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Case No: BM23P70059

Neutral citation number: [2024] EWHC 3658 (Fam)

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London
WC2A 2LL

Date: 2 July 2024

Page Count: 3
Word Count: 1473
Number of Folios: 21

Before:

MRS JUSTICE LIEVEN DBE

Between:

FATHER

- and -

(1) MOTHER

(2) THE CHILDREN

(By their Children's Guardian)

Applicant

Respondents

THE APPLICANT appeared In Person

THE FIRST RESPONDENT appeared In Person

MS FIONA LAWSON-HUGHES (Solicitor of HCR Legal LLP) for the Children's Guardian

JUDGMENT

Digital Transcription by Marten Walsh Cherer Ltd

2nd Floor, Quality House, 6-9 Quality Court, Chancery Lane, London WC2A 1HP

Tel No: 020 7067 2900. DX: 410 LDE

Email: info@martenwalshcherer.com

Web: www.martenwalshcherer.com

(Transcript prepared without the aid of documentation)

MRS JUSTICE LIEVEN :

1. This is, in my view, a really difficult case of what contact I should order between two children: X, a 12-year-old boy, and Y a 9-year-old girl, for contact with their father. The father has very recently been convicted of two counts of rape of the mother and been given a sentence of 12 years. I make clear that I have read the judge's sentencing remarks and the guardian's position statement as well as having read the other papers. I have also read the mother's victim impact statement to the Crown Court.
2. What makes this case so difficult is that the children both really love their father, want to see him, have been seeing him up until the point of the conviction (although not between conviction and sentence) and also have a good relationship, as far as I can tell, with Ms A, the father's partner. The mother is adamantly opposed to direct contact or indeed telephonic or video contact. It is plain, for very understandable reasons, that she has no trust in the father, but also in Ms A, who has supported the father. She believes that the father will continue his narrative to the children that he has been wrongly convicted. She is very concerned about risk to the children if they were to go on prison visits. Although she says she supports the children knowing their father and having a relationship with him, in practice she only feels trusting in recorded conversations or recorded messages or letters. I fully appreciate that allowing the children any contact with the father will be very difficult for the mother.
3. The guardian (who, it is right I should say, has been involved in the case for long time) also opposes direct contact. She is concerned about impact on the mother but she also is concerned that the father may well pursue a false narrative, and she wishes, as she put it to me orally, for the kids to be able to move on from these adult issues, and she feels that will be best achieved by them not having direct contact.
4. On the other side of the balance, it is plain from what the guardian has set out in her position statement and from all the documents I have read that the children are worried about their father, they are quite unclear about what will happen to him in prison, and they actually just want to see him.
5. I start from the proposition, which I have to say is normally advocated extremely strongly by Cafcass, that children have a right to have a relationship with both parents, and that I should listen to the voice of the child. In this case, the children really actively want to have a relationship with their father and they want to see him. They have made that very clear. But, equally, I am also worried that if we do not allow them to see their father directly and to speak to him, they will worry even more about him. Letters and recorded videos or recorded phone messages are not the same as seeing somebody in person. These children are old enough, although they may not be articulating it to adults, to be really worried. I think, the mother is, to be frank, unrealistic when she says they do not know about prisons and they are not worrying about these things. They know their dad is in prison. They are intelligent kids. Doubtless they have access to the internet. Doubtless they will talk to people. Even if they are at the moment living in a bubble, one can be confident that a 12-year-old child is not going to live in a bubble for very long. My view is that, in general, the more children know and the more one is honest with them, the more likely they are to deal with what is inevitably a very difficult

situation. We cannot magic away for these children the reality that their father is in prison for having raped their mother. My judgment is that it is better for them to know him, see him and see the prison than to be kept in some unrealistic bubble. This will offer them some reassurance and I hope help them to come to terms with what has happened and make it easier for them to move on with their lives.

6. However, I am also very conscious of the need to try to minimise the impact on the mother, and not to be drawn into a coercively controlling situation. The father wants, I think, monthly visits and twice weekly phone calls. In my view, that is far too much for the children and also for the household to bear.
7. Trying to draw a very difficult balance, in my judgment, three in-person visits a year, roughly each school holiday, dates to be agreed and, where not agreed, Ms Lawson-Hughes will say three times a year evenly spaced. The only option for who facilitates the visit, I am afraid, is Ms A. I asked the mother whether she would agree to another family member or if she had a family member who could facilitate contact, and she was clear she does not. Therefore Ms A it is going to have to be. The reality is that if the children want to communicate with Ms A, they will find a way to do so. We just have to “get real” about children and phones and communication. So I am going to very much hope that Ms A will take a child-focused approach and make those visits as easy for the children as possible. I will order a monthly phone call, perhaps on the last Sunday of the month, which seems a balance between the children speaking to the father who they love and getting some reassurance, but it not being so frequent that it becomes an impossible burden for the mother.
8. I am going to ask the guardian to facilitate a first visit herself, so that she can see how the children react and she can help the children deal with the fact that their father is in prison. I am going to give the guardian liberty to apply if anything comes out of that visit that the guardian strongly feels changes the balance either way that I have struck in this order.
9. I am going to make a section 91(14) order for a year, so that we just hold the ring for a year. I will also say, if at all possible, any future applications come before me.

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(This judgment has been approved by the Judge.)