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Neutral Citation: [2023] EWFC 86 (B)

IN THE CENTRAL FAMILY COURT

No. ZE22P00651

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

Tuesday, 16 May 2023

Before:

HER HONOUR JUDGE LYNN ROBERTS

(In Private)

B E T W E E N :

THE FATHER AB

Applicant

- and -

THE MOTHER CD

Respondent

THE APPLICANT appeared In Person.

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

J U D G M E N T

JUDGE ROBERTS:

- 1 I am concerned with a child I shall refer to as PB who is nearly 1½ years of age. He is the child of CD and AB. The main application I am concerned with is about P as Mr B has applied to spend time with him. There have also been applications by both parents for non-molestation orders against each other.
- 2 On 27 April 2023, I conducted a hearing in this case following an application by the mother for an urgent case management hearing. She asked, amongst other things, for the father's application to be dismissed. In the alternative, she asked for a psychiatric assessment of Mr B. At the hearing on 27 April, Mr B represented himself and Ms D was represented by Mr Lansman of counsel and the representation is the same today.
- 3 On the last occasion two and a half weeks ago, Ms D, Mr Lansman, and Ms Owen (Ms D's solicitor) were in the secure area of the court. When my clerk went to see Mr B, before she had the chance to introduce herself, he told her to "fuck off". He also told her that he had previously filmed HHJ Hughes KC and somebody he termed "the court manager Vince", who is, in fact, my head of security and whom he referred to as "the smug git".
- 4 In the hearing, I explained to Mr B that there was an application for his case to be summarily dismissed and there was also an application, if I did not agree to summarily dismiss his case, for him to be psychiatrically assessed. I asked Mr B if he would agree to be psychiatrically assessed and his response was that he would be if Ms D was as well. I explained to Mr B that there was no application for Ms D to be psychiatrically assessed, that I saw no necessity for Ms D to be psychiatrically assessed, and that I therefore understood him to be not in agreement with that application.
- 5 I explained to Mr B that the court was considering dismissing his application for three main reasons. First, because it was very unlikely to be successful in the light of his behaviour and that it appeared that he was using the proceedings to abuse Ms D and her family further. Secondly, because he had failed to file any of the evidence which he had been ordered to file by District Judge Hughan in January when he listed the fact-finding hearing. Thirdly, because the court was of the preliminary view that it was not possible or reasonable for his case to continue in the light of his behaviour to all involved in his case, it being unreasonable for court staff and professionals trying to assist him, P, and Ms D to be subjected to the type and level of abuse emanating from Mr B. I illustrated this latter point by reading out to him an email sent by him to my court on 24 April 2023, which read:

“...as the incompetent, uneducated, unprofessional Central Family Court and they keep making their misconduct now because they gave me a 14-hour notice. I said to the dumb cunt manager put in an email. Their fuck up. This dumb Cunt said need a week to type an email. I told the dumb cunt you need a week to type an email of your fuck ups and you give me 14-hour notice for court. The dumb cunt never sent the email and as I couldn't go into 14 hours' notice, I haven't heard what's happened or if there a new court date. Been over a week. These dumb cunts here need to fuck off and get a job in a shop that fits their educated mind. Do your job and sack the dumb cunts.”
- 6 I asked Mr B if he wanted me to deal with the applications immediately or whether he would prefer to have an opportunity to take legal advice and put in some evidence. He wanted to

have that opportunity. I suggested I give him some three weeks to take advice and to prepare his statement in the light of the forthcoming bank holidays. However, Mr B only wanted two weeks on the basis that I was going to discharge the interim video contact he had with P. I think Mr B wanted the earliest possible hearing after he had had the opportunity to take advice and file and serve his statement. I therefore listed the case to come back today and gave the parties the time and date of today's hearing.

- 7 I took some time to explain to Mr B what his statement needs to deal with, namely whether his application should be dismissed now because it was suggested that it was very unlikely to succeed in the light of his behaviour, the behaviour being such as to make any contact unsafe for Ms D, P, and their family, and because he had not filed and served his evidence, or whether his application should be dismissed now because it was unreasonable for any member of the court staff or any professional to have to deal with him in the light of his behaviour to them. I told him that the behaviour I was concerned with here was in relation to His Majesty's Court and Tribunal Service staff, Cafcass staff, London Local Authority X staff, the mother's solicitor, and others at Morrison Spowart. In relation to whether the court should, of its own motion, make an order against Mr B under s.91(14) of the Children Act 1989, I explained to Mr B what that meant and provided him with a copy of Practice Direction 12(q). I then discharged the current order for interim contact by video call because P's grandfather was no longer prepared to arrange it and because I did not consider it safe to continue. I told Mr B that I required him not to send any abusive messages to HMCTS, to Cafcass, to London Local Authority X, to Morrisons Spowart, or to the mother or her family between now and the hearing I was fixing for May. He offered me an undertaking not to do so. I told him I could not accept an undertaking from him as he had not abided by undertakings already given to the court but he did tell me he agreed not to behave in such a way between that hearing and the hearing which is today.
- 8 Mr B said that he had filed his evidence but it was not on the court file and had not been received by the solicitors. He made wide-ranging but imprecise accusations against the court and everyone else involved in the case, both family members and professionals. Before the case began, my clerk had asked for his mobile phone on the basis that he had boasted of recording professionals and hearings. Mr B said he did not have a telephone on him. As he left my court room at the end of the hearing, he said that it was lucky that he had a camera in his bag. My clerk was sent by me to obtain the camera. Three police officers were waiting outside to arrest Mr B in connection with offences against the mother.

THE APPLICANT: No, that's not correct.

JUDGE ROBERTS: They escorted him back into----

THE APPLICANT: That's incorrect.

JUDGE ROBERTS: I do not want to hear from you.

THE APPLICANT: No, but, your Honour, this is factual.

JUDGE ROBERTS: You be quiet or you will leave the court room.

THE APPLICANT: Okay.

JUDGE ROBERTS:

They escorted him back into the court room and removed the camera from his bag. It appeared not to have been on and it was therefore unclear why Mr B said it was lucky that he had a camera in his bag as he left the courtroom.

THE LAW

- 9 It is P's welfare which is my paramount consideration. At his age, he is wholly dependent on his mother. I must also apply Practice Direction 12J as this is a case where domestic abuse is alleged. The court has already determined that there is a need for a fact-finding hearing which is listed in the autumn. The question now is whether the application should end immediately on the basis that the father's behaviour is such that no court would order any contact between the father and P and because the continuance of the proceedings is being used as a tool by Mr B further to abuse Ms D and her family.
- 10 The second issue is whether the court should end the application now for the reason that it is not possible for it to continue because it is unreasonable for any member of court staff, any solicitor or employee at the solicitors firm, any Cafcass staff member, or any member of the London Local Authority X's staff to be expected to deal with Mr B. If I find that there is evidence to support this premise, I have to balance various things. Mr B may have a right to family life under Art.8 of the Human Rights Act 1998. The mother and P certainly have that right. Mr B has a right to a fair trial under Art.6 but others involved have a right not to be subjected to degrading treatment under Art.3. I must also apply Part 1 of the Family Procedure Rules and, in particular, the overriding objective.
- 11 Section 91(14) of the Children Act 1989 allows the court to order that no application for an order under this Act of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.
- 12 Practice direction 12(q) sets out that the court has a discretion to determine the circumstances in which an order would be appropriate. These circumstances may be many and varied and they can include where an application would put the child concerned or another individual at risk of harm, such as psychological or emotional harm.
- 13 I have now read a further position statement from Mr Lansman, I have heard brief submissions from him, and have read Mr B's statement which I shall return to. I heard from Mr B at some length. I am aware that Mr B has dyslexia and the preparation of court documents is not easy for him. Mr B filed his evidence on 11 May. I have read it and ensured it was sent to Ms D's solicitors. Mr B says he sent it to them. They say they did not receive it. I believe it to include his evidence ordered to be filed on 23 January 2023 in response to the mother's statement and schedule of allegations. However, it does not deal with the allegations made by Ms D, and as far as I can make out, he puts forward no defence to those allegations. Furthermore, it does not appear to deal with the issues I have asked Mr B to address at the hearing before me last month. Mr B still has not filed some of the evidence required of him by the order of 23 January, in particular to file a letter from his GP to answer the question: has the father ever been diagnosed with a mental health issue, or personality disorder, and has he ever received any treatment for the same?
- 14 Much of the evidence against Mr B emanates from Mr B by which I mean Mr B's emails and social media posts but I am also aware that Ms D's schedule of allegations contain allegations of very serious threats having been made by Mr B to Ms D and her parents, which resulted in a panic alarm and a fire box being installed in the property. I am, for the purposes of this judgment, going to concentrate on Mr B's conduct by way of verbal and written abuse.

15 As I have said, the court, Cafcass, London Local Authority X, and Morrison Spowart have received many, many abusive messages from Mr B. I have already given an example of Mr B's emails to the court. This is typical of many emails he has sent to my staff and my staff are distressed by the emails. London Local Authority X has been in touch about its concerns resulting from their staff receiving abusive messages from Mr B. Here are three examples of the messages Mr B has emailed to London Local Authority X social workers. On 29 January 2023, he wrote:

“Have you returds cunts at shit hole X done your job yet and fixed your fuck ups on your database? All you spastics over there find that too hard and your retard manager what's been posted online. Do you spastic won't this in a colouring book for you to understand? Bear in mind I video you spastic on the phone before you play dumb about what you're going to say.”

16 On 13 February, he sent to the London Local Authority X social workers:

“You're incompetent unprofessional negligence to this and facts I know you work in a shit hole X but done not mean you have the right to be so incompetent at your jobs not to put facts down and when you show photos video evidence, your brain dead self just to ignore and hope the problem goes away. That your incompetence who I wish that the spastic here and ask I deal with someone who can at least pass a GCSE to deal with this. I don't understand how anyone apart from McDonald would give you lot a job let alone a job that's child welfare because you spastic have let my son go ICU hospital and so on and marks on he body. In the time I ask that you safeguard him and you send a brain dead incompetent staff to her house who ignored all the dangers. Well done on your incompetent negligence.”

17 On an unknown date:

“You going to do your job or just run your mouth down the phone like a little bitch, you vile nonce lover.”

18 Cafcass has written to me that Mr B has written many abusive emails to the officer who prepared the safeguarding report. Here are some examples. On 19 January 2023, he wrote:

“The incompetent is incredible on the uneducated caseworker that I video incompetent and posted online. Recommend all to video their Cafcass calls to make them accountable. Now reporting this to manager. The spastic choice to ignore this negligence and wasn't smart enough to work out if I video the first person, I video her to and posted online. I'm telling everyone to video you lot because of these people and make sure you're accountable.”

19 On 23 January 2023, he wrote:

“Are you incompetent or uneducated because the fact that I video you and your brain dead to tell the courts I raise no concern and you're too incompetent manager now you think cunt to send your close the case

you think cunt. Is it too difficult for you to understand? Maybe fuck off to job that fits your education like a bin man.”

20 Then on 14 March:

“Take it your dumb uneducated incompetent self can’t read to. Do you won’t me to put in a colouring book for you, you retard.”

21 On 7 February 2023, he wrote:

“Your level of incompetence may be okay in a third world country but this way you are is not and your incompetent negligence is not okay. Do you understand or are you too uneducated for that?”

22 Cafcass has told me that the case is closed to London Local Authority X as it does not have concerns about P’s welfare in Ms D’s care. Therefore, it would fall to Cafcass if I was to order a s.7 report. Cafcass has told me that Mr B has told them that he has recorded all calls with Cafcass which is an additional concern for them as well as their concern for the welfare of their staff.

23 Ms D has instructed Morrison Spowart to act for her in these proceedings. They are a firm with the highest reputation in this kind of work. The solicitor is Ms Owen who, similarly, is highly regarded in the family law world. Mr B has chosen to put offensive, abusive, and untrue posts on social media about the firm such as:

“Would highly suggest going somewhere else. The incompetence from Natasha Owen and this company. Natasha Owen loves to lie and make up fair tales yet she aware the video and save everything to catch her out, yet when she took me to court for pointing out her actions her fairy tale meant that she lost and her company had to pay all court fees. Now I’m dyslexic and had no legal help. So for a solicitor to take me to court and lose show incompetence. I reported her and now her and this company have been posted online news with the videos and the emails they sent. I’m taking their client to court and they have lied to gain legal aid for their client and haven’t been doing their simple job. So would look to find educated professional company instead the type you find stacking shelves at Wilkos.”

24 He has also sent the most offensive emails to Ms Owen personally, such as on 26 April 2023:

“Haha, arrest against you. Fuck off, you incompetent cunt. Didn’t you learn last time when you lost in court to me with your lies?”

25 Mr B has given various undertakings to the court during these proceedings. I am told that Morrison Spowart have instituted civil proceedings against him and in those proceedings he gave an undertaking in relation to his aggressive and slanderous behaviour but he does not appear to have complied with that.

26 On 12 January 2023, he undertook to this court not to post any messages or information pertaining to Ms D, her mother LD, and various other members of the family, and not to post on social media any information pertaining to these proceedings.

- 27 This is not an application to commit for breach of the undertaking but it appears that Mr B has not complied with it. Ms D's case is that he has continued to post offensive material about her to social media and I have seen examples of that. He calls Ms D mentally ill, amongst other things. One posting is a picture of the waiting area at CFC and it says, for some reason:
- “Forget the fake tits, rat. You should bath in battery acid, rats. Try steal over people's kids.”
- 28 Another refers to Ms D's mother, LD:
- “LD is a foster to my son mum. This mental ill child abuser thinks she has any rights.”
- 29 An additional problem has been repeated applications by Mr B which have been totally without merit. The mother obtained a non-molestation order against him in April 2022 which Mr B did not seek to challenge on the basis of no findings or admissions. That was on 26 April but on 9 May 2022 he sought to discharge it, which was obviously dismissed. He then applied to vary the non-molestation order again and then applied for another non-molestation order. He then sought an urgent hearing in the Children Act proceedings. All these were dealt with on 26 October and, as I understand it, his applications were dismissed. Ms D applied at that time for orders under s.91(14) but they were not granted.
- 30 Mr B appealed against the orders made on 26 October and the appeal was dismissed as being wholly without merit. Recently, Mr B put in the same appeal application against the same order which was obviously dismissed but took up more court time. These applications also take up the time of Ms D's solicitors and they take time and emotional energy of Ms D and her family.
- 31 Mr B boasts of recording court staff and the Cafcass staff presumably in order to cause stress and upset, and there was also the throwaway remark to the court at the last hearing about his camera being on. At the last hearing, I made it very clear to Mr B that he had to stop his offensive behaviour and that this would be a factor in my decision-making today. Since my order of 27 April, Mr B has not been abusive to the court staff but, unfortunately, Mr Lansman tells me that he has continued to post abuse about Ms D and her family and has continued to send abusive messages to Morrisons Spowart and Ms Owen. He has sent a rude email to the court staff but not as abusive as before.
- 32 At the last hearing, I put forward the proposition that Mr B's application should be dismissed because it could not succeed because of his behaviour because no professional could be expected to work with him and because he had not filed his evidence. I gave him the opportunity to respond. I agree with Mr Lansman that Mr B fails to deal with these issues in his statement but, instead, chooses to criticise everyone involved in the case, including the judges. It is all rather puzzling, in part because the court already decided by way of final order on 26 October 2022 that P lives with his mother, the court recording that Mr B did not object to such an order being made. I do not understand, therefore, why Mr B's statement is a long attack on Ms D and her family.
- 33 There is currently a two-day fact-finding hearing listed in September to determine Ms D's allegations but I take the view that this hearing is now unnecessary. Mr B's behaviour towards Ms D and her family and towards everyone else involved, however peripherally in

this case, continues to be so abusive that it is unnecessary to have a trial to determine the specific allegations. Mr B has been given the opportunity but has not denied that he is the person sending and posting these messages. He is not denying, as far as I can tell from his statement, that he made the threats and was abusive as set out in Ms D's schedule of allegations and in her statement.

- 34 Applying Practice Direction 12J, I am sure that no court could order contact, supervised or unsupervised, between Mr B and P because it would not be safe to do so. It is clear that Ms D and her family are deeply upset by what they have experienced and nobody will be prepared to play any part in contact arrangements. I cannot consider it safe for P to spend time with his father in any event when he refers to P's mother and her family, who are all caring for P, in such appalling terms. This is because it appears to me inevitable that Mr B would behave in such a way in P's presence.
- 35 Mr B suggests that a supervisor is employed, perhaps by Ms D's legal aid certificate or perhaps he could pay for it, but I consider this to be impracticable bearing in mind Mr B's attitude to all professionals. No professional would be safe from the abuse and I am not satisfied that P would be safe either.
- 36 The court has ordered Mr B to file and serve evidence about his mental health but he has failed to provide this.

THE APPLICANT: I have done.

JUDGE ROBERTS:

I find Mr B's behaviour to be so extreme that I consider that P would be at risk from his behaviour. I am also of the view that continuation of these proceedings is allowing Mr B another way of subjecting Ms D and her family to further abuse.

- 37 I must also take into account that it would not be reasonable to expect any professional to play any part in Mr B's contact because of the abuse that they would likely receive. Similarly, I do not consider it reasonable to order a s.7 report in due course because it seems to me unreasonable for a Cafcass officer to have to try to engage with Mr B in the light of the abuse that Cafcass has experienced from him to date and likely to experience again in the future. London Local Authority X has had the same experience and, therefore, could not be asked to do the report instead. I also take into account that it is unreasonable for the hard-working staff at this court to have to receive offensive emails from Mr B, or, indeed, to be told to "fuck off" on approaching Mr B. I am going to direct that they do not have to respond to any email from Mr B which is abusive or rude.
- 38 I must also apply the overriding objective as set out in Part 1 of the Family Procedure Rules. Mr B is taking up an unreasonable amount of court time and resources by his unnecessary applications and by repeated abusive messages to the court staff. I have a duty to ensure that precious court time and resources are fairly distributed and this case has already had more than a dozen hearings and this has got to stop.

THE APPLICANT: I have the right to appeal the non-molestation order - it states it - because of this.

JUDGE ROBERTS:

39 Mr B has been given the opportunity to take advice and to prepare his evidence. He has been given the opportunity to address the court. I consider that his Art.6 rights have been respected.

40 At the moment, P is not able to have any kind of relationship with his father, though I recognise that Mr B sincerely wishes to have that relationship. I must factor into my decision-making that P ideally should know and spend time with his father. It is important for P in the future for his sense of identity and sense of self-worth that he knows who his father is and that he knows that his father cares about him. However, at this time, I cannot see any way that contact can take place in a safe way. It is to be hoped that, in the future, P will be able to get to know his father because his father will have, probably with assistance, changed his behaviour. In the meantime, it is my judgment that P's Art.8 rights can be met by making it as safe as possible to live with his mother and to be cared for by her and her family----

THE APPLICANT: Foster family.

JUDGE ROBERTS:

-- without the stress and distress and fear caused by Mr B, by his behaviour, and by these proceedings. I am therefore dismissing Mr B's application for a child arrangements order.

41 I now turn to the making of an order pursuant to s.91(14). It would not make sense to dismiss Mr B's application without considering making an order under this section. Mr B would immediately make a new application. In my judgment, Mr B needs to address any mental health issues he may have and I would strongly suggest he consults his GP to see if there is any help which could be given.

THE APPLICANT: I have raised them. I've raised them. I have raised them and sent them to this court, to Natasha.

JUDGE ROBERTS:

42 If Mr B is to make any application in the future, the court will, at the very least, want to have evidence that, in the meantime, Ms D and her family have not been subjected to abuse and threats. I am satisfied that Ms D and her family need some respite from what they have been experiencing and that P's welfare is likely to be promoted by his family with whom he lives and who are caring for him being protected from further abuse. I will therefore make a s.91(14) order that Mr B may not apply for an order in respect of P of any kind without first obtaining the permission of the court to do so and this order will last until 16 May 2024. Any such application for leave must be made to me in writing. If Mr B wishes to make an application between now and 16 May 2024, he needs to apply for permission to do so to me and----

THE APPLICANT: I don't believe it should be to you.

JUDGE ROBERTS:

-- this is likely to be considered more favourably if he has, in the meantime, accessed some medical or therapeutic help and not engaged in abusing the mother or her family, or her solicitor, or any of the other professionals and court staff involved.

43 If after 16 May 2024 Mr B chooses to commence proceedings again in relation to P, it will be extremely important for Mr B to behave politely and respectfully to everybody. I recognise that Mr B will be anxious to know how P is doing and I direct that Ms D should

arrange to send Mr B, either from herself or from someone instructed by her, a short update as to P's progress every other month. This can be by email or letter. Mr B does not have permission to respond. If Mr B responds abusively, Ms D is under no obligation to continue to send Mr B such information.

THE APPLICANT: I want photos. I want photos.

JUDGE ROBERTS: Any appeal against---

THE APPLICANT: Can you please say that? Can you please put down photos? Please.

JUDGE ROBERTS:

44 An appeal against my orders today lies to the High Court and must be lodged within twenty-one days of today's date. There must be a transcript of this judgment.

THE APPLICANT: Where do I appeal?

JUDGE ROBERTS: One minute.

THE APPLICANT: I don't understand where I appeal.

JUDGE ROBERTS: I have just said, the appeal-- you have to appeal to the High Court.

THE APPLICANT: Yes, I don't know how the---

JUDGE ROBERTS: Right.

THE APPLICANT: I've asked for this to get changed to Bromiley since day one. How do I do that?

JUDGE ROBERTS: Mr Lansman, could you find out if Ms D is prepared to send a photograph on alternate months as well?

THE APPLICANT: Also, I want this to get changed to a different court. I've asked this. I've asked them not to have you as a judge at the last hearing because you're biased and you've put in an order that you have to be the---

JUDGE ROBERTS: Mr Lansman?

MR LANSMAN: The issue of social media posts, your Honour. The father has been putting things on social media and she is concerned---

THE APPLICANT: Are you-- Tell her to stop stalking me.

MR LANSMAN: -- that he will put the photos on social media.

THE APPLICANT: Tell her to stop stalking me. Like, if she's right there, can you please tell her to stop stalking?

JUDGE ROBERTS: Mr Lansman, will your solicitors be able to get a transcript of the judgment?

MR LANSMAN: We think as long as the order says necessary and reasonable then yes.

JUDGE ROBERTS: I think it is very important, it is necessary, and reasonable. So, yes, please.

MR LANSMAN: Yes.

JUDGE ROBERTS: I am afraid I had to speak rather swiftly as I have a message saying that the computer is about to shut down. So I had to go faster than I would otherwise have done. Right.

MR LANSMAN: Your Honour, yes. We did also ask for the extension of the NMO and the PSO.

JUDGE ROBERTS: Yes. Yes. I forgot to deal with that.

45 There will be a prohibited steps order to prevent Mr B attending at any nursery which P shall attend---

THE APPLICANT: What if he's in hospital? What about hospital?

JUDGE ROBERTS: -- or removing P from any such nursery, and the existing non-molestation order will be extended so that Mr B is not to attempt to contact P at any nursery which he may attend from time to time.

CERTIFICATE

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This transcript has been approved by the Judge.

