THE HIGH COURT

FAMILY LAW

[2024] IEHC 638

Record No. 2023 73 CAF

BETWEEN:

C.

APPELLANT

-AND-

D.

RESPONDENT

JUDGMENT of Mr. Justice Jordan delivered on the 7th day of February 2024.

1. This is an application involving A, who was born in 2015 in Ireland, and her parents. It is a relocation application in that the mother, who is the applicant in the proceedings, wishes to travel with A. to the United States where she lived for several years and where she says that she has a strong network and an American family. It is an appeal from a Circuit Court decision, or more correctly from two Circuit Court decisions. The first was delivered on 12 June 2023 - which judgment was followed by a written judgment delivered on 17 August 2023. A subsequent Court order dealing with other guardianship, custody and access and related matters at issue between the parents was made on 06 November 2023 - and there was again a short written judgment in relation to that aspect of the matter dated 31 October 2023.

2. The applicant mother has appealed the refusal to relocate which is the order made on 12 June 2023 and the respondent has appealed aspects of the subsequent Court order made on 06 November 2023. One part of that Court order is now moot because it provided at para. C for Christmas access for the Christmas gone by. There is an appeal in respect of the portion of the order of 06 November 2023, which was an order directing that the property at …. be independently valued and the equivalent sum be paid to the applicant within three months. There is also an appeal in respect of the order directing the respondent to continue to discharge the sum of €1,026 per month in respect of maintenance for the dependent child. In fact, the sum being paid, and it has been paid for some years now, is €1,126 and the appellant/respondent father is seeking a reduction in that sum.

3. In relation to the proposed relocation application there are a number of points which need to be made. The first is that A. is fortunate to have two doting parents and she is thriving because of the love and affection and care which she is receiving from them both. The second is that I do have a very carefully prepared portfolio, as it was referred to by the appellant, in respect of her proposed relocation. It is a book running to some 53 pages with a very carefully thought-out presentation in relation to the proposed relocation. In the book there are photographs relating to the American family, the American connections, and relating to the happy time spent with the appellant and A. in the United States. There are photographs from those locations and it is readily apparent that the appellant has good friends and has support in the United States and has in the past enjoyed very happy times there, which happy times are repeated for herself and A. when they go to the United States.

4. Another point which needs to be made is that it is clear from the appellant's evidence that the breakdown in the relationship between herself and the respondent and

its aftermath have taken a heavy toll on her. It is clear that C. is unhappy at this present moment in time and believes that she would be happier in the United States amongst her American family. While it is the position that some of the American family, or perhaps those captured by that phrase, are not blood, it is also apparent that the appellant does have blood relatives in the United States. She is American by birth and holds an American passport and also holds an Irish passport, although her parents are South American and are living in a South American Country where she has spent many years and where she went to with her parents when a very young child.

5. What also needs to be said, and I will return to this, is that the issue I am concerned with here is the welfare of a young girl and what is best for her and in circumstances where unfortunately, I cannot deliver a judgment which would allow both the appellant and the respondent, the mother and the father, to leave this Court joyful and happy. There is what is referred to in the authorities as a binary choice involved here - whether C. is allowed to relocate with A. or not. Indeed it might well be, and probably is the case, that the outcome today will be tinged with sadness for both sides. The truth of it is, notwithstanding the breakdown of the relationship, it does seem to me that the father and mother of A. understand the importance of cooperation between them both in order to ensure that she continues to thrive. Neither the appellant nor the respondent will be oblivious to the sadness and hurt that the outcome of this appeal will cause to the other and will likely consider how that will impact on A. This is a conundrum that this Court cannot solve but it is something that the father and mother can together mitigate after the decision is made on this appeal.

6. The position in relation to the law is that it is quite well settled in this area and is dealt with in a quite recent appeal in the Court of Appeal, the decision in *K v K* which

is reported at [2022] IECA 246. At p.246, para. 4 of that judgment Whelan J. states when dealing with a relocation application before the Court: -

> *"Ultimately in such applications the burden rests with the moving party to demonstrate to the satisfaction of the court the benefits to be conferred on the child or children by the proposed move abroad, while satisfying the court that the relationship of the child with the left-behind parent can and will be maintained over time by the constructive ongoing operation of sufficiently comprehensive and extensive contact and access with the left-behind parent."*

That is making the point that if relocation is allowed the Court must strive to do everything in its power to ensure that proper and appropriate contact is maintained between the child and the parent who is left behind. It is making the point also that in these applications the burden rests with the Appellant to demonstrate in effect how it is in the best interests of A. that the relocation be allowed.

7. In the same case Collins J. cited, with approval an earlier decision of Whelan J. in *SK v AL* [2019] IECA 177: -

> *"What is involved is "an exercise in welfare assessment", without any presumption either in favour of or against the proposed relocation. The exercise is necessarily comparative: what the court is required to do is to identify and evaluate the available options, carrying out a "balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared, side by side, against the competing option or options."*

8. A summary of the necessary considerations is set out by Butler Sloss P. in *Payne v Payne* [2001] EWCA Civ 166. Firstly, the welfare of the child is always paramount. Secondly, there is no presumption in favour of the applicant parent. Thirdly, the

reasonable proposals of the parent with a residence order wishing to live abroad carry great weight. Fourthly, consequently the proposals must be scrutinised with care and the Court needs to be satisfied that there is a genuine motivation for the move and not the intention to bring contact between the child and the other parent to an end. Fifthly, the effect upon the applicant parent and the new family of the child of a refusal of leave is very important. Sixthly, the effect upon the child of the denial of contact with the other parent and in some cases his family is very important and finally, the opportunity for continuing contact between the child and the parent left behind may be very significant.

9. Again those points are something of a checklist, which it is useful for the Court to have regard to in deciding on the application. The first point to be made in relation to this is that it is absolutely clear and not in dispute that A. is flourishing, thriving and happy where she is at present. The second point is that, just looking at those as a checklist, it does seem to me that C. is genuine in her desire to find happiness in the United States, where she was happy whilst she resided there and where she is happy when she visits there, and at a time when she finds herself at something of a crossroads in life in terms of planning for the future. It does seem to me that the motivation to move is borne out of genuine considerations - moving to a community and location where she believes she will have support and friendship and a career as a teacher, in circumstances where there is a shortage of teachers and there are incentives available in the locality for people who are prepared to work as teachers and in circumstances where C. qualifies it does appear for such employment and for such a career. That is not the end of the matter. We go back and will at various stages when looking at the authorities to the paramount concern which is the welfare of A.

10. In *K v K* Collins J. dealt with the appropriate approach by a Court in some detail. The first is that Collins J. pointed out that the starting point in cases such as this is a decision of the Court of Appeal in *SK v AL* which is reported at [2019] IECA 177, in which Whelan J. gave a judgment which gives general guidance as to the proper approach in applications for relocation. Such applications are governed by the Constitution, the Guardianship of Infants Act 1964 (as amended) and the jurisprudence governing the ascertainment of the best interests of the child.

> *"82. The agreed starting point is the decision of this Court in SK v AL [2019] IECA 177, in which Whelan J gave the sole judgment (Edwards and McCarthy JJ agreeing). SK v AL involved an application to relocate to the United States. The Applicant was the mother and primary carer of the child – a 10-year-old girl - and the Respondent was the father. The parties had previously been in a relationship but were not married. The application was allowed in the High Court and the father's appeal was unsuccessful. The facts differ significantly from the facts here but the judgment of Whelan J gives general guidance as to the proper approach to applications for relocation.*
>
> *83. Whelan J began her analysis by noting that the approach of the court is governed by the Constitution, the 1964 Act and the jurisprudence governing the ascertainment of the best interests of the child. She noted that in any trans-national child relocation case a variety of conflicting or competing interests are potentially engaged, including the best interests of the child in question, the rights and interests of the relocating parent (including their family circumstances) and of the left-behind parent. Such an application, she observed, "frequently, if not invariably, brings into stark relief the conflicting aims and objectives of the parent who proposes to relocate and who is usually the primary*

carer of the child with the rights of the left behind parent to maintain a relationship with the minor" (at para 40). Even if PIK is not the primary carer here given that she and DK share the care of the children, that observation undoubtedly holds good here.

84. Whelan J emphasised that, having regard to the constitutional mandate and the clear legislative provisions, there "can be no presumption in favour of or against either the Applicant parent or the remaining parent." What is involved "is purely an exercise in welfare assessment" (at para 42). In carrying out that exercise, the conduct of either parent (including previous wrongful removal or retention of a child) could be considered "to the extent that it is relevant to the child's welfare and best interests only" (as per section 31(4) of the 1964 Act). The objective of that legislative approach is "to direct the focus of the enquiry away from recriminations, blame or fault finding with regard to the past conduct of either parent" unless relevant to the child's welfare and best interests (at para 52).

85. It was, in Whelan J's view, "imperative" that in relocation applications the views of the child are considered and taken into account. On the facts, the "constitutional mandate to obtain the ascertainable views of the child" had been met by means of the appointment of a consultant clinical psychologist pursuant to section 32 of the 1964 Act who had interviewed the child, prepared a report and who had given evidence in the High Court and had been cross-examined at length by the father. Notably, Whelan J characterised the psychologist as a witness of the court and not a witness for either party (at para 54).

86. While noting that parents in relocation proceedings may invoke rights, including rights of free movement, Whelan J emphasised that the paramount consideration in any relocation application must always be the best interests of the child (para 56). In carrying out a best interests assessment in that context, Whelan J identified the following particular factors as being of potential relevance:

"(a) The minor's emotional and/psychological dependency upon the primary carer.

(b) The relationship between the child and the remaining parent.

(c) The relationship between the child and his or her extended family, including siblings, step-siblings, step-parents and grandparents and the extent to which the dynamics of those relationships that operate positively and beneficially for the minor may be affected by the relocation, and considerations as to how such changes might be ameliorated or addressed.

(d) The reasonableness of the proposed relocation and, so far as relevant, the motivation of the parent who proposes to relocate which is required to be objectively assessed.

(e) The practical consequences of a refusal of the application for all of the directly concerned parties and in particular the minor, the directly concerned parents or guardians." (at para 55).

87. Access for the non-custodial parent is also a key consideration in this context. SK v AL involved an application to relocate to the United States and in that context Whelan J observed that "significant distance can impact on the frequency and modalities of contact and generally can be a relevant factor in judicial consideration of the minor's bests interests in the context of such an

application" (at para 39). Where relocation was permitted, care had to be taken to structure contact arrangements so as to preserve and vindicate the child's relationship with the non-relocating parent so as to ensure that, as far as practicable, the relation is maintained in such a manner as operates in the best interests of the child (para 57).

88. Whelan J noted that, while there is no international convention or protocol governing international family relocation, in March 2010 the Washington Declaration on International Family Relocation had been published. Although the Declaration did not have any legal effect, Whelan J noted that the factors that it identified as being relevant to decisions on international relocation (set out at para 58 of her judgment) appeared to resonate with the provisions of the 1964 Act.

Section 31 of the 1964 Act

89. Certain of the provisions of the 1964 Act have already been referred to. I have already noticed the section 3(1) injunction to regard the best interests of the child as the "paramount consideration" in deciding questions relating to guardianship, custody and access. Section 3(2) provides that the best interests of the child are to be determined in accordance with Part V of the 1964 Act. Part V was inserted by the Children and Family Relationships Act 2015. Section 31(1) provides that in determining what is in the best interests of a child, the court "shall have regard to all of the factors or circumstances that it regards as relevant to the child concerned and his or her family." Section 31(2) then lists the following factors and circumstances as included in those to be considered for the purposes of section 31(1):

"(a) the benefit to the child of having a meaningful relationship with each of his or her parents and with the other relatives and persons who are involved in the child's upbringing and, except where such contact is not in the child's best interests, of having sufficient contact with them to maintain such relationships;

(b) the views of the child concerned that are ascertainable (whether in accordance with section 32 or otherwise);

(c) the physical, psychological and emotional needs of the child concerned, taking into consideration the child's age and stage of development and the likely effect on him or her of any change of circumstances;

(d) the history of the child's upbringing and care, including the nature of the relationship between the child and each of his or her parents and the other relatives and persons referred to in paragraph (a), and the desirability of preserving and strengthening such relationships;

(e) the child's religious, spiritual, cultural and linguistic upbringing and needs;

(f) the child's social, intellectual and educational upbringing and needs;

(g) the child's age and any special characteristics;

(h) any harm which the child has suffered or is at risk of suffering, including harm as a result of household violence, and the protection of the child's safety and psychological well-being;

(i) where applicable, proposals made for the child's custody, care, development and upbringing and for access to and contact with the child, having regard to the desirability of the parents or guardians of the child agreeing to such proposals and co-operating with each other in relation to them;

(j) the willingness and ability of each of the child's parents to facilitate and encourage a close and continuing relationship between the child and the other

parent, and to maintain and foster relationships between the child and his or her relatives;

(k) the capacity of each person in respect of whom an application is made under this Act—

(i) to care for and meet the needs of the child,

(ii) to communicate and co-operate on issues relating to the child, and

(iii) to exercise the relevant powers, responsibilities and entitlements to which the application relates."

90. Section 31(2) – which is broadly similar to section 1(3) of the (UK) Children Act 1989 - provides a useful checklist which helps to structure the court's assessment of what is in the best interests of the child in any given circumstance. However, the extent to which those factors are engaged, and the weight to be given to them, will vary from case to case. In any given case, different factors may point in different directions. That is not a criticism of the section; rather it is a reflection of the complex and untidy reality of family relationships and the breakdown of such relationships. As Moore-Bick LJ observed in K v K (Children: Permanent Removal from Jurisdiction) [2011] EWCA Civ 793, [2012] Fam 134, "the circumstances in which these difficult decisions have to be made vary infinitely and the judge in each case must be free to weigh up the individual factors and make whatever decision he or she considers to be in the best interests of the child" (at para 86). That approach is, in my view, entirely consistent with the 1964 Act."

11. In the course of her judgment in *SK v AL*, Whelan J. reflected (as mentioned above) that *"frequently if not invariably, such applications bring into stark relief the conflicting aims and objectives of the parent who proposes to relocate and who is*

usually the primary carer of the child with the rights of the left behind parent to maintain a relationship with the minor". She emphasised that having regard to the constitutional mandate and the clear legislative provisions, there "*can be no presumption in favour of or against either the Applicant parent or the remaining parent*." What is involved *"is purely an exercise in welfare assessment*". In carrying out that exercise, the conduct of either parent can be considered *"to the extent that it is relevant to the child's welfare and best interests only"* which is set out in s. 31(4) of the 1964 Act. Whelan J. pointed out in that case that it is important that the views of the child are ascertained and considered in applications such as this. I am satisfied with what has been done in this case to ascertain the views of A. and to convey those views to the Court, albeit that I must have regard for the fact that A. is still, and was at the time of the assessment, a young girl. Nonetheless, the legislation, indeed the Constitution requires, that her views be canvassed and available to this Court.

12. Other particular factors were identified by Whelan J. as being of potential relevance;

"*(a) the minor's emotional and/psychological dependency upon the primary carer";* There is no doubt that C. is the primary carer but equally there is no doubt that A. has a very close bond and loving relationship with her father, both of them are hugely invested and committed in her life and very important to her.

"(b) the relationship between the child and the remaining parent" ;

which is as I have just outlined.

"(c) the relationship between the child and his or her extended family, including siblings, step-siblings, step-parents and grandparents and the extent to which the dynamics of those relationships that operate positively and beneficially for the minor may be affected by the relocation, and considerations as to how such changes might be ameliorated or addressed";

I do not have any doubt on the evidence that A. has a strong bond and relationship with the paternal relatives and particularly the paternal grandparents, sisters of D. I have no doubt that there is a real danger of those important relationships being ruptured in the event of relocation.

"(d) the reasonableness of the proposed relocation and, so far as relevant, the motivation of the parent who proposes to relocate which is required to be objectively assessed";

I already addressed the motivation. It seems to me that C. is in the unfortunate position of recovering, or trying to cope and recover from a failed relationship and is at a crossroads in her life. She is attempting to plan for future happiness and so the motivation is obvious, it is understandable and it would be lacking compassion not to recognise it, but the reasonableness of the proposed relocation has to be called into question. To my mind there cannot but be damage to the relationship of A. and her father if the relocation is allowed to proceed, because the United States is so far removed from her current environment and so far distant from the opportunities for physical interaction between herself and her father. I appreciate what is now possible in terms of social media platforms and instant contact remotely - but it is a fact that such strives as have been made in that regard and which are continuing do not replace the

physical interaction which humans enjoy with one another and which children need with their loved ones.

"(e) the practical consequences of a refusal of the application for all of the directly concerned parties and in particular the minor, the directly concerned parents or guardians";

Regarding the practical consequences in terms of the impact on the father if I allow the relocation to take place, there is no doubt in my mind but that D. will be broken hearted. There is no doubt in my mind but that A. will be impacted adversely and unfortunately, there is little doubt in my mind but that refusing the relocation is likely to leave the appellant leaving this Court very upset and I am sorry about that. I wish it could be otherwise, but I cannot make it otherwise.

13. In the case of *SK v AL* which involved an application to relocate to the United States, Whelan J. observed that; *"significant distance can impact on the frequency and modalities of contact and generally can be a relevant factor in judicial consideration of the minor's bests interests in the context of such an application".* That is the sad reality of the situation in which this Court finds itself in having to decide on whether or not the request to allow relocation is in the interests of the welfare of A.

14. A. has lived all of her life, apart from holidays abroad, in Ireland. The relationships which she has with adults and relatives happen to be more so on the father's side than on the mother's side, because the maternal grandparents reside in a South American Country and understandably cannot be present as often as I expect they would like to be in the life of their grandchild. Likewise the American family have not had the opportunity to be present in her life as often as I expect they would like to be.

However the factual situation is as it is, her life has been here in Ireland, there is nothing preventing relatives on the maternal side or the American family being involved to the fullest extent possible in her life except for the geographical distance involved. Section 31(2)(b) refers to the views of the child which I have dealt with;

"31(2)(c) *"the physical, psychological and emotional needs of the child concerned, taking into consideration the child's age and stage of development and the likely effect on him or her of any change of circumstances".*

Fortunately A. is doing particularly well, she is thriving and flourishing and happy. It does seem to me that that happy position will be disturbed if she is allowed to relocate to the United States. It seems to me that it will follow as night follows day if she is wrenched away from her friendships, from her familiar environment, from her education, from her father, that it will impact adversely on her physical, psychological, and emotional needs. Then there is the issue of *"(d) the history of the child's upbringing and care, including the nature of the relationship between the child and each of her parents and the other relatives and persons referred to in paragraph (a), and the desirability of preserving and strengthening such relationships",* which I have dealt with. It is important that established relationships in the life of A. are preserved and strengthened whilst at the same time encouraging the maternal relatives and the American family to be involved to the fullest extent that they can be involved.

"(e) the child's religious, spiritual, cultural and linguistic upbringing and needs"; and (f) the child's social, intellectual and educational upbringing and needs";

Fortunately through the influence of her mother, A. is familiar with her heritage and is well versed in Spanish, written and oral. She is doing extremely well at school and is

something of a prodigy, if I can use that as a compliment, in terms of her attainments and education. She has been in school specially selected for additional tuition because of her achievements at the top of the class amongst her peers.

"(g) the child's age and any special characteristics";

A. is a young girl and she is doing extremely well and she certainly does not have special characteristics in the sense of additional needs, she may have in terms of her intellectual capacity but if she does and sometimes things can change a little as children grow older, sometimes things even out in terms of intellectual prowess and ability, and that is no harm either. Whatever the position is, it is clear that she is a very intelligent girl and doing extremely well. There is no question of (h) arising which refers to; *"(h) any harm which the child has suffered or is at risk of suffering, including household violence, and the protection of the child's safety and psychological well-being"*.

"(i) where applicable, proposals made for the child's custody, care, development and upbringing and for access to and contact with the child, having regard to the desirability of the parents or guardians of the child agreeing to such proposals and co-operating with each other in relation to them";

An issue which arises in the event of relocation being allowed and an issue which I need not dwell on at this point.

"(j) the willingness and ability of each of the child's parents to facilitate and encourage a close and continuing relationship between the child and the other parent, and to maintain and foster relationships between the child and his or her relatives";

As happens in these cases there is a history of something of a rocky road in terms of contact and access arrangements, hopefully that will settle down following the conclusion of this litigation, which I intend to draw to a close with this judgment today. In almost all of these cases that come before the Court there are allegations and counter allegations concerning who did what, who said what, who did this and who did not do the other, and unfortunately it is part and parcel of something of a war of attrition that breaks out when there is an application to relocate. All I can say in that regard is that the parents need, insofar as they can, to cooperate in a businesslike fashion for the sake of A. and her welfare;

"(k) the capacity of each person in respect of whom an application is made under this Act -

(i) to care for and meet the needs of the child,

(ii) to communicate and co-operate on issues relating to the child, and

(iii) to exercise the relevant powers, responsibilities and entitlements to which the application relates.";

There is no issue in that regard. In *SK v AL* Whelan J. stressed that: *"It is purely an exercise in welfare assessment",* without any presumption either in favour of or against the proposed relocation. The exercise is necessarily comparative: what the Court is required to do is to identify and evaluate the available options, carrying out a "*balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared, side by side, against the competing option or options"* (per McFarlane LJ in *Re G (Care Proceedings: Welfare Evaluation)* [2013] EWCA Civ 965,

[2014] 1 FLR 670, and in all of this the main principle properly so called is that the welfare of the child is paramount.

15. Attention has been drawn in the various authorities or in a number of them to the judicial task in this context of providing or at least trying to provide an adequate explanation for the decision of the Court. The task of this Court is to select the outcome that best meets the child's welfare needs and give adequate reasons for the choice. Mention was made in the authorities as well to the impact of Article 8 of the European Convention on Human Rights and Article 6 of the European Convention on Human Rights and the whole issue of adjudication, because it does probably involve a proportionality evaluation taking place and insofar as it does, I do have regard to that whole issue of proportionality in the context of the paramount consideration, which is the welfare of A. I am alert to it and it is my view that the decision I have come to is proportional in all of the circumstances.

16. I have had regard also to the written decisions of the Circuit Court Judge which are clear and concise and set out the facts in a concise fashion. I think that perhaps C. would take an issue with any emphasis, if there is one, on her being referred to as a South American National. It is clear that she regards herself as an American citizen although she acknowledges the South American background and I think that is fair. I have approached this case on the basis that C. does regard herself as an American citizen and an Irish citizen, whilst acknowledging the South American background and I do so also in the knowledge of the time she has spent in a South American Country, in the United States and in Ireland.

17. I have to say, having read the judgment of the Circuit Court Judge, there is nothing in principle that I differ from in the judgment of the 17 August 2023, which is

well reasoned and a fully explained judgment which in my view correctly sets out the position which applies in terms of the applicable law.

18. Before moving on, I should refer to the written offer of 03 March 2023 from the respondent's solicitors to the then solicitors acting for C. and which involves the transfer of €300,000 to C. to enable her to purchase secure accommodation in the area where she is now residing. The payment of €15,000 to allow her to purchase a car and then the payment to her of €500 per month together with 50% of A's educational, dental, medical, and agreed extracurricular activities. That is a fair and reasonable offer. I appreciate the point made by C. that housing is very expensive, whilst €300,000 would purchase a very good house in other areas, it is difficult to find accommodation at that price in the locality where C. is living. I should temper that observation with the following and it is this, from the outset in dealing with this case, it has been apparent to me that C. is a person of very considerable ability in terms of the presentation of her paperwork and presentation of her case. In cross examination C. presented as somebody of high intellect, educational achievements and presence. In fact the best, if I refer to it as that, objection in the course of the hearing before me or the most correct objection in the course of the case before me was one by C. when she objected to hearsay. It was a one-word objection articulated at the correct time, although nothing much came of it because it was a reference to something that had been said at the time - one sentence - and something which I ignored and have now in fact forgotten. All I remember about the particular aspect of the evidence was the objection taken by C.

19. The point I am making here is that I think that these proceedings have perhaps retarded C. in terms of making plans for work and employment. I am satisfied and quite sure that there is employment available to C. if she seeks it out. At this point in time in this country people are crying out for competent, willing employees in all walks of

employment. At this point of time in this country I do not believe that there is anybody desiring to work who cannot get work and the employment opportunities in Ireland at the moment are opportunities which do present a living wage because of the shortage of qualified employees. Like Professor Sheehan outlined, if I paraphrase somewhat, I am quite optimistic that C. will find employment and will move on in life.

20. I am however refusing C's application to relocate and I am affirming the order of the Circuit Court in that regard because I cannot for the life of me see how it would be in the interests of little A. to allow this to happen. I would not consider that I had regard to her best interests if I allowed it to happen. And I should say in that regard that I found the reports of Professor Jim Sheehan of 29 July 2020 and 09 May 2022 helpful and his oral evidence. Likewise the report of Ms. Ruth Moore O'Farrell dated 15 July 2022 but more so that of 24 April of 2023 and her evidence was helpful, but I need to make the point that I regard those reports and opinions and evidence as instructive and helpful but not decisive of the issue. It seems to me that the opinions expressed by Professor Sheehan and Ms. Ruth Moore O'Farrell are correct, but they are opinions and views that I have arrived at independently. I have had regard to the opinions and the evidence because it has been part of the evidence heard in the same way as I have heard and taken on board the evidence of C. and D.

21. I want to move then, because that deals with the order of 12 June 2023. I will dismiss the appeal against the order. I will not interfere in anyway with the approach adopted to Court, I will make no order as to costs. I will leave liberty to apply but that is liberty to apply to the Circuit Court.

22. Turning then to the order of 06 November 2023, the provision at para. (a) is not appealed or an appeal has not been pursued, so I will leave (a) as it is; likewise I will leave (b) as it is; (c) I will make no order in respect of (c) because it is now moot,

Christmas has passed. I will come back to (d) and in relation to (e) I will come back to it as well. In relation to (f) I will leave that order as it is, it is not being appealed from and I will leave the three-month time limit as it is; again (g) I will give liberty to apply to the Circuit Court; and (h) I will make no order as to costs.

23. In relation to para. (e) which is an order directing the respondent to continue to discharge the sum of €1,026, which should read €1,126 per month in respect of maintenance for the dependent child, D. is asking that this figure be reduced to €500 per month. I do not believe that €500 per month is realistic. I accept the point made that there is to be a significant lumpsum payment which I will come to in a moment, but I am not going to accede to the request to reduce maintenance to €500 per month. I have to say also that it seems to me that there is perhaps a small level of uncertainty concerning the actual income of D. I do not think that there is a large sum of money involved but there is certainly some inaccuracy and what I propose to do is to make a slight variation of the order, a very slight, and change para. (e) to read "an order directing the Respondent to continue to discharge the sum of €1,126 per month in respect of maintenance for the dependent child until payment of the lumpsum and thereafter that payment to reduce to €1,000 per month in respect of maintenance for the dependent child and in addition, D. is to pay 50% of the medical, dental and educational expenses". Insofar as extracurricular activities are concerned the father is to pay for the extracurricular activities that he involves A. in and the mother is to pay for the extracurricular activities that she involves A. in, which is as I understand it the current regime.

24. Insofar as the property is concerned, I am told that the current value of that property is less than €300,000 and it may be a bit less or it may be a bit more. I had considered directing a transfer of that property to C. at her option. However, I have

decided against that. I think it is better to have certainty in terms of what is to happen. I will vary (d) to read an order directing D. to pay to C. the sum of €300,000 within two months of today's date, the intention being, and this will be recorded in the Court order, the intention being that C. will use that money towards the acquisition of accommodation as in a house or an apartment for herself and A. as a home. I think it is important to reflect the fact in this judgment that that lumpsum is being paid for that purpose in circumstances where C. and A. do need a home and the mother does need to be responsible in relation to the use of the money.

25. Finally, in relation to the recommendations of Ms. Ruth Moore O'Farrell, which have been incorporated in effect into the Court order and form the contact regime along with the order of 23 September 2020. I intend to add the following additional orders and they will be added in in sub. (a). They are as follows:

C. will have one week at Easter time during which she can bring A. to the United States. The plans in that regard to be made at least three months in advance and the weeks to alternate every other year. That commencing the coming Christmas, C. may take A. to the United States for a seven-day period commencing on 22 December to the 29 December 2024, and the 29 December for seven days 2025.

26. In addition, should C. wish to take A. to the United Kingdom or to mainland Europe for a long weekend then she is entitled to do so two times per year, provided the plans are made three months in advance and a long weekend is to be three nights and four days or thereabouts.

27. An issue has been raised concerning the primary school which A. is currently attending. I must have regard to the evidence I have had in relation to how well she is doing at school, I will direct that A. continue her primary education in …. in circumstances where it seems to me that it is necessary to give that direction and to that

extent it is a fresh direction in lieu of that contained at para. 2.11 of the report of Ms. Ruth Moore O'Farrell dated 24 April 2023. There are perhaps a few reasons for it; (1) A. is doing very well there; (2) C. picked the school, and in fact did so although it was nor recommended and perhaps it was a better choice in all of the circumstances; and (3) a substantial sum of money of €300,000 is being paid to C. to go towards the purchase of a home in the greater area. I appreciate the difficulties in acquiring houses and the cost of housing but against that, very few people have a lumpsum of €300,000 to put towards a house. There is also the fact that I believe, and I am satisfied that C. is in a position to obtain gainful and reasonably well paid employment. There are at this point in time, although I have heard no evidence on them, but there are many government initiatives to assist people looking to acquire homes to assist them in that regard particularly if they have a sum of money to put towards the cost of a home. In this instance few of the people applying for housing under such initiatives are people who will have a lumpsum of €300,000 to show to those deciding on such applications. I say that as an observation without having had any evidence in that regard, but I am also saying it because it does seem to me that the payment by D. is a payment being made having regard to the fact that the home which C. desires is one which she will be looking for in an expensive area.