

Re L (Removal from Jurisdiction: Holiday)

[2001] 1 FLR 241

24/07/2000

Court

Family Division

Facts

The mother and father were separated. Residence of their 3-year-old son had not yet been decided. The mother wished to take the son to visit family members in the United Arab Emirates but the father opposed this plan, believing that the mother's true intention was to remain abroad with the child.

Held

Held – granting leave subject to certain preconditions –

(1) The child's best interests were the paramount concern under the Children Act 1989, s 1. A particular concern was the likely effect on this child of leaving the UK permanently, which could cause him significant harm because it would separate him on a permanent basis from the country where he had been brought up and where his father lived. However, it was in the child's best interests to take a holiday with his mother at this time when there were many pressures on her and the father due to the pending residency litigation, and he should also be allowed to meet members of his extended family.

(2) The mother had disclosed good reason for wishing to take the holiday, given that it included a visit to family members, and she appeared to have a genuine intention of returning the child to this jurisdiction after that holiday.

(3) In this situation it was for the court to achieve what security it could for the child by building in all practical safeguards. In the present case, certain preconditions would be imposed on the grant of leave. (a) The mother must deposit £50,000 with the court by way of a bond to be released once the child was returned to the jurisdiction. (b) The mother must undertake to return the child to the jurisdiction by a certain date, such undertaking to be recorded in the order. (c) The mother, her father and her eldest brother must enter into solemn declarations on the Koran guaranteeing the safe return of the child. (d) The mother must provide the father with details of her journey including copies of the tickets.

Permission

Reproduced with kind permission from Justis 