

IN THE FAMILY COURT

Sitting at Middlesbrough

IN THE MATTER OF THE CHILDREN ACT 1989

IN THE MATTER OF A (a boy)

Before: HHJ.G.MATTHEWS KC

BETWEEN:

Father

Applicant

And

Mother

1ST Respondent

And

A

[through his Children's Guardian HELEN HALE]

2nd Respondent

Nicholas Rooke instructed by Mr F Poncia, Solicitor (freelance) for the Father

Dr Charlotte Proudman instructed by Ms M Chhina of Morgan Wiseman Solicitors for the Mother

Helen Simmons instructed by Hewitts Solicitors for the child

Hearing date: 1 September 2023

1. This court is once more concerned with the welfare of a little boy, A, who is 4 years of age. This is the second judgment I have written in respect of A with my earlier judgment being handed down on 11 September 2023. His parents are the Applicant Father and the Respondent Mother. On the 8th August 2023, I allowed an appeal by the Mother against

findings of fact made by District Judge Lindsay after a fact-finding hearing earlier this year. I directed a re-trial to take place before myself on 30TH October 2023 for 5 days¹.

2. Any consideration of this ruling on interim contact should take into account the written judgment which I circulated earlier this week in relation to the grounds upon which the District Judge's ruling was set aside. The Father has however, reflected upon some aspects of the decision in the lower court and has now made some admissions in respect of his conduct, which he accepts amounts to domestic abuse. I set out below the matters which he has now admitted in a recent statement:

- i) Leaving chocolates on Mother's bedroom pillow when accessing her room without permission during a contact period;
- ii) Using bodycam on 3 separate occasions at contact handovers;
- iii) Being prone to overexaggerate and portray Mother in a bad light;
- iv) Reporting Mother to Children's Services;
- v) Alleging that Mother had caused A to be placed in a calpol induced coma, wilfully interpreting this in a negative manner;
- vi) Recording the mileage on Mother's car;
- vii) Calling the police to report that Mother had allegedly physically assaulted A;
- viii) Serving enforcement papers on Mother in relation to the first set of proceedings at a contact handover;
- ix) Referring to a potential transfer of residence of A on 28th April 2022;
- x) Sending Mother a Whatsapp message stating that he would not attempt further handovers in the light of numerous failed handovers in the lead-up to his message.

3. The Mother has made very serious allegations of domestic abuse, coercive control and sexual violence against the Father. The District Judge did not make any findings of sexual violence, nor did she consider that his behaviour was indicative of a pattern of coercive

¹ Between the drafting and handing down of this judgment, this date has now been pushed further.

control. She did however, make some findings of domestically abusive behaviour by the Father toward the Mother, which are reflected in the admissions now made and set out above. The court will be re-considering all of Mother's allegations which have not been the subject of admissions as set out above at the re-trial together with Father's allegations that Mother has failed to promote contact between himself and A.

4. On the 1ST September 2023, I dealt with a directions hearing in this matter at which the Father applied for the re-instatement of direct interim supervised contact between himself and A which had not taken place since November 2022 and also for direct unsupervised contact to take place between the paternal grandparents and A on an unsupervised basis. These applications were opposed by the Mother but supported by the Children's Guardian. The decision was adjourned as the hearing had been shoehorned into limited time slot in my diary having been moved from an earlier date to accommodate Counsel.
5. I have reflected upon this decision very carefully. There has been an unfortunate delay as a result of a period of leave last week and a number of other outstanding judgments which pre-dated this case. However, I have determined that it is not appropriate to re-start contact at this point of the proceedings pending the re-hearing of the fact-finding allegations. I note that after handing down judgement, although the District Judge did not find proven the most serious findings of physical and sexual abuse, she directed a risk assessment to be carried out by a psychologist and declined to re-instate direct contact between Father and A.
6. This application was renewed before me at the first appeal hearing on the 1st June 2023 and I declined to direct a resumption of direct supervised contact at that time. I consider that given the proximity of the re-trial on 30th October 2023 this is not an appropriate time to re-start direct contact. It is most unfortunate that video contact has broken down. I am not able to determine the reasons for that failure. I am clear that direct supervised contact at the contact centre which took place prior to Christmas last year was of good quality and that A enjoyed this.

7. It is very troubling to read that he is said to be reluctant to engage in video contact. I do not know the reasons for this. I take into consideration that the Guardian supports direct contact resuming both to Father and to the Paternal Grandparents but I consider that I will be in a much better position to determine whether this is in his best interests after I have dealt with the re-hearing of the Fact-finding. At that point I will determine whether it remains appropriate to direct the instruction of the Dr Matthews to carry out a psychological risk assessment or whether some other course is preferable.
8. I am afraid that in the lead up to this further significant hearing I do not consider that even a resumption of the Paternal Grandparents irregular contact is appropriate. Feelings and the stakes remain very high at present and I am concerned that A is caught in the middle of this and I do not consider on balance that it is in his best interests to force through a contact arrangement at this stage. This is no indication of my longer-term views.
9. This is a short form decision, provided in order that the parties can be aware of my decision, given the two week delay. I will provide a longer more detailed written judgment next week.

15.9.23.