

CC v PC (2006)

[2006] EWHC 1794 (Fam)

04/07/2006

Barristers

Henry Setright KC

Court

Family Division

Summary

A mother's application for permission to remove her children from British jurisdiction in order to move to the United States to marry a new partner was successful in circumstances where she was better able to meet the emotional needs of the children than her ex-husband, with whom she shared care.

Facts

The applicant mother (M), who shared care of her son and two daughters (C) with the respondent father (F), applied for permission to remove C from British jurisdiction in order to move to the United States to marry her partner. F cross-applied for residence. M and F had been living together as husband and wife with C in the United Kingdom. The relationship between F and M became acrimonious and M moved out. A mediated agreement between M and F was agreed that effectively split C's time 50:50 between them. F continued to live in the matrimonial home and M rented property in the same area so that shared care of C could be exercised without interference with ordinary school arrangements. M and F divorced. F remarried. M announced that she planned to move to the US to marry her American partner and filed the application to take C with her. F submitted that the shared care arrangement should remain as it was, and that if M elected to opt out he was in a position to care for C. He argued that C were settled in their social and academic lives and that they were in continued favour of the shared care arrangement. M submitted that she had always been the main carer and that the son in particular was at that present time particularly close to her and was experiencing difficulties in his relationship with F. M also argued that the daughters would need her as they went through adolescence into adulthood and that her proposals to move were entirely reasonable.

Held

HELD: M's application was successful. The arrangements in place for shared care were no longer sufficient. C's emotional needs were paramount and it was clear from the evidence that the acrimony between M and F was having a negative impact on them. The decision boiled down to a straight choice between whether C lived with F and his wife in the UK or with M and her partner in the USA. M and F both had reasonable cases and were both in a position to address almost all C's needs. Further, C had a real attachment to both their parents and their parents' partners. A joint residence order, albeit spanning more than one jurisdiction was appropriate, and it ensured that C spent significant amounts of time in

the UK and the US, F (Children) (Shared Residence Order), Re (2003) EWCA Civ 592, (2003) 2 FLR 397 applied. M was better able to meet the emotional needs of C and had a far clearer understanding of those needs than F. She was more aware of the impact of the parental dispute on C and she was less likely to put emotional pressure on them.

Application granted

Permission

Lawtel 