

M (A Child) (2017)

[2017] EWCA Civ 2356

13/12/2017

Barristers

Catherine Wood KC

Court

Court of Appeal

Practice Areas

Private Children Law

Successful appeal by a Father in a relocation case where the Mother had been granted permission to relocate at first instance. The Court of Appeal commented that the first instance judgment had not been adequately reasoned nor was there adequate explanation for departing from the CAFCASS recommendation.

The parents were in a short relationship and had one son. Following separation, they were both involved in the daily care of the child and there was extensive support from the wider paternal and maternal family members. The first instance judge describes the family as the model example of how a separated extended family can operate functionally, effectively and in a child's best interests.

However, the Mother sought permission to permanently relocate to Colombia. The Father opposed this and during proceedings a CAFCASS report was undertaken, which recommended that on balance the relocation application should be refused. CAFCASS reasoned that the loss to the child of an attentive father and potentially two parents in his upbringing could not be compensated by the move to Colombia.

The first instance judge however departed from the CAFCASS recommendation and granted the Mother permission to relocate.

That decision was overturned by the Court of Appeal who commented that the first instance judgment had not been adequately reasoned and that there was not just explanation for departing from the CAFCASS recommendation.

Jackson LJ, giving the lead judgment, stated that relocation cases require "an analysis of some sophistication and complexity" [24]. The crucial evaluation in the present case was to weigh the child arrangements that had worked well in the UK with the mother's unhappiness in the UK. Jackson LJ found that the first instance judge had not carried out that assessment and that there had been "no attempt to evaluate how difficult life actually is for the mother in England or why her experience is likely to impact on the child in the future" [26].

Second, the Court of Appeal held that the first instance judge had dispensed with what they considered to be a coherent CAFACSS analysis in one sentence. This did not constitute sufficient reasoning for departing from the recommendation.

As such, the Father's appeal was allowed and the case remitted for hearing.

Permission

 **Family Law Week**