

A v D (Parental Responsibility) [2013]

[2013] EWHC 2963 (Fam)

01/08/2013

Court

High Court (Family Division)

Practice Areas

Private Children Law

Summary

Application by mother for a residence order, for an order granting her permission to change the child's forename and surname, and for an order terminating the father's parental responsibility.

Facts

This case concerned the welfare of one child, A, who was 4 years and 7 months old. The mother applied for a residence order, an order permitting her to change both the surname and forename of the child and an order terminating the father's parental responsibility. The father had a very extensive criminal history involving numerous violence related offences and had perpetrated very severe domestic violence against the mother which left her, amongst other things, suffering from post-traumatic stress disorder. A had witnessed the violence and had complex needs.

The father was, at the time of the hearing, serving a term of imprisonment for GBH against the mother. He had not attended court or engaged with the proceedings save for having written to the court to indicate that he did not oppose the mother's applications.

A Guardian was appointed for A, who supported the making of the orders.

Held

Roderic Wood J considered the applicable legal principles and held as follows:

1. The law relating to changes of name was still as set out in *Re W, Re A, Re B (Change of name)* [1999]. In this case a change of name would reduce the chance of the father ascertaining A's and the mother's whereabouts and, given the level of risk, the welfare balanced tipped in favour of allowing the change of name to protect the integrity of his home and the mother's care of him.
2. There were two identified first instance decisions in relation to stripping the father of parental responsibility. The first was *Re P (Terminating parental responsibility)* [1995] and the second was *CW v SG* [2013] EWHC 854 (Fam). Roderic Wood J agreed with the approach taken in both of those cases and held that the father's parental responsibility should be terminated. The father had shown a lack of commitment to A, his interest lay principally in controlling the mother rather than in A, and to leave the mother sharing parental responsibility with the father would be intolerable to her.

3. In relation to the making of a residence order, although there was no alternative to A living with the mother, so the no order principle had to be considered, an order should be made because (i) it reflected the reality of the arrangements for A and (ii) it would provide the mother with a sense of security.

Orders sought by the mother granted.

Permission

Family Law Week 