

R v P (No. 2)

[2019] EWHC 2175 (Fam)

14/03/2019

Barristers

Alistair G Perkins

Court

Family Division

Practice Areas

Private Children Law

Judgment regarding two appeals: a mother's application to change a child's surname to her new husband's surname and the father's application (under article 21 of the Hague Convention) for contact with the child.

This was the second set of proceedings between the parents of X, born in 2011 and aged 7 at the time of the most recent court hearing, who had moved to England in 2015. The initial proceedings related to the father's application for X to return to her native Lithuania, where both parents are also from. They had separated in 2012 and there were court proceedings in Lithuania which examined the father's behaviour towards the mother. As a result of those proceedings contact between X and her father had been established, albeit that contact was supervised by a psychologist, but there were also breaches of court orders relating to contact and protective injunctive orders. Ultimately the mother left Lithuania with X in October 2015 and the father applied for a return order the following year, shortly after the mother had issued proceedings here. The father's application (heard in early 2017) was unsuccessful. The court was not satisfied that the father would comply with undertakings offered or with any orders in Lithuania.

The applications before the court in the current litigation were the mother's application to change X's surname to her new husband's surname and the father's application (under article 21 of the Hague Convention) for contact with X.

There was a measure of agreement about contact, and arrangements were to be put in place for letters, gifts and cards to be received by X from her father and his wider family, for photographs to be exchanged and for the mother to inform the father of important events in X's life. The outstanding issues were the change of name and whether the father should be told of the name of X's school and the GP surgery where she was registered. Ultimately the mother suggested a compromise whereby the father's surname was retained as a middle name.

Theis J concluded that the father should not be aware of the address of X's school or GP. There was a history of orders being breached, the father continued to deny findings made against him, and a risk

remained that the father could use this information to try and find X. Whilst he had very belatedly indicated a willingness to undertake work relating to domestic violence, this had yet to commence and so it could not be a protective factor at this stage.

The mother's application to change X's surname was refused. It was a concern to the court that there was nothing relating to the father in the mother's home. There was no evidence in support of the mother's claim that it would be safer for X to travel to Lithuania if her surname was changed. There remained the possibility that the relationship between X and her father could be restored. Finally, X's own knowledge about her father and his family was limited at this stage and it would be premature to change her surname at this stage. Theis J left open the possibility of a future application to change X's surname being considered "when and if [X] has more knowledge of the father and the paternal family".

To read the full judgment, please click [here](#).

Permission

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