

M v M (2005)

(2007) 1 FLR 251; [2005] EWHC 2769 (Fam)

12/01/2005

Barristers

Paul Hopkins QC

Court

Family Division

Summary

A mother should not be permitted to prevent a father's potential application for a change of the child's school to a cathedral school by refusing to permit the child to attend a voice test.

Facts

The mother (M) applied to the court to reconsider its direction that the child (J) of the parties should attend a voice test at a cathedral school. J was the subject of a contact order. The father (F) wished to take J to a voice trial at a cathedral school. If J was successful then he might be awarded a scholarship that would enable him to attend the school, which was fee paying. M was opposed to J moving school. The court had directed that F should have permission to take J to the school for a voice trial so that if F upon further consideration wished to make an application for J to attend the school, an essential prerequisite, namely the award of a scholarship, had been accomplished. J's school had refused to release J for the voice test because of a letter from M preventing that. M submitted that the court should reconsider its direction that J should attend the voice trial because neither J nor M wanted him to change school and that F was seeking to undermine J's position with M as part of his agenda to change J's residence.

The court's decision had to be based on J's welfare, which was the paramount consideration. F was a committed chorister himself. Whatever the merits of a change of school might be, F wished sincerely to give J a chance to attend if F could afford it and the court approved. It might well be that on a full consideration, even if F could support the cost involved, J's best interests would not be served by such a change, but M's response to the direction had been disproportionate. There was no present application for a change of residence order. The voice test, even if it were to cause J some initial minor apprehension, could not be regarded in any way as undermining or threatening to his placement with M. It was right and in J's best interests for F, if he wished, to make an application for a change of school. M should not be permitted to prevent the application being made by refusing the voice test. That would deprive F of an opportunity to make an application on which he held strong views. Accordingly M's renewed application was refused and the court directed that M should make J available for the voice trial.

Permission

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