



2024-04-11: COURT PART 1

Host	Ben Mak
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Participants (1)

Ben Mak

Transcription

Speaker 1 [1:01](#)

When it goes in.

Speaker 2 [1:05](#)

I don't know.

Speaker 1 [1:06](#)

What was of interest in the month doing anything.

Makes sense.

I know you haven't been here long because I came around.

21, please.

Speaker 3 [6:22](#)

Yeah, just make sure.

Speaker 1 [6:23](#)

500.

It's Julia.

Julia. Oversight

or get there.

It

gilmore on the second floor. Reception, please.

Yeah.

Speaker 3 [13:17](#)

You in the gym.

Here it is. Go on, I win you back up on the cow.

Speaker 1 [14:32](#)

Yeah.

Speaker 3 [15:28](#)

Can you go to me room and in me cupboard on the bottom shelf, there's a letter. I need the reference number off of the signal. Yeah. Like when you go in the room behind the door, you've got that like little four cupboard thing. It's on the very bottom shelf. It's the very top letter, the final letter. Yeah.

Yeah. Thank you very much for that one.

Speaker 1 [17:37](#)

Take a seat. 428,

like

exactly. Thank you.

Speaker 3 [24:46](#)

No, just comment at address and she'll speedf.

Speaker 2 [24:49](#)

I think she's gonna address your matter first up, I think. Don't worry. Okay, call it on, come in and we'll show where they're all.

Speaker 3 [24:59](#)

Sir.

Speaker 2 [25:00](#)

All right, thank you.

Speaker 3 [28:36](#)

Yes. Okay.

Yeah, of course.

Speaker 1 [35:57](#)

With the dark hair on my head.

Sure. Do you want to show? No, you know, when you go.

Well, at least you will be straight.

Speaker 3 [36:30](#)

Down the.

Speaker 1 [36:40](#)

Chicken walk when I

speak it.

What's your email,

Sheridan?

That works. Have I tapped that right? Joanne don't show it. Yeah, not that you.

No. So she. She's good at these types.

She came after

by choice.

Well, or even a professional level. I don't want to tell at all, but I think I just had feedback.

Unless she came when we were looking for a meal.

Speaker 3 [41:34](#)

Yeah, all right.

Speaker 1 [41:37](#)

Yeah, we've got

on it, too.

I've not been on it before.

I often buy things and think, I'll do this and I'll do that.

I buy notebooks.

Um. Oh, yeah.

Didn't like

it.

Speaker 3 [45:05](#)

All parties in the matter of St. Helens and Hawkins, two

bridge with.

Speaker 1 [45:38](#)

Basically.

But it.

My dad.

Yeah, maybe. But my dad, even when he's like, it comes and he really feels so. And I'll say, I've got like lounge one.

I am.

Speaker 3 [48:26](#)

There.

Speaker 1 [48:37](#)

I've got time in between the hearings,
actually.

You can get, you know, the machine cost,
you get that.

You drink in a coffee
and it's, um.

Speaker 3 [49:58](#)

Yeah,
what could, you know, what's up? Your type of.
Yeah,
just use bolt on how we do.
Oh, yeah. Thank you very much.

Speaker 1 [51:11](#)

Now, but what's the reason she did that when she discovered anyway, but you pay a lot less then she just ordered a lot of one. Yeah. So I ordered. I ordered two. She said to get the same.
Swinton and Swinnerton to courtroom 15, please. Actually,
if you ever actually go out to buy the ingredients
places and stuff like you might not.
Yeah. What? We did it ourselves. Terrible. Expected. It was just like an area.

Speaker 3 [55:03](#)

Is that a kind of.

Speaker 1 [55:10](#)

Lee. Second floor reception
in the social.
It's no longer worry about what's going on.
Yeah. Did you speak to Rachel?
He was talking about changing his job,
which is why he told me.

ben [58:58](#)

That. Is there somewhere I need to sit or just.

judge [59:02](#)

Yes, Mr. Matt sits on the second row, sir.

ben [59:24](#)

Come on.

Okay,

so when you.

judge [59:41](#)

Think the position justice

charging that opposes the application, just so that you know.

ben [59:56](#)

Thank you.

judge [1:00:43](#)

It.

Paul, in terms of.

ben [1:03:03](#)

My movie.

judge [1:03:09](#)

Behind me.

Oh,

it,

it.

The second respondent father is Mister Christopher Daly who is produced reports today. He is represented by Miss Mill and Hansel. And the third respondent, child in the centre, children's guardian as Josephine Allen was present in

New Zealand, dated lodged in B 63.

It assists the court to briefly summarize the party's respective positions. I have done to assist within its statement.

The mother and son is neutral and respect the application. The father opposes the application.

Thank you. Right. Mister Matt, you need to honestly, first of all, that everything you hear in this court is confidential and must be kept confidential. Right. If you don't, you can defend a contempt of court. Your assets can be seen. Okay. These are found in court proceedings and they are confidential. Now I've read your application and I think your application says party status and intervener, but I think it's an application of party status, is that correct?

ben [1:09:43](#)

Intervene?

judge [1:09:44](#)

No. Yeah, but you want to be joined to the proceedings. An intervener is usually when there is an allegation against you that you've done something. There is no, no that forms part of threshold. So for example, if you have a child who's been injured and we don't know whether it's the parents, the grandparents or somebody else, those people, the grandparents would intervene us. I'm not asked to determine anything in these proceedings by way of threshold. So let's focus on party status for now. Okay. So why do you want party status? Why do you make your application?

ben [1:10:19](#)

Because my sister has asked for me to be her advocate and has not been allowed to have me as an advocate as per Emily Bailey on the 14 November saying he can't be when under section 67 and 68 of the Care act duty to provide application. You see the local authority don't have that choice.

judge [1:10:41](#)

But you know that your sister has an advocate. She has very experienced counsel.

ben [1:10:45](#)

So do I, your honor.

judge [1:10:46](#)

Sorry.

ben [1:10:47](#)

So do I.

judge [1:10:48](#)

You have experienced counsel as an advocate.

ben [1:10:51](#)

Yeah.

judge [1:10:54](#)

But you represent yourself today.

ben [1:10:55](#)

Yeah.

judge [1:10:57](#)

Right. Okay. So you to be able to speak on. You want to be able to speak on your sister's behalf in court, not.

ben [1:11:08](#)

Just support her as a ravisant, like a Mackenzie friend to say.

judge [1:11:14](#)

Right. These are all different things. Okay? A Mackenzie friend supports a person when they don't have representation. So Miss Macklin has representation. And in addition to that, she has the support of a very experienced intermediary as well.

ben [1:11:32](#)

But she wanted me prior, but was told she wasn't allowed.

judge [1:11:35](#)

Right, but that wouldn't be a reason for me to make your party to the proceedings. And intermediary is into parties. And if mum had come to court on her own and said she wanted a friend or a relative for emotional support, I would probably have allowed that. But you wouldn't have failed to speak and you wouldn't be a party to the proceedings.

ben [1:11:57](#)

Okay.

judge [1:11:58](#)

Okay.

ben [1:11:59](#)

Just a bit concerned of mums, my sister's wishes and her truths not being fairly deployed. And psychology reports saying that reading retention was of a 13 year old and was getting no help of reading the paperwork or fully understanding what was going on.

I just wanted help. And I was happy to work with the local authorities, but they would never messaged me back and told me to stop messaging them.

judge [1:12:31](#)

Well, the local authority are not obliged to provide you with any information because you don't have the focus of these proceedings. As difficult as this is to hear, and it is difficult for everyone to hear, the focus of these proceedings is able. It's not actually mom or dad. Now, having said that, the court has a duty to do everything possible so that mum and dad can engage fully in the proceedings. And that's why mum has the benefit of meeting. But in relation to the actual details of the proceedings, because you don't have something called parental responsibility, because you're not able to. As a father,

the local authority are not to provide you with information.

ben [1:13:16](#)

But, your honours, I understand it. If there is safety concerns of a child, and if you gave a certain amount of support and emotional, educational matters to the child that you stand in. Prentice Lucas, according to case law, it.

judge [1:13:33](#)

Does not when you've got two parents who have responsibility.

ben [1:13:40](#)

But at the time, it's like the local authorities had taken Abel and they didn't inquire with me as his guardian signed letter, but it was our start towards it. And the social worker, Marie Moore, took our special guardianship papers and told the family I would try custody. Which was incorrect.

judge [1:14:05](#)

Right? Mister Mack, you know to tell. Yes, it's okay. Only a court can make a special guardianship order.

ben [1:14:13](#)

You have to fill in the form ourselves and send it off.

judge [1:14:15](#)

But it still has to come before a judge. And we gave it to special guardianship order. You have to give notice to the local authority.

ben [1:14:22](#)

We did.

judge [1:14:28](#)

But there is no special guardian she order in this case.

ben [1:14:31](#)

That's the issue. Because Maria Moore took the papers, and we were under the assumption she was doing something with them, and she wasn't.

judge [1:14:37](#)

But there isn't a special guardian she's.

ben [1:14:39](#)

Order in this case because of that matter.

judge [1:14:41](#)

So that means you're not special guardian.

ben [1:14:44](#)

Because of that matter.

judge [1:14:46](#)

And to be a legal guardian, mum and dad will appoint you legal guardian in their wills. And if both of them died, you would become legal guardian.

ben [1:15:00](#)

But struggling to manage.

judge [1:15:02](#)

He was just stepping in. He wasn't taking in, he just wanted to step in. So I was going to have judge.

ben [1:15:16](#)

You're honored. I mean, that's fine.

judge [1:15:18](#)

That's birthday. Okay. It's not for me to give you legal advice, but that would be a general attorney.

ben [1:15:24](#)

I had that signed as well. We had a social worker to. We.

It's that due process has not been followed. As we say, there's no guardianship around the child. Whereas if there would have been been, we wouldn't have had social workers take him into care, because there'd be someone there to provide for them. He was willing and able to, but I didn't even get the fostering viability assessment done on me, despite the three years it spent with the family. So ultimately, that would have all saved the authorities time had they interacted with me and allowed me to cooperate with them. Not have to take the burden of a full responsibility for a child and separation unnecessarily.

And I don't. And I know it's been complex, and I think they have tried, but I think the situation has been more complex than people have understood. And I've not been considered as any cooperative in that. And I think it's because of the grievance file that I saw submitted. It was not well received.

judge [1:16:44](#)

Okay, so I'm still not clear why you need to be a party to these proceedings.

ben [1:16:50](#)

Because the prostitute process has not been followed adequately, and the natural course of justice is being completely maligned. It's not fair. Everybody involved, service providers are picking up information that's not true in treating parties in particular ways, which is unfair and unjust. I've been separated from able for two years and I got refused rationale by Emily. I understand the allegations that were made, but they were dropped twice by the police.

And Abel's interest need protect him because he is not with his family when he should be, or if he's not meant to be with his family. The cooperation between the local authority and the family has caused severe harm where family bonds have not been paramount or able's interest,

safety and ailing, of course. Yeah, I totally agree. I have no qualms with the safety, but not done, not in line with the law.

judge [1:18:01](#)

Look, if anybody on the front bench thinks that something's not been done in.

ben [1:18:06](#)

Line with the law, allegations were made.

judge [1:18:09](#)

About me within these proceedings, then they would advise their clients to any right of appeal. But as far as I'm aware, no order made by this court's concealed.

ben [1:18:20](#)

And these are the parts of the process that are understood, I think, by my sister to fully grasp what these things mean and say it in a language that is true to her nature, especially with the psychology report saying that's.

judge [1:18:33](#)

Why she has benefit.

ben [1:18:35](#)

But her trice was me, but she was told she couldn't and that's a truth that can't be made for her, have me as anything connected or support her for her at all. So extra help got brought in because that was not there, which was me. I thought it couldn't appear.

judge [1:19:00](#)

Right. So the focus of your application is to provide effectively emotional support to your system.

ben [1:19:06](#)

It's to ensure that it's done fair and just and that able's interests and right to protect it. Abel has a right as a guardian. It is. With the time spent over the last three years, the 2500 emails sought not as the HCP, sort of not as school that would qualify me as a guardian.

judge [1:19:30](#)

There is two legal routes to becoming our guardian.

ben [1:19:35](#)

De facto parent would be.

judge [1:19:37](#)

And the second is the death of the parents. And they are very much alive.

ben [1:19:40](#)

But defacto parents it would.

judge [1:19:42](#)

There is no such thing as a de facto parent, not in Malaysia's parental.

ben [1:19:46](#)

Responsibility, just to make sure the child's needs are met when they're not being met. It wouldn't. It was not. It's not about overruling anyone's position or anything of such. It was. That child was missing psychology appointments and it missed five pediatrician appointments. And I gave six letters of consent and he rejected every single one of them.

But we wrote the letter to Garrett to do it because mum and dad had their personal issues and I was helping in that regard. So the child's needs got met regardless of personal issues.

Say again? Sorry,

I have not been with the family for two years. This is the issue. I wanted to help and I was happy to, but the local authorities made my sister sign a letter to say keep in a way.

And I called and I said, can you just like, tell me why there's no issues? And the person that they forced my sister to wait the letter to keep away. There was another person that was also said to keep away and they were allowed to see him. I'm the furthest away that lives. But as the most punitive measures put in place.

judge [1:21:09](#)

Now, Mister Mack, you seem safe that the local authority extrapolated from the government.

I mean, there are various concerns of the local authority, but one of the concerns is that you have a desire to obtain papers and information about these proceedings to correct.

ben [1:21:40](#)

Your honor.

judge [1:21:41](#)

Well, there are numerous requests to the local, far back for information, request to the court for information. And there's a suggestion that you instructed solicitors on Mason.

ben [1:21:53](#)

That's incorrect. Your honour, my sister can actually vouch for that because she got sent the transcript from the call. I did not say that at all. I said that was the uncle. I had stated Ashley as my sister and I actually called up and followed that up with the solicitors and she apologized. And the transcript proves that. But what's more concerning is that under defamatory stance, it's like the local authority, no, I'm not the child's father. So to pass that on is actually no, and it's absolutely false to a third party gets to mum and dad and then they fall out with me. That's defamation.

judge [1:22:27](#)

Well, I'm not dealing with defamation, but.

ben [1:22:30](#)

It stopped me from helping the family and Able's best interest.

judge [1:22:33](#)

Well, it didn't, because it was, as I understand, it actually went as far as filing notice the court and then had to withdraw that because they realised that there couldn't be, you couldn't be a part of these proceedings without the court's permission because you didn't have medical.

ben [1:22:45](#)

Responsibility, but was still trying to meet the child's needs, which is paramount.

judge [1:22:50](#)

How do you meet that? This is where I'm not clear. How does Hugh having all the paperwork meet the child's needs?

ben [1:22:58](#)

Because we don't know whether ZHCP is up to be the know what school he's in or if it's the correct school for him. When he was moved from Florence Melly into Ella Greens, it's like they didn't have his documents or paperwork from nursery. So I had to go to three bears and get them because they said they didn't exist. Because I got them in the initial documents, such as three Bayes report that was said that didn't exist. So Abel was in school and no one knew his milestone, so they didn't know what level he was at, which was quite dangerous, because if they were not given him the level he was at, that might have been the reason why he didn't develop the way he should. But that's just the speculation. But the report existed. But we told he didn't. I apologize if you think I'm being difficult. I'm not. I just want Abel's best interest. And actually, do you understand, as part.

judge [1:23:54](#)

Of these proceedings, they will have an argument.

ben [1:23:57](#)

But even under that, should they not be inquiring with me if I've got any information pertaining to the child? None of such has happened. I've begged the local authorities to take paperwork off me in observation report of the child. No one will be in touch. And it's all as where he's up to.

judge [1:24:18](#)

July shift.

ben [1:24:20](#)

But I've been told stay away from. I've been on my own for three christmases on the run.

judge [1:24:26](#)

You've been on your own?

ben [1:24:28](#)

Because I've been not allowed to come to the family because. For no rationale whatsoever. And when I did see Abel after the time away, he ran over to me and was like clutched to me neck. And then was. We told Emily on the 14 November, he was pulling his ear out, threaten for his uncle Ben. That's not reported, and that wasn't followed up. But Emily stated she acts on information at the time very fast.

judge [1:25:05](#)

But you can either hold it to me, or follow and have a reading it. But I have to say, mister Mack, irrespective of what the local authority statement states,

I'm not clear that any of the issues that you raise mean that you need to be a part of these proceedings.

It's not for me to determine whether you and your sister are in contact or not.

ben [1:25:31](#)

No, but the due process being followed and able best interests and rights be involved.

judge [1:25:35](#)

Matthast guardian within these proceedings and the cath past guardian will give her view as to what has enabled.

ben [1:25:49](#)

But they are missing critical inputs. But I've got all those reports.

But that's what. That's what the issue is when you say, I just want to be able to meet Able's needs and make sure his rights are upheld. Everyone's role is to protect and keep safeguarding children, but the proceedings and party aren't doing it effectively. Sadly, because if they would, surely they would be looking at who spent the most time with the child, who's got documents to the child and getting that information and perspective, but they're not, and there's no justification for that.

And they even leak this document. I've got lots of things being said about me, I'm no right to defend it and that's really not good. That's not a fair trial at all, but my name is flying around the courts with allegations. It is, it is.

judge [1:26:56](#)

What makes you think that?

ben [1:26:57](#)

Because I've been told by my sister and understanding that it is.

Well, no, because. But if able's at risk. If Able's at risk and there's processes within the court not going due process, it would be advised to seek out counsel.

But child safety is first and you.

judge [1:27:28](#)

Are not illegal representative, but child safety is first and the child is living at the moment under the benefit.

ben [1:27:37](#)

And.

judge [1:27:38](#)

Shouldn'T be engaged in these proceedings, and are represented by solicitors and their counsel. And the child has a capital, but.

ben [1:27:47](#)

The child's out of handle with his parents. Albeit there was some safety concerns, but there was no contact with me who was more than able to be a support, which meant that family bonds were sacrificed over him not getting taken away and I wasn't considered at all. And that it's like Italy, nothing else will do, did not apply there. He was taken.

judge [1:28:11](#)

This is not an adoption case. The test of nothing else will do.

ben [1:28:14](#)

Is that's fine, but in principle it stands with moral and ethics. It's like you don't remove a child if there is viability. He can remain with family, with someone willing, capable, has qualifications and special educational needs safeguards, and has also the same condition as able, which makes that bond something unique. And given that got all his appointments sorted out of school, got his EHCP, none of this is taken into account or seen as anything. It's not even acknowledged. That's a. That's a real tarnish of my character.

Which were investigated.

judge [1:29:27](#)

Strategy.

ben [1:29:31](#)

But your honor, when an allegations are made, you have to.

judge [1:29:51](#)

Map what would be the benefit of you being joined to these of proceedings.

ben [1:29:56](#)

The process will be done fair and just.

judge [1:29:58](#)

Well, that's not your job. That's my job.

ben [1:30:00](#)

But Abel's rights are mine to uphold, to keep him safe when they're not being upheld, when there's steps missed that cause grave harm and upset between families. Something has to change. When allegations are made about someone and not followed up and then I get attacked with knives because said allegations weren't satisfied there is a major procedural mix up there

on it. Regardless of that, local authorities should have chased that up and investigated those allegations, which they did not. So they left them open, which meant I didn't have the right to defend or the right to reply. So my bond with my family was deteriorating because no one was investigating these allegations. That's a major procedural side step. Like, if a child makes allegation, there is protocols that must be adhered to, and that's part of the due process and why it relates to me saying, I want them to support

I am, because it's tarnished me character.

judge [1:31:29](#)

You may very well be, but these proceedings are not about you.

ben [1:31:32](#)

But it stopped me seeing able when I was of great benefit to the child's life.

I taught him how to communicate through color. I taught him how to be gentle when he was being too rough. I said, I told him how to cook his own little pizza. It's like the teacher said, is he Spanish? Because the kids were saying, is able from a different country because I was teaching him Spanish.

The pediatricians thanked me for sending footage of him because they'd never seen him. There was four appointments missed, and he couldn't speak. He didn't know what his mannerisms were, what his body motions was, what his triggers were. So I filmed his interactions, showed the family it was all great. And that amazing step forward to Abel's needs got misconstrued and backfired.

Yes, it would have been.

judge [1:32:31](#)

So, Harry, video of an extremely vulnerable child naked.

ben [1:32:36](#)

He wasn't naked. He had a vest on, and he was in his age appropriate attire for 2 seconds.

judge [1:32:43](#)

How is sending that to the mayor of any benefit to a child who is extremely vulnerable and has no control over them?

ben [1:32:52](#)

Because she said, thinking about 2 seconds, the video on that, the setting the child was in, which absolutely defeats the object of the purpose of reaching out for help.

Well, that's what happens. That's what happens when. But that's when. That's what happens when local authorities don't respond to you, it is desperation. When you're in a crisis, you're doing whatever you can to do the best you can. We reached out to the local authority endless times. I'm talking, like, over 50 emails begging for help. I asked her to give all the forms and documents away. I was like, I'll go away. If that's what it takes to get used to party, I'll go away. Here's the documents. But no one would message me back. And I was like, he's got pediatrician appointments coming up. I've got all the emails

I did. I took them because we needed help with doing that. Because mum and I were both run down, because Abel's needs were very demanding. Because when she first moved into the house, a van drove away with a van of his stuff. So she moved into the house on her own while she was open to a hat with a child that's got challenging behavior. So it's like, how do you tend to the child move into the house and all at once.

judge [1:34:37](#)

It.

In relation to this statement, just bear with me.

Historic concerns. I don't have any difficulty with concerns within these proceedings.

Page seven, concerns of to meet needs. Over to page nine, concerns relating to mother, Miss Howard. And you contend that that information is provided?

And then over page, the bottom of page twelve, it says there are, and it continues over to page 13, escalating concerns around her mental health. I've written that on the bottom of page twelve, because page 13 and 14 are updates in respect of April and Mister Mack is not a part of these proceedings. And that information shouldn't go to him because it's an update simply to finish off the statement in actual fact. So I'm not going to provide that. So those 12345 words, six words. Escalating concerns around her mental health. Which concludes section two. I've written on the bottom, but I'm not going to provide pages.

ben [1:37:25](#)

But your honor, due process on transparency and fairness. If I've stated very big and critical steps being missed by the local authority, where's the right to withhold information from someone who actually has got his best interests and can prove and show every single effort, inch and decision has been for his best interest. And it's actually been proven successful.

judge 1:37:52

Okay, this is an application by Ben Mack, who is the maternal uncle of the child Abel Macklin. Daly, who's now seven years old, was born on the 28 February 2017. I say for the sake of completeness, that Abel's mother is Ashley Macklin, whose father is Christopher Daly. I am partway through dealing with an application by Mister Mack for party status. I'll turn to that application later. However, an issue has arisen partway through because the local authority required a statement in response to Mister Matt's application. It's of note that the local authority opposed the application. And so the statement sets out historic concerns about Mister Mac, concerns from within these proceedings, and concerns in relation to mother and mother's mental health, which mother does not propose Mister Mac becoming aware of. However, the last two pages of the statement are an update in relation to able. Mister Mack does not have mental responsibility for Abel and he is not yet a party to these proceedings. But I'm determining that. Furness says that Mister Mack should have the benefit of the local authority's statement. However, the additional update regarding able has absolutely nothing to do with Mister Mack's application. It is purely focused on able. It's documented files within the press proceedings, of which of course, Able is the focus. Mister Mack says. The due process says that there isn't a right to withhold information from someone who's actually got Able's best interest of heart, and there is a right to withhold information in particular because Mister Mack does not have rental responsibility and is not as yet a part of these proceedings, and therefore he does not need to read the additional update regarding able, which is not relevant to the reason why the local authority opposed his application. And therefore, I'm not going to provide Mister Mack with the update regarding able, but I will provide him with the statement which is in response to his application to become part of these proceedings. So on that basis, that can be given to Mister Mack. Mister Mack, if you can just leave the courtroom, you can take the time to read that.

ben 1:40:12

Thank you. I like reading. It's okay.

judge 1:40:17

In actual fact, a large chunk of it is what's contained within your application. It's been replicated, so. Right. I'm going to deal with some case management issues in absolutely.