother has not been able to pursue her studies, which was the reason for the family moving back to England.
- 49 Allegation fourteen. This allegation sets out the abuse and threats by the father to the mother over the course of the relationship. This behaviour, which I find proven, is to a great extent what led the mother not to be able to take conclusive steps to protect herself or the children before May 2022. The mother explained how she lost trust in herself and, in particular, she was terrified that the father would remove the children, possibly to Country B, if she tried to leave him.
- 50 There is supporting evidence, including a complaint from a former landlady of the family, detailing how the father spoke to that lady. Indeed, the mother says, and I find, that the father in particular speaks in a derogatory way to women. The mother's relative has given supporting evidence, which I accept, and there is audio evidence which has been professionally translated, and text messages similarly, which I accept. The father responded by saying that the difficulty was caused by the mother, which I find is not true, and that the mother had had a good and happy life with him for twelve years, which I also find not to be the case.
- 51 It is relevant that the mother says that the father told her that he treated her this way because she had no one, which was part of a campaign to make the mother lose her self-esteem and self-confidence. I also accept the mother's evidence that in early 2022 the mother was assisted by her relative to take steps to move herself and the children to a place of safety and that she is likely to have achieved this, if it had not been for the arson attack on the father's business in February 2022.
- 52 Allegation fifteen. This allegation is perhaps particularly upsetting for an outsider to read as it concerns the way the father treated the mother in the month the children were born. The mother alleges that on 11 September 2020 the father became very angry with her in the hospital and threatened to smash her head and swore at her. There is an audio of some of this taken when the father did not know he was being recorded, which is shocking.
- 53 The mother says that the father was supportive in the first days after the children were born but then became jealous of the attention given by her to the children. I find the allegation proven and reject the father's assertion that the audio recording was faked by the mother. Shortly afterwards the mother says the father shut the car door aggressively

on her, hurting her knee. The father denied this happened, but as I have already said, the mother's relative witnessed the aftermath of this and the mother told her about it afterwards, and I find it proven.

54 Allegation sixteen concerns the many threats to kill the mother which she says she has endured between 2015 and 2022. The mother gives many examples of these and they are shocking to read and to hear about. In support are audio recordings and text messages, including messages between the father and the mother. There is also the supporting statement of her relative. Some of the examples are particularly chilling, such as the threat to burn the mother with petroleum. I find that the mother endured such threats throughout this period and that the threats were part of what prevented the mother removing herself and then herself and the children from the relationship before May 2022. I also find that the threats continued after the mother left. The father made threats via the relative to try to frighten the mother into returning with the children to him and also not to tell anyone about his behaviour.

55 The father denies making any threats to kill and suggests that the mother's parents threatened to kill him. He alleges the mother has fabricated the messages she relies on. I do not find that the mother's parents threatened to kill the father, there is no evidence of that, and I do not believe his word. I do not find that the mother fabricated any messages which she relies on. I do find that the mother's allegation is proven.

56 The final allegation the mother makes, allegation seventeen, is that the father has used these proceedings as a vehicle to continue his abuse of her. There is evidence from the mother and from the documents in the bundle, that the father has, indeed, behaved in such a way, and this is part of his coercive and controlling behaviour. There are many examples of this, as set out in the allegation, both in this country and in Country A. I note that the father has started what appeared to be criminal proceedings in Country A against the mother and her relative, seeking punishment of them in relation to the forging of documents, which I find they have not done. Indeed, the baseless but repeated allegation by the father that the mother has forged documents is an example of this behaviour in itself.

57 The father has caused difficulties in the mother's relationship with her lawyers in Country A by his accusations against them. He has pursued seek and find orders in this country and in Country A when he was aware from the mother's relative that the mother and the children were in a refuge in this country. There are many, many examples, and I find this allegation proven.

58 I have found all the allegations made by the mother to be proven. When I step back and look at the allegations as a whole, I find that the behaviour of the father towards the mother, and later towards the children, is of a particularly serious kind. I have rarely come across abuse which is so serious, dangerous, and worrying. There are many examples of the father causing the mother head injuries and also of getting her by the neck, of trying to or threatening to kill her. The children, although only twenty months old when the father last saw them, have witnessed dangerous behaviour by the father towards their mother, and were themselves victims of such behaviour. There was on many occasions a situation where the children were exposed to terrifying behaviour by their father. I am unable to say whether the father's behaviour stems from his character, or whether there is mental illness at the bottom of it. Certainly the way the mother has described how he flies into sudden rages appears abnormal to me.

59 I do not need to determine the causation of such behaviour. What is clear to me is that the

mother was so cowed by the father's behaviour and his coercive and controlling attitude to her, and her self-esteem so harmed by all this that she did not manage to get herself or the children to a place of safety, before the fortuitous intervention by the off-duty police officer in the East of England on 3 May 2022 enabled her to do so.

- 60 The mother asked me to refuse the father's application to withdraw his application to spend time with the children, and instead to determine it by saying that the father should have no contact with the children. She also asks me to restrict his parental responsibility because she tells me she cannot work cooperatively with him about the children, and he is likely to use any such opportunity to abuse the mother and the children further.
- 61 She seeks orders so that she could change their surname to another surname, which the documentary evidence shows was the intention of the parents prior to the children's birth. In support of this, she refers in part to the arson attack to the father's property, and the father's fears at the time that he was at risk from gangsters. She also thinks it would be safer for the children to have another surname. She is also thinking of changing her name and that of the children because of her fear of the father tracking them down. She relies on the fact that the father is trying to pursue her now through the courts in Country A and tells me that she is sure the father will never leave her and the children alone.
- 62 What the mother seeks are orders which are only made in exceptional circumstances. She argues that the circumstances of this case are exceptional, and that she and the children need such orders to be made to protect them and to enable them as far as possible to lead a safe and fulfilled life and to enable the children to reach their potential.
- 63 When making these decisions I must take into account section 1 of the Children Act, as it is the children's welfare, each of them, which is my paramount consideration. At the same time I must continue to follow Practice Direction 12J, and consider whether any contact going forward or other connection with the father would be safe for the mother and the children. It is helpful to consider some of these matters in the light of the welfare checklist set out in section 1 of the Children Act.
- 64 First, the ascertainable wishes and feelings of the children concerned, considered in the light of their age and understanding. It is over a year since the children saw their father. Their memory of him, if they have any, would be coloured by the terror he must have caused in them by his behaviour in their presence. I consider that their wish now, if they could express it, would be to live in a safe and stable home with their mother.
- 65 The children's needs and the likely effect on them of any change in their circumstances, their age, sex, background, and any characteristics which are particularly relevant. These children have the needs of all children, but in addition they have the need to be protected from the risks presented by their father. The risks, I find, are to their emotional and physical safety and also to their educational needs, as it would be harmful to their development and education if they were caused to move around. They have already had to move four times in this country because of the risk posed by the father and because he pursued them to the place where the mother hoped to settle.
- 66 The children are very young and wholly dependent on their mother. It is essential that they can settle as soon as possible in a permanent home where they can start nursery and school in the next couple of years. These are also children who have mixed heritage, from Country A on the mother's side and from Country B on the father's side, but who are likely to be raised in the United Kingdom. It is very important that they are able to return to

Country A to visit and see their mother's family there, without the risk of being removed from their mother or being caught up in further proceedings there. I have confidence that their mother will enable them to learn about their heritage from Country B, as pursuant to my orders they will not be able to learn about this from their father.

- 67 Any harm which the children have suffered or are at risk of suffering. I have found that the children have suffered emotional harm because of their father's behaviour towards them, and towards their mother. They were and are at risk of suffering physical harm. They are at risk of suffering further emotional harm and physical harm if they are exposed to their father's behaviour in the future.
- 68 Finally, the capability of each of their parents to meet the children's needs. I am confident that the mother is providing the children with loving and skilled care. It cannot be easy caring for very young children on one's own, away from family most of the time, on a very limited income. It is fair to say that if the mother had not separated from the father when she did, and the authorities in this country had become aware of the father's behaviour, it is likely she would have been given very clear advice that she had to take the children away from the father if she wished to continue to care for them. Fortunately the mother, once separated from the father, has not shown any wish to resume living with the father and I am satisfied that the children are safe in her care.
- 69 I consider that the father presents a serious danger to the children's welfare. I have found proven that the father in the days before and the days after the children's birth behaved aggressively to the mother because her attention was on the children and not on him. I have found that he exposed the children to frightening behaviour which included threatening to kill their mother in front of them. I consider that he is now and likely to remain an ongoing threat to the mother's life and wellbeing. There can, of course, be no greater harm caused to young children than for one parent to kill their mother. Threatening to and attempting to kill the mother is also very harmful to the children. I consider the father to be a danger to the children and that he is incapable of looking after them safely. I consider the father to be a danger to the children, such that he should not be enabled to spend time with them.
- 70 The father, I remind myself, is not now seeking any order in respect of the children, however, looking at all that has happened since May 2022, I do not think this is because he has decided to end his connection with the mother and the children. I think, taking into account his recent round robin email that he recognises that the evidence in these proceedings was comprehensive and that the court was likely to find against him. He therefore sought to withdraw, in an attempt to stop those findings being made. I think it is likely that he will either attempt to litigate about the children once more in this country, and/or try to do so in Country A or Country B.
- 71 I have previously ordered that the children live with their mother, and I repeat this order as a clear final order. The mother has the benefit of a non-molestation order to protect her. I repeat that order as a final order, but shall add to the order, which also protects the children, that the father is not allowed to go to any nursery or school where he knows or suspects the children, either of them, attends. I consider this to be necessary to protect the children, and the non-molestation order is necessary to protect the children and the mother for an indefinite period of time and therefore shall be phrased to be 'until further order'. I cannot, at this stage, have any idea when or if there will be a time when there will be no need for such an order.
- 72 There is currently a prohibited steps order preventing the removal of the children, or either of them, from the jurisdiction by either parent, and restricting the father's ability to

remove the children from the mother. The prohibited steps order needs to continue in relation to the father, as he has made so many threats to remove the children from the mother's care. It is impossible to know where the father intends to live, but he is a citizen of Country B, who has been living in Country A for many years.

- 73 In the papers the father admits to being involved in the provision of fake passports which is an additional concern of mine. If the father removed the children from the mother's care it is likely he would remove them from the jurisdiction. I consider that removal from the mother and/or the jurisdiction would be wholly contrary to their interests so I will again order that the father may not remove the children, or either of them, from the mother's care, or from the care of anyone to whom she has entrusted their care, and must not remove them or either of them from the jurisdiction of England and Wales.
- 74 There will be a penal notice attached and the mother has permission to serve the father with these orders by email or WhatsApp, to the address which is normally used to communicate with him. It is not known where he is living. I discharge the prohibited steps order which relates to the mother. The mother must now have the freedom to take the children to and from Country A, or wherever she takes the children on holiday, and she cannot be expected to seek the court's or the father's permission to leave England and Wales.
- 75 The mother has produced documentary evidence to the effect that the parents agreed what the children's surname would be, but that they changed their minds after the birth, possibly one of the effects of the coercive and controlling behaviour. In this case, I have found that the children are at risk from their father. The mother fears that she and the children are at risk also from those whom the father fears; those people who burnt down his business. I am unable to determine if that risk is real or not.
- 76 The mother seeks permission to change the children's surname, but I understand she has not finally made that decision. This is an unusual application but, in my judgment, I should allow it. The children's welfare is again paramount, and I consider that their security is likely to be compromised if they continue to use their father's name because it will enable the father to find them with relative ease. The family have already had to move several times because of the danger posed by the father and the fact that he was following them. It is against the children's interest to have to move once more after they have been settled into their new home and nursery.
- 77 I therefore give the mother permission to change their name if she wishes to do so or, in the alternative, to use different names at schools and doctors, for example, but to retain their official names.
- 78 The mother also seeks to limit the father's parental responsibility going forward, so that she can make decisions without consulting him. I recognise that this, too, is an unusual order. I do not have a section 7 report to advise me but consider it would be wholly unnecessary to order a report now. It would not be a proportionate step to take to adjourn the case to obtain such a report, especially when the father is choosing not to pursue any application with regard to his children or participate in these proceedings anymore in any way. In any event, I consider I have sufficient evidence and experience to decide this.
- 79 I have considered the President's decision in the final *Al Maktoum* welfare decision as to the correct approach. In that case which, of course was of a uniquely serious kind, bearing in mind the resources and power which that father had, the President found that there was

domestic abuse, including coercive and controlling behaviour by that father. He pointed out that the absence of any acceptance that the abusive behaviour had occurred was of significance as it prevented the court having any confidence that such behaviour may not be repeated or undertaken by a different means in the future. The same must apply in this case in the light of the father's withdrawal from participation.

80 In that case, as in this case, the effect of domestic abuse had had a profound impact on every aspect of the mother's day-to-day life and her emotional wellbeing. As in that case, it has totally dominated her thoughts and taken away her peace of mind, though fortunately I do not think she has had any sense of her own autonomy removed because to a great extent she has been rebuilding that since May 2022.

81 In the *Al Maktoum* case, the President found that the children were being emotionally harmed by the impact of the abuse on the mother and that this would continue if, in the future, she was required to communicate with him to gain his approval for matters, even serious matters relating to their health, education or psychological wellbeing. On that basis the President decided that the mother should have sole responsibility for determining all issues relating to the children's medical care and schooling, but that the mother should keep the father informed of any significant matters which arise with respect to the children's welfare.

82 I find that the mother in this case cannot be expected to co-parent in any way with this father, for the same reasons, though I shall return to the issue of keeping him informed. I make the same order on the same basis, as I consider that it is in the interest of the children for the balance to be recalibrated and for the mother in this case to feel that she has enhanced autonomy as a parent. It will enhance her ability as their primary carer to concentrate on the children and their immediate needs. The order shall therefore limit the father's parental responsibility and enhance the mother's.

83 I also have in mind the decision of Baker J, as he then was, in *P v D* [2014], and my order should be modelled on the order in that case, inasmuch as it will last until the children are eighteen, because as in that case, I am dealing with exceptional circumstances where the current state of the evidence is that the father would use any opportunity given to locate the mother and the children, and to disrupt their lives to the extent that they would be harmed. Their safety, in my judgment, would be enhanced by making this order.

84 Under the inherent jurisdiction in a separate order, I shall order that no organisation which has knowledge of the children may disclose any information to the father without the permission of the mother and/or the court. This is also to protect them from being located by the father. I also order that the passport office in this country should not issue any passport to the children applied for by the father. The children have British passports and the mother is concerned that as a man with a history of faking passports, the father may seek to obtain new ones on a false basis.

85 I refuse the father permission to withdraw his application to spend time with the children. I determine that application against the father, so that there shall be an order for no contact between the father and the children. I also dismiss my previous order for the mother to provide written updates about the children, though what I would ask her to do is to provide to the father, at a frequency which I will hear what Ms Wilson has to say, by post or email, occasional information about the most significant aspects of the children, without disclosing where they live or where they are being educated, but to include any significant medical issues. This can be done via a third party, so the order need not mention her

specifically. I make that order in part because I think it is more likely if there is no communication at all about the children, that the father will seek to take steps to find out about the children himself.

86 I shall make an order pursuant to section 91(14) of the Children Act, that the father may not make any further application to the court in relation to the children without the permission of the court, namely myself or whoever succeeds me as designated family judge at the Central Family Court. This order shall last for five years. I make this order because the proceedings have been gruelling for the mother and the children. The father has behaved dishonestly throughout the proceedings, and then at the last minute chose not to participate in them. At the same time, he is trying to litigate against the mother and her relative in Country A, and it is hard to know how long that will take to be resolved. It would be wholly against the children's interest for this process that we have gone through here to be repeated in the near future.

87 The mother has sought that I make this order until the children are eighteen, but I consider that to be too long a period. The period of five years should allow the mother and the children time to rebuild their lives here and in light of the history to date, there will be a transcript of this judgment. I am confident that the court will not allow the father to relitigate everything that has been determined in this judgment. Any future litigation should therefore, be about what happens from July 2023 onwards, and what progress (if any), the father has made and what is in the children's best interest at that time in the future. There will be no need for the scale of inquiry that has taken place on this occasion.

88 Certainly, the mother must be able to disclose the papers and this judgment and the orders to any services she may wish to access in this country or in Country A or, indeed in Country B and also to disclose them to her lawyers, the courts and the police in Country A or Country B, to assist her in any proceedings which take place in either of these countries. I have thought about it, but it is not possible in this case to set out those steps which the father would need to take to be considered to be a safe person to have a relationship with his children, as I do not have the information to make that assessment. I would like the mother to let the father know about the progress of the children, by post or email, without disclosing where the children live or are being educated, but to include any significant medical issues. I would suggest that it can be done via a third party.

LATER

89 I should say at the outset that I have been extremely impressed by the work of the solicitors and of counsel in this case. It is certainly the best-prepared case I have done since I arrived back at this court nearly three years ago. It is still uncommon to make an order for one parent to pay the other parent's costs in children cases, but, as Ms Wilson has pointed out, it is not as unusual as it used to be and it is recognized that, in some cases, that is the right thing to do and this is that case.

90 The costs in this case have been greatly increased by the way that the father has conducted himself throughout and his denial of all the allegations made against him and then choosing not to attend the final hearing, but not admitting the allegations caused the hearing to have to continue and I can see a great deal of additional work had to be done. The mother in this case has succeeded in every aspect of her case and I find that the father's conduct has been unreasonable throughout. His litigation conduct has been such that the court should mark it in costs. I consider the costs sought are extremely reasonable, bearing in mind the quality of the work done and the amount of work done. I find that the work that has been done was properly done, it was proportionately done and I consider that the father, who is the applicant in this

case but has not attended this final hearing to put his case, should pay the mother's costs on the indemnity basis as asked. Therefore, the costs order is that he pays £23,084.60 and should do so within 14 days of the order being served on him.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

*Transcribed by **Opus 2 International Limited.***

Official Court Reporters and Audio

Transcribers 5 New Street Square, London

EC4A 3BF

Tel: 020 7831 5627 Fax: 020 7831 7737

civil@opus2.digital

This transcript has been approved by the Judge.