

Re SO

[2015] EWHC 935 (Fam)

01/04/2015

Barristers

Stephen Lyon

Court

High Court Family Division

Practice Areas

Private Children Law

Summary

Judgment concerning the power of the court to extend protective injunctive orders made in wardship proceedings beyond a child's 18th birthday where the child was habitually resident outside England and Wales.

Facts

The child S was 17 (nearly), 18 at the time of the proceedings. At the time of this hearing she was living in Australia with her mother.

In 1999 the father abducted S to Australia and she was returned to the mother following Hague Convention proceedings.

In 2001 and 2006 the father was convicted of incitement to solicit the murder of the mother. The father denied these offences and the validity of his convictions. At the time of the hearing the father was in prison and due for release in 2018. In 2014 proceedings brought by the mother against the father under Schedule 1 to the Children Act 1989 were concluded.

In wardship proceedings in 2000 non-molestation orders were made. Following the conclusion of the Schedule 1 proceedings, the mother sought to extend these orders indefinitely. This application was opposed by the father who was not represented. He filed a detailed skeleton argument in support of his case. He argued that the court had no power to make such an order. It was clear from the father's skeleton that he had ascertained the mother's current whereabouts.

Held

Baker J decided to extend the order. He was in 'no doubt' that the court had the power to make the order. He said:


(1) Following Re F (2001) Fam 38 and Re SA (2006) EWHC 2942, that where a court has ruled a young person is at risk at harm and has granted protective injunctions, it has to power to extend the order

beyond the child's 18th birthday. This originates in the protective nature of the jurisdiction and is supported by articles 2,6 and 8 of the ECHR.

(2) Where the court had jurisdiction at the start of the proceedings on the grounds of habitual residence that jurisdiction continues until the conclusion of proceedings even if the child becomes habitually residence elsewhere.

(3) On the facts of the case it was imperative that the court makes orders to protect the child.

Permission

Family Law Week 

To read the judgment click [here](#).