

Harrow v Afzal [2014]

[2014] EWHC 303 (Fam)

31/01/2014

Barristers

Mark Jarman
Paul Hepher

Court

High Court (Family Division)

Practice Areas

Public Children Law

Summary

Application by local authority in which it was alleged that grandparents were in contempt of court for not providing relevant information and/or securing the return of a baby who had been removed from the jurisdiction

Facts

This was an application brought by the London Borough of Harrow for an alleged contempt of court by the maternal grandparents and the paternal grandmother of a child Farah Afzal who was 3 months old at the time of the hearing.

Farah was the subject of local authority involvement because of concerns in respect of long-standing drug abuse by her parents. An agreement had been reached between the local authority and the parents that Farah would reside with her mother at the maternal grandparent's home. The paternal grandmother also resided at this address. On 16 January 2013 at 3 a.m. Farah was removed from this home by her parents.

An order was granted on 24 January 2014 against the grandparents which ordered them to:-

- i) take all steps within their control to ensure that Farah was returned immediately to the jurisdiction of England and Wales;
- ii) provide the local authority with all information relating to Farah's whereabouts, which was presently within their knowledge or control;
- iii) during the period that the order remained in force, provide all information relating to Farah's whereabouts to the Local Authority, where it comes into his or her possession and control after service of the order as soon as is practicable after receipt of the information.

The local authority alleged that each grandparent was in contempt of that order and Mr Justice Keehan heard evidence from each grandparent on 29 January 2013. Keehan J communicated a clear warning that if any grandparent was found to be in contempt of court then there was a high degree of likelihood that a custodial sentence would be imposed because any breach concerning such a young child would be a grave contempt of court.

Held

The application returned before Keehan J on 31 January 2014 who heard further evidence from the maternal grandfather. Keehan J took account of the guidance set out the authority of *Re A (Abduction: Contempt)* [2008] EWCA (Civ) 1138. He found that the maternal grandfather was an evasive, dishonest and totally unreliable witness. One material example in this regard was that it was discovered that the grandfather had sent £500 by Western Union Transfer to his daughter in Barcelona on 24 and 30 January 2014 but this had not been disclosed by him during his evidence on 29 January or prior to the hearing on 31 January.

The court was satisfied so as to be sure that the grandfather was lying and his motivation was to protect his daughter and to prevent their whereabouts being discovered and to prevent Farah, being returned to this jurisdiction. Keehan J was also satisfied so as to be sure the grandfather knew the location of the mother, the father and the child and that he was withholding highly material evidence from the court. Keehan J unhesitatingly found him to be in contempt of court.

Permission

Family Law Week 