

Re C (A Child) (2015)

AC9101402

29/07/2015

Barristers

Jacqueline Renton

Court

Court of Appeal (Civil Division)

Practice Areas

Private Children Law

Summary

A judge had had no alternative but to make a non-molestation order where a father had failed to honour his agreement to cease video and audio recording handovers of his daughter to her mother. The recordings were not useful to the legal proceedings in relation to their daughter and the use of recording equipment had been abusive.

Facts

The appellant father appealed against a non-molestation order granted in favour of the respondent mother in proceedings related to their six-year-old daughter (C).

The mother and father had separated when C was young and had agreed to shared care arrangements but there was a great deal of animosity between the parents. The father had made audio and video recordings of handovers of C with the mother as evidence of the mother's behaviour. An order was made concerning C's educational arrangements and the mother withdrew historic allegations against the father. The recorder made adverse findings of fact in relation to both parents. After the fact-finding hearing the recorder ordered that, based on the quality of emotional care, C's primary residence should be with her mother who had taken on board the comments made during the proceedings. The father agreed to cease using recording equipment. The father failed to honour that agreement and a non-molestation order was made in 2014 prohibiting him from recording C and handovers with the mother. The judge held that the use of recording equipment had been abusive.

The father sought permission to appeal against findings of fact made by the recorder and appealed against the non-molestation order. He submitted that the recordings had been useful in the legal proceedings to evidence the mother's behaviour and had been justified.

Held

(1) The father faced real difficulty in seeking to challenge findings of fact which had been made in a careful judgment following a three-day hearing where the judge had heard evidence from both parties. There was no basis on which the father could challenge those findings. Permission to appeal the findings

of fact was refused. (2) The Court of Appeal did not accept that the recordings had been useful to the legal proceedings in relation to C. Having considered the recorder's findings of fact, the judge was entitled to conclude on the facts of the case that the use of recording equipment amounted to a form of intimidation and was abusive. His judgment was unimpeachable. Following the father's failure to honour his agreement to cease the recordings, the judge had had no alternative but to make the non-molestation order.

Permission

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