

A v A [2013]

[2013] EWHC 3554 (Fam)

07/11/2013

Barristers

Alistair G Perkins

Court

High Court (Family Division)

Practice Areas

International Children Law

Summary

Judgment in respect of four children whom the father had been ordered to return to the jurisdiction from Pakistan. Interim care order made.

Fact

This is the latest judgment of Parker J in this matter, which was handed down on 7 November 2013. Parker J had previously ordered the father to return the four children of the family (aged 12, 11, 8 and 3), who were wards of court, to this jurisdiction from Pakistan. The father had not complied and said that there were difficulties with the children's passports and that the youngest, H, had never had one. The father agreed to return the children to the jurisdiction and Parker J ordered that he either send the older three back, returning later himself with H, or they all travel together.

In fact the father returned with the older three leaving H in the care of his parents (aged 65 and 72) and a nanny in Pakistan. The order had provided for the children to reside with the mother if they came into the jurisdiction without the father, or with the father if he travelled with all of them, but with generous and frequent contact to the mother. Parker J was critical of the father for leaving H in Pakistan so as to prevent the children being cared for by the mother, especially as the mother had not even been told about the arrangements for H.

There had been some contact with the mother and the three older children, but they were clearly fearful of the mother and their engagement with her was very limited. Parker J formed the view that threshold had been crossed under Section 31 of the Children Act 1989 due to the children's separation from the mother. She rejected the father's case that the mother had deliberately abandoned the children because she did not care about them which is why they wanted nothing to do with her. The judge formed the view that the father was absolutely determined to exclude the mother from the children's lives.

Held

Parker J made a Section 37 direction and considered seeing the children to ascertain whether that would

make a difference, but since the Guardian did not think that it would, his course of action was not pursued. The mother invited the court to make an interim care order. The local authority and the Guardian remained neutral on the point, but the former did not think an effective assessment would be possible if the status quo continued.

The judge considered whether there was an immediate risk of really serious harm to the children and concluded that they had been used as pawns and that no regard whatsoever had been paid to their emotional welfare by the father. He had been given every opportunity to comply with court orders and had only done so under threat of financial penalty. Daily contact with the mother would not improve matters and would be distressing. There was nothing that the father could do or say now that would change the children's minds about their mother.

The court made an interim care order for the children to be removed as "nothing else will do" with the matter being reviewed 12 days later. This was a difficult and painful decision. H was to be returned to the jurisdiction and placed in his mother's care. Permission to appeal and the application for a stay by the father were both refused.

Permission

Family Law Week 