

IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

Royal Courts of Justice

Date: Tuesday, 20th January 2015

Before:

MRS. JUSTICE ROBERTS

B E T W E E N :

LONDON BOROUGH OF RICHMOND

Applicant

- and -

HOWELL

Respondent

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J U D G M E N T MRS. JUSTICE ROBERTS:

- 1 Throughout today, at various junctures, I have been dealing with this matter, which concerns an alleged breach by the Respondent mother, Olive Howell, of an order made His Honour Judge Richards (sitting as a Deputy High Court Judge) on 15th January 2015 (last Thursday) (“the order”).
- 2 Olive Howell, to whom I am going to refer as “the mother”, has a child who was born in 2005. The mother and the child are currently involved in protracted care proceedings, which were issued as long ago as the beginning of

January 2014, and I am told that there is a final hearing commencing on 27th January, that is Tuesday of next week, with a time estimate of three days. Those proceedings are clearly fairly advanced, and the intention is that there will be a final disposal of the Local Authority's application for a care order at the conclusion of those proceedings.

- 3 Miss Miller, who appears for the London Borough of Richmond, the applicant in these proceedings, has helpfully put before me a quantity of information throughout the course of today which relates to the evidence which has been filed in those proceedings. I do not need to go into that evidence in any detail at all today, save to say that it is likely to be the Local Authority's case in the care proceedings, unless something changes in the meantime, that the child should be removed from the full time care of her mother.
- 4 That is a position with which this mother is in violent opposition. I say "violent" in the context of the strength of her feelings. She believes, in terms, that the case advanced by the Local Authority has been trumped up and is entirely without foundation. She can see no legitimate reason for the concerns for her daughter which the local authority has raised and she appears to believe them to be without substance. The relevance of those proceedings for the purposes of the mother's alleged breach of the order is that the Local Authority perceives there to be a very real risk of the removal by the mother of the child from this jurisdiction to the mother's country of origin.
- 5 Dealing with the immediate history of the application as shortly as I can, on 11th December last year there was a case management hearing in the care proceedings. I have been told that on that occasion the court was sufficiently concerned about the risk of abduction to make an order that the mother should deliver up the child's passport to her own solicitors by 5 o'clock on 15th December 2014. The mother was informed of that order (at the latest by the 24th December) but failed to comply with it.
- 6 By 14th January this year (2015) the father, who is estranged from the mother, was raising independent concerns in the care proceedings about the possibility of the child's removal to the mother's country of origin. I was told that there was evidence before the court in the care proceedings that in the first week of November 2014 of last year the child herself had said to one of her teachers that she might be going to live in the mother's country of origin and not coming back. The mother denies she has ever said anything which would cause the child to hold that view, and it is not necessary for me to make a specific finding in these proceedings as to whether or not she did, but it is relevant in that it is part of the Local Authority's case and reinforces their live concerns about the risk of the child's removal from the jurisdiction. I should at

this stage mention that the mother has taken the child to her country of origin on at least one previous occasion during the course of the care proceedings, but, as she said, she has brought her back again.

- 7 In any event, there was a further hearing on 14th January 2015 in front of the Magistrates sitting in the local Family Court when the father was raising these concerns. On that occasion, he made an application for the child's passport to be formally surrendered. The Magistrates did not have the power to make that order, and the matter was transferred to the High Court when the carriage of the application was taken over by the applicant Local Authority.
- 8 That was the application which was before His Honour Judge Richards (sitting as a Deputy High Court Judge) on Thursday of last week. He granted that application, and by para.1 of his order, directed to the mother, he ordered that she and any other person served with the order must hand over to the Tipstaff not only the child's passport, and any identity cards, tickets, or travel warrants, or other documents which would enable the child to leave England and Wales, but also her own passports and any equivalent documents which she was holding. That order was served by the Tipstaff on the mother yesterday evening, 19th January 2015. When she was asked to produce the passports, the mother told the Tipstaff she did not have either of the passports because they were in a safety deposit box at a friend's house. I am told she did not object to a search of her property. The passports were not found on the premises and, as a result, she was arrested and remained in police custody overnight.
- 9 She has been produced in court this morning, and I have heard representations from Miss Victoria Miller on behalf of the London Borough of Richmond, and from Miss Rachel Chisholm, who has appeared at short notice to represent the mother. It is the Local Authority's case that whether or not I decide to remand the mother in custody for breach of this order, they will be making an immediate application for an interim care order. For that reason I also have in court before me this afternoon, Miss Panayiotou, who appears for the child, and Miss Knott, who appears for the father. They have not taken any part in the first limb of this disposal hearing in relation to the alleged breach of the order, and there was no reason why they should have done. Each shares the concerns of the Local Authority in relation to the risk of abduction in the event that the mother has access to the passports.
- 10 When the mother was initially produced in court this morning I warned her about the seriousness of the predicament in which she found herself and urged her to provide information about the current whereabouts of the two passports. Having been told that a telephone call might elicit further information, I adjourned the matter to enable her to make that call. As a result, I was told by Miss Miller that a number of names had emerged, in the main first names only. Miss Miller has spent some time through the course of today trying to contact the various individuals whose telephone numbers she was given. Without

going into detail or listing the various individuals, when the matter came back before me shortly after 2 0'clock this afternoon, the upshot was that although some of those individuals had been contacted by telephone, we were no further forward in terms of an understanding of where the passports were. Despite the fact that Mr A had apparently been very helpful, and had made some of his own enquiries in the church community which the mother attends, there were no tangible results. Another number which the mother gave to Miss Miller was unobtainable and/or unknown. None of the individuals who were contacted knew anything about the passports.

- 11 In these circumstances, I heard evidence this afternoon from the mother herself. During the course of that evidence various other names have surfaced. In some respects these are names of people who are alleged to be paternal uncles, in respect of whom she knows no addresses. She has subsequently told me she thinks that a lady called 'V' may hold the key to understanding where these passports are. Another individual, 'L', or someone called 'B', would know where the child's passport was. She gave me the surname of 'L' but she does not know where he lives. She also told me she thinks that the passports are now being kept separately. I was also told about an individual called 'A' who may be able to shed some light on where they are. But she does not know where anyone lives so she cannot say where the passports may be. The mother told me that she had removed the passports from her property about a year ago because of concerns that she did not want anything of value left in the property. That apparently followed an incident in May 2013 when the police kicked in her front door. As to what she did with the passports, the mother's evidence was entirely vague. All that she would tell me was that she thought that they had been put away safely. She said she gave them to a friend but was unwilling to identify the name of that friend. When pressed, she told me she thought it might have been a friend identified as 'V', to whom she had not spoken since. She accepted that she knew about the previous order made in December 2014 which required her to hand over her passport to her solicitor because the police had come to her home on Christmas Eve and required her to produce it. When asked what she would have done had she needed those passports in order to travel, she told me she would have to "ask around" as to who might have them.
- 12 The issue for me at the end of the day is whether or not I believe what the mother is saying to me. I gave her a very clear warning this morning of what the stakes might be for her were I to find that she was in wilful breach of this order. Having listened to her very carefully from the witness box, I regret to say I do not believe much of what the mother is telling me. I do not accept that she is not in a position to assist this court with the current whereabouts of the passports. I do not accept that she is unable to provide this court with evidence of precisely what steps she took when she says she removed the passports from her home for safekeeping because she was worried about security at home. She may well have removed those passports for those reasons, but I simply do not accept that she has helped and assisted this court in the manner in which I would have expected that help to be given.

- 13 Further, I accept the submission made to me by Miss Miller on behalf of the Local Authority that she is clearly not engaging in these proceedings. There was a very marked contrast between her manner and her tone in the witness box when she was giving evidence about the manner in which the care proceedings had unfolded. She was clearly able to recall in quite some significant detail the chronology and sequence of events and their timing in the care proceedings when questions were put to her by Miss Miller.
- 14 As a result of my reading some of the evidence filed in the care proceedings I raised with counsel the issue as to whether or not there may be some underlying psychological difficulties which the mother might have in remembering or providing information. The mother herself accepted that the orders for the various psychological assessments made in the care proceedings have not been complied with, and maintains there are no problems in terms of her emotional health and wellbeing which would affect her memory or recall. It is for that reason that I found the change in her demeanour in the witness box when she was challenged about her engagement in the case so compelling. She was clear and assertive and was able to give a very detailed account of her complaints against various social workers. This was in marked contradistinction to the very vague information she was prepared to give me as to the whereabouts of the passports and her inability to recollect what she had done with them after her return from a previous trip to her country of origin. It was in these circumstances that I feel unable to accept what she told me about her complete lack of memory as to where these passports might be, or to whom she gave them, whether it was to 'V', or somebody else. I simply do not believe she is assisting me to the best of her ability. I remind myself that I have to be satisfied to the criminal standard, namely beyond a reasonable doubt and so that I am sure. In conclusion, I am quite sure that this mother knows where the passports are located or, at the least, that she could take immediate steps to require a third party or third parties to release them to the Tipstaff. I find her evidence to me to be inherently unreliable. In these circumstances, I am satisfied that she is, and remains, in breach of paragraph 1 of the order and is therefore in contempt of court.
- 15 Further, I believe that there is a risk to this child if the mother were to return home without any sort of restriction. I believe she has the ability to retrieve these passports. Miss Chisholm has said all that can be said on the mother's behalf. I am going to make a seven day committal order. Of course, if she does not secure any remission in that sentence, it will extend beyond the first day of the hearing next week. In case it is necessary, I shall order her production at next week's final hearing in the care proceedings.
- 16 I make it absolutely plain to Miss Howell that it is open to her at any stage during the next few days to purge what I find to be her contempt and to assist the court further with whatever information she can provide about the whereabouts of these passports. Even now it may be possible for further

progress. Before the committal order is executed I want to ensure that all the information she can possibly give about 'V', about 'A', or anyone else, is in the hands of her legal team so that those enquiries can be put in hand immediately. Whilst matters remain as they are I am simply not satisfied that I have received the co-operation and assistance from this mother which I believe she can give.

- 17 Thus, my order is that there will be a 7 day committal order in relation to what I find to be a clear breach of para.1 of the order which His Honour Judge Richards made last Thursday.
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