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IN THE FAMILY COURT

(Sitting at Cambridge)

No. PE23C50095

Neutral Citation Number: [2024] EWFC 397

Cambridge Family Court
197 East Road
Cambridge CB1 1BA

Friday, 15 March 2024

**IN THE MATTER OF SECTION 31 CHILDREN ACT 1989
AND IN THE MATTER OF RA and FB**

Before:

HER HONOUR JUDGE GORDON-SAKER
(Sitting as a Deputy High Court Judge)

(In Private)

B E T W E E N :

THE LOCAL AUTHORITY

Applicant

- and -

(1) SB

(2) PB

(3) MC

(4) and (5) THE CHILDREN
(by their Children's Guardian)

Respondents

MISS D GOLD (instructed by Pathfinder Legal) appeared on behalf of the Applicant.

MR M TWOMEY KC and MS H NETTLESHIP (instructed by Oslers Solicitors) appeared on behalf of the First Respondent.

MR D WOODWARD-CARLTON KC and MS L BALLANTYNE (instructed by Futter Chapman) appeared on behalf of the Second Respondent.

MR I MARTIGNETTI (instructed by Copleys Solicitors) appeared on behalf of the Third Respondent.

MR M LIEBRECHT (instructed by Family Law Group) appeared on behalf of the Guardian.

JUDGE GORDON-SAKER:

- 1 These proceedings relate to two children. I have anonymised their names and ages and anonymised the names of family members. The children are referred to as RA and FB. Their mother is referred to as SB and the father of FB is referred to as PB. The father of RA was murdered by the father of SB. RA's paternal grandmother is referred to as MC. I have referred to other family members by their relationship to the children.
- 2 The proceedings were commenced on 8 June 2023 and I made an interim care order on 9 June. RA is placed with his paternal grandmother, MC and her partner, and a positive connected person's assessment has been completed. MC is a party to the proceedings. FB was initially placed there too, but RA's paternal family did not think it realistic for FB as well as RA to be cared for by MC. RA has autism spectrum disorder, and he needs a great deal of support. I approved an interim care plan for FB to be placed in foster care. Both children have contact with their mother, with PB and with each other. Dr Hunnisett, who carried out a psychological assessment of RA, says that both children appear to need significant one-to-one attention.
- 3 At this hearing I am asked by the local authority to find that the threshold criteria are met and then to give directions for updating assessments and final evidence and to list a final hearing. A great deal of evidence has been filed already. I have six lever arch files, although there is a fair amount of duplication. PB & SB say that the threshold criteria are not met and they seek the return of both children to their care. In relation to FB, if the local authority cannot prove that the threshold criteria are met that will be the end of the matter. But for RA, his grandmother seeks an order that RA remains living with her.
- 4 Submissions were made to me at the start of the hearing by leading counsel for each of FB's parents that a number of matters should not be determined at this hearing. Save for one matter I refused that application. The threshold criteria are not straightforward in this case, but a number of findings are sought which taken together the local authority said would cross the threshold. In my judgment I have to consider the evidence in relation to all those matters.
- 5 Issue was taken with paragraph 3 of the threshold, which refers to examples of animosity towards RA's father, and then says:

"Both children were caused significant harm by the above animosity which culminated in the death of RA's father and paternal grandfather, the imprisonment of their maternal grandfather and the arrest of their mother and FB's father."

On first reading that it appeared to be a scene setting set of facts recording the fact that RA's father and grandfather were dead, but counsel for the local authority was clear that it was a summary of how the children were harmed by the animosity and that it culminated in the death. PB & SB were involved in that animosity and the findings sought, if proved, reflect that. "Culmination" was the right word. "Led to" for example would not have been, but nor would it be right to say that there was no connection.

The Parties to the Proceedings and Other Relevant People

- 6 The allocated social worker in the local authority is now Sophie Bradley. The respondents are: SB and PB; RA's paternal grandmother, MC; and the children through their Guardian Andie Fruin. They are all represented.
- 7 RA's father and paternal grandfather were killed on 29 March 2023 by the children's maternal grandfather. He pleaded guilty to the two murders and has been sentenced to life imprisonment. The children's maternal grandmother died in 2019, and the maternal grandfather and his daughter were close. I try not to use the parties' names but to use initials or say "mother" or "father" depending on the context. No disrespect is intended.
- 8 In the bundle, particularly in the Police disclosure, I have statements from witnesses not connected to these proceedings. Where it is not necessary to give their names I will not do so. Many of those witnesses were on the witness template but counsel for the parents did not wish to cross-examine them. Some of their evidence is hearsay. They were given information by family members, but they also observed the relationship between the family members and saw the effects on RA's father in particular of the attitude towards him from RA's maternal family. They saw some of the messages sent to RA's father.
- 9 I have regard to all of the evidence as part of the wide background to this case. I do not need to set out the evidence of many of the witnesses because they are broadly consistent with the statement of MC. The oral evidence at this hearing was limited to Fran Balmford, the social worker when the public law proceedings were commenced and PB and SB. Neither parent wished to cross-examine MC. I accept her written evidence.

The Legal Framework.

- 10 The local authority brings the proceedings and seeks findings. It has to prove its case on a balance of probabilities. I remind myself that any findings of facts I make must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation. I must take into account all the evidence and, furthermore, consider each piece of evidence in the context of all the other evidence. The court invariably surveys a wide canvas. I must exercise an overview of the totality of the evidence in order to come to a conclusion on whether the case put forward by the local authority has been made out to the appropriate standard of proof.
- 11 The evidence of the parents is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability. I have been reminded by counsel for mother that however unlikeable or immoral a person may be, or however distasteful their

behaviour, I must decide the case on the evidence. I must not and do not apply criminal law concepts.

12 There is no dispute that the maternal grandfather shot and murdered RA's father and paternal grandfather. Counsel have made reference to whether mother should have reasonably foreseen that, but no submissions have been made to me on the applicability of tort law concepts. I decide this case on what she knew. It is accepted that the actions of SB's father caused significant harm to RA in particular, but at issue is how far, if at all, the harm was attributable to the parents. I have numerous messages between the adults in the family which the Police obtained. I bear in mind that they were private messages and that, as counsel for the Guardian put it, people may have spoken more freely and there may have been an element of hyperbole. A real concern I have is that even with the benefit of hindsight SB does not see much wrong with anything she said or did, or consider how it could impact on RA.

13 I have been referred to *Re A (A child)* [2015] EWFC 11 in which the then President said:

"The second fundamentally important point is the need to link the facts relied upon by the local authority with its case on threshold, the need to demonstrate why, as the local authority asserts, facts A + B + C justify the conclusion that the child has suffered, or is at risk of suffering, significant harm of types X, Y or Z. Sometimes the linkage will be obvious, as where the facts proved establish physical harm. But the linkage may be very much less obvious where the allegation is only that the child is at risk of suffering emotional harm or, as in the present case, at risk of suffering neglect."

He went on to refer to other authorities including the wise and powerful words of Hedley J in *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050 at [50]. I will not read that out. Parents, and grandparents, do commit crimes, and do go to prison, that does not mean that the threshold is automatically crossed.

14 In this case, there were contested private law proceedings in relation to changing RA's surname, leave to remove him from the jurisdiction and about how much time he should spend with each parent. SB was also considering sending RA to boarding school. Counsel for the parents say that these types of private law disputes do not cross threshold. Counsel for the Guardian says – rightly in my judgment – that if a child is exposed to the issues in the proceedings, and the parents' conduct in furtherance of their case, that can result in a child suffering significant harm. The emotional harm is less obvious and is also cumulative.

15 The parents say that the local authority were slow to arrange therapy and support for RA once he was in their care. That does not prevent the threshold being met. I know that it is common for witnesses in cases such as this to tell lies in the course of the investigation and the hearing. The court must be careful to bear in mind that a witness may lie for many reasons such as shame, misplaced loyalty panic, fear and distress, and the fact that a witness has lied about some matters does not mean that he/she has lied about everything. (See *R v*

Lucas [1981] QB 720). In this case I know that SB was willing to lie in the private law proceedings to achieve the outcome she wanted; no other reason for her actions has been put forward.

- 16 I have been reminded that I should guard against hindsight bias or outcome bias. I was referred to Lieven J's judgment in *A Local Authority v AA* [2022] EWHC 1596 (Fam) in which she quoted an earlier judgment of Theis J and the description in the Department of Education's Guidance on improving the quality of serious case review published in June 2013, and the quote was this:

"Hindsight bias occurs when actions that should have been taken in the time leading up to an incident seem obvious because all the facts become clear after the event. This tends towards a focus upon blaming staff and professionals closest in time to the incident. Outcome bias occurs when the outcome of the incident influences the way it is analysed. For example when an incident leads to a death it is considered very differently from an incident that leads to no harm, even when the type of incident is exactly the same. If people are judged one way when the outcome is poor and another way when the outcome is good, accountability becomes inconsistent and unfair."

I have regard to that, but I also remind myself that information acquired later, as to the state of affairs at the relevant date, can be taken into account.

- 17 The local authority thought RA was being given appropriate support and therapy after his father died, that the parents appeared to be able to meet the children's need to a good standard and that they were facilitating contact between RA and his grandmother. Ms Balmford revisited her opinion once she had more information. Sue Day, in her parenting assessment, thought that both children were likely to have been exposed to the increasingly acrimonious legal process between SB and RA's father. She was correct. I now know that the exposure to animosity was by the maternal family. I have regard to all the evidence.

The Background

- 18 The background facts are largely agreed, but the conclusions I should draw, if any, from that background are not. It is not accepted that harm was suffered by the children, particularly RA, by what was going on in the private law proceedings. There was an assumption by professionals that there was equal acrimony on both side of the family – there was not. The background is helpfully summarised in counsel's written opening note, and I have the private law papers. There were three sets of private law proceedings in relation to RA between SB and RA's father. Care proceedings were instituted and withdrawn shortly after his death. In her evidence for these proceedings SB tries to portray herself as more supportive of RA's relationship with his father than she was.
- 19 The relationship between RA's parents came to an end shortly after his birth. Although RA was an unplanned baby he was much loved by both sides of his family. There were some complaints about his father's parenting ability, but his parents seem to have worked well

together in the early years. That continued for a while after his mother met PB. Maternal grandfather, though, contacted the local authority and the NSPCC in April and May 2017 to make unfounded allegations about RA's father's care of RA. RA generally spent alternate weekends and one night a week with his father, and everyone agrees the arrangements were flexible. It changed in July 2021 when his father caught Covid and was accused of giving it to RA and the rest of the family. SB was still angry about that when she gave evidence, more angry than she was with her father for his devastating actions. Covid was not a reason to stop the overnight contact in any event. Insofar as it is relevant, RA may already have had Covid when he went to stay with his father on 2 July. Even if he did catch it from his father, his mother should not have told him it was his father's fault he was ill.

20 On 30 July 2021, RA told his father it was his fault RA was ill because he did not love him any more: "mummy told me". Saying that to RA and stopping his contact was harmful to RA. He needs stability and consistency and his relationship with his father should not be damaged by his mother. SB said his father had low parenting skills and she was critical of his care of RA. On 24 August, he applied for a defined contact order. SB criticised him for that but she had stopped contact without good reason. No safeguarding concerns were raised by CAFCASS, and at the first hearing before the Magistrates an order was made for contact alternate weekends on different nights, and for parts of the half-term and Christmas holiday. Both parents were sent on the SPIP.

21 The case was listed for final hearing on 1 February 2022. That hearing appears to have been dealt with on submissions. RA's mother criticised his father and said he did not understand his autism. I reject that criticism. From what I have read and heard, he was very focused on RA's needs. The order provided *inter alia* for RA to live with his mother and spend time with his father alternate weekends and one evening in the alternate week, half of half-terms, parts of Christmas and Easter, and at least 10 consecutive days in the summer. The order also provided for any additional contact as agreed between the parents in tune with RA's needs.

22 On 7 March, only five weeks later, SB applied to change RA's surname. In the safeguarding interview she criticised his father's parenting as she had done a few weeks earlier. He said that SB had been telling RA his surname is A-B, and has spoken to him about court, and this upsets RA as he does not want his name to be changed. The CAFCASS officer said, rightly:

"RA is only six years old and cannot yet be expected to fully comprehend the significance of his name, and what this can mean in terms of his sense of belonging and identity. This is a decision which should be made between his parents in RA's best interest."

I now know, as a result of the Police disclosure, that SB was discussing the surname with RA and encouraging him to say what she wanted.

23 On 18 May, after hearing submissions from each counsel, SB's application was dismissed. My view is that she should have done what many separated parents do and simply explain to RA that he had his father's surname and FB had her father's surname, but she wanted to

change his name. She was trying to persuade RA to say what she wanted, that was harmful to him.

- 24 On 28 September 2022, RA's father made a fresh application to the court. He said RA's mother would not allow him to spend any additional time with RA. SB applied for permission to remove RA from the jurisdiction. She explained in her application that her husband was a USAF serviceman under orders to be posted back to the US, and then she added this to the box requesting brief details about her reasons for making the application (at page H46):

"Since the start of the relationship the husband has been the main provider for the applicant and the child. They have built a strong and stable family unit for the child to grow up in. The applicant and her husband have a young daughter who RA loves dearly as his sister. The applicant seeks a specific issue order permitting her to remove the child from the jurisdiction to live with the family unit in the USA. The applicant has sought the respondent's agreement to the move and offered as much contact as is practicable. He has concerns over the move and opposes it. The applicant does not wish to alienate the respondent from their son."

It seems to me the beginning part of that application about the "strong and stable family unit" was not necessary. That last sentence was simply not true.

- 25 In her position statement mother was critical of father. Her criticisms are not borne out by the evidence I have read and heard. In her relocation plan document she said she has always been fully supportive in making sure that father has regular contact and that he and RA have a father/son relationship. I cannot accept that. She and her father made unfounded allegations about neglect when RA was younger, and she had stopped contact the year before. I note that she said she provided RA with routine and consistency which is specifically important to a child with autism. I find that relevant when I consider her actions in March 2023. The Headteacher of RA's school said:

"RA does find change very challenging but with support in place and careful planning this can be managed. If RA were to move schools a carefully planned transition would be essential with all the professionals working together."

- 26 The court ordered a section 7 report and said that they expected the mother to be flexible in relation to contact in addition to that provided for in the previous order. Lucy Walton filed her CAFCASS report on 8 March, and in that report, looking at page 180 onwards, she said:

"RA's school report that he is doing well in school and is a happy child. RA has a diagnosis of autism and requires one-to-one supervision during class time to support him with learning and keep

him on task. Due to RA's diagnosis he needs a lot of routine and structure. He struggles with change but can cope when it is planned and other areas of his life remain the same. An example of this was moving house with his mum and finding it hard to adjust, but he found comfort in school remaining the same. The school have no safeguarding concerns. They find they have a positive relationship with both parents and that RA is equally pleased to be picked up by either parent."

In dealing with her meetings with the parents, the CAFCASS officer said this:

"In my interview with SB she raised ongoing concerns about father's ability to both safely care for RA and meet his additional needs around his autism.

In my interview with father he explained how he feels that since the birth of RA, SB has found the smallest fault with his care and used this to restrict his time with RA or dictate how their time together should be spent."

He is right about her finding fault. Ms Walton said:

"Father is clear that he does accept RA's autism diagnosis and always has done. He spoke about how he has a different parenting style to SB, but that he also feels that RA needs to have experiences."

27 In considering the child impact analysis, she says this in her report:

"RA told me that mummy's house was nice and he likes it and that sometimes he teleports to daddy's house where it is fun, but it is not mummy's house. RA told me that he was moving to America where he will go to Mario World and told me that America is amazing but he has never been. He is excited because he will be getting two cats in America called 'Mario' and 'Luigi' and that Super Mario's second name is 'Mario' so his full name is 'Mario Mario', RA found this really funny.

I asked RA about changing schools, and he told me that he won't change school as in America he will be taught at home by his mum."

I think in these proceedings mother suggested he was going to be going to a particular school in America. Ms Walton said:

"I was unable to get a view from RA about spending more time with his father, but I am of the view that this is because he understands that it is not an option because he is moving to another country. RA is clear that America is amazing, and this is something he repeated a

number of times. I am concerned about RA's overly positive view of the move, and that he was unable to consider any negative aspects or that he will be going to a new school."

She went on to say:

"The school see that RA has a positive view of both of his parents. They do find that he parrots what he hears. On weekends where he has been with his mother he is positive about moving and repeats phrases that he has heard. On weekends with father he talks about missing his father when he moves."

That is not parroting anything that has been said, that is an emotion that he is expressing. She said:

"After speaking with both parents, RA and his school, it is clear that RA has a positive relationship with his parents, step-father and younger sister. He also has an extended paternal family who are important to him."

She went on to say:

"RA needs stability and needs predictability. What is clear is that any change in RA's care arrangements will have a massive impact on RA's overall wellbeing and his ability to progress as he will be adjusting to the change."

In her professional judgment she says:

"It is important that both parents support the other and present a positive picture to RA of their other parent without adding their own views."

I have to say I do not see evidence of father criticising SB to RA. Ms Walton said, rightly in my judgment, that she was concerned that SB does not recognise the value of RA's relationship with his father and extended family, and the impact on RA of this loss. She said:

"I am also concerned, given RA's age and additional needs, he is unable to consider the reality of only seeing his father three times a year. "

28 In that report, Ms Walton provided a comprehensive analysis of the issues, and of RA's welfare, and she said that she could not support RA relocating to America. It is even clearer to this court now than it was to Ms Walton then, that SB did not, and still does not, recognise the value of RA's relationship with his father and extended paternal family, nor does she accept the impact on RA of the loss he has now suffered. She repeatedly made unfounded criticisms of father's care of RA.

29 At the Dispute Resolution Appointment listed at 3 p.m. on 27 March the case was set down for a final hearing. District Judge Slaney's order included the following recitals:

"Upon the mother agreeing that:

1. She will not remove RA from the jurisdiction for any reason pending final resolution of the parties respective applications by the court.
2. She will not remove RA from or change his school until further order of the court.
3. She will lodge RA's passport forthwith into the care of her solicitor until further order of the court.
4. She will provide the father with full details of where RA is living and of any changes to his place of residence."

In addition, the Judge said this:

"In the event that the School becomes aware that RA is showing signs of struggling with the daily return journey to and from the USAF Base to school, they shall inform both parents forthwith and the court will permit the matter to return to court to consider further the issue of interim residence."

I think it would be fair to say from everything I have heard that SB and her family were very disappointed at the end of that hearing. Following his father's death RA's mother did remove RA from the school and he did not return until he went to live with MC. I know the maternal family were unhappy with the outcome of that hearing. It was listed at 3 o'clock for a short hearing. SB was represented, and she knew the decisions would not be made that day. As they left the door was slammed in father's face. The day before PB had given father a sarcastic salute when he returned RA. Father had had justifiable concerns about the SB and PB's plans.

30 On 29 March SB's father murdered RA's father and paternal grandfather. PB & SB were arrested. The children were placed in foster care. The local authority issued proceedings on 30 March. The interim threshold document relied on the arrest of the parents for conspiracy to commit murder, the children possibly having been exposed to the planning and commission of the offence causing them emotional harm, the children being present at the arrest, and being exposed to criminal activity. I made an interim care order.

31 On 3 April the Police wrote to the local authority to say they were taking no further action against PB & SB. On 4 April the local authority applied for leave to withdraw the care proceedings. The Guardian was concerned for the welfare of the children, and the fact that they still did not know RA's father was dead. The local authority said they could no longer prove the threshold criteria so I granted permission to withdraw the proceedings. The local

authority was going to provide voluntary support for the family. There was an expectation that RA would be told about his father's death and would have contact with his grandmother.

- 32 On 20 April MC applied for leave to apply for contact. She set out the details of her attempts to spend time with RA being frustrated by his mother. The application came before me on 27 April. RA had not been told about the death of his father. He was not in school and the family had moved to the USA Air Base. I granted MC leave and made an order for interim contact once a week as an activity, and once a week indirectly over Facetime or an equivalent. I said that RA should be told about the death of his father, in an age appropriate and child focused way, as soon as possible with input from the social worker. I was sufficiently concerned about the welfare of the children that I ordered a section 37 report from the local authority. I listed a final hearing of the contact application on 19 June for a day. The section 37 report and that planned hearing were overtaken by events. Relevant parts of the report were contained within the social worker's statement filed within these proceedings.
- 33 On 7 June the police re-arrested PB & SB. They exercised their powers of protection, and the children were placed with MC. RA remains with her, and I have a positive assessment. These proceedings were issued. The case has then been case managed and timetabled to this threshold hearing.

The Police Disclosure

- 34 I have over 900 pages of documents disclosed by the Police, and I have watched the bodycam footage of the arrest of PB & SB. It was the evidence obtained by the Police that led to the re-arrest and these proceedings. It shows the long history of animosity from SB and her father towards RA's father. PB was also involved in that, although there are fewer messages from him. The events of 29 March are described in various witness statements and by the sentencing Judge and the Court of Appeal. The focus in these proceedings is on the actions of PB & SB, and the impact of that on the children, and whether the threshold criteria are met. It took some months for the parents to accept that RA could have been harmed by the loss of his father and grandfather.
- 35 In summary, SB's father pleaded guilty to two counts of murder. On 29 March he had gone to the home of father with a loaded shotgun and shot him twice at point blank range; then he drove to grandfather's house and shot him at point blank range. It was clear to His Honour Judge Bishop that the text messages sent by maternal grandfather, mainly to his daughter, indicated that he was thinking of taking the law into his own hands. The Judge said there was a significant degree of pre-meditation. He referred to the text references to "an Independence Day solution", "it won't be long before I end this fiasco", and how he would "override any court decision". The Court of Appeal referred to the letters which he had sent to the Crown Court Judge. In the third letter he said his actions were driven by an overwhelming desire to protect his grandson. He said:

"My action has been driven by the physical and emotional abuse from his biological male parent and the failure of the Family Courts. I

would not and cannot condone what happened but love can be blind and can be the catalyst for tragedy. This is a crime of passion."

He gave other excuses for his actions and concluded his letter by saying: "Unfortunately, I am driven by a duty and human instinct to protect and care for the ones I love", and he criticised the Family Courts. I note the Court of Appeal increased the minimum term to 30 years.

- 36 I say now that there is no evidence of physical or emotional abuse of RA by his father. PB & SB exaggerated minor incidents such as sunburn, for which father had apologised, and maternal grandfather made ill-founded referrals to the NSPCC and the local authority. This was not a crime of passion. Neither the Magistrates nor District Judge Slaney, nor the CAFCASS officers involved in the private law proceedings are open to the criticism levelled at them by grandfather.
- 37 Leading counsel for the parents say that the messages between the maternal family selected by the Police were those that they felt may indicate something suspicious so there is a confirmatory bias in them. I am asked to be cautious about interpreting them out of context. Whilst I accept that, PB & SB could have provided other messages if they wished to show a wider contact, and if there were positive messages they could have provided examples if they wished to. I struggle to see that many of the messages could have a different context. Further, the Police provided summaries of other topics covered in the messages, so a minority of the messages overall are relevant to these proceedings but quite a lot of that minority show animosity towards father. There are lots of messages about building a case against him to support them relocating to America.
- 38 It is clear from the messages between SB and grandfather, and from her about her father, how much she involved him in the private law proceedings. The messages are critical of and rude about RA's father. It was suggested on mother's behalf that she was using her father as a sounding board. He was much more deeply involved in this case than that. They were fuelling each other's animosity. It is clear that all the evidence in the private law proceedings was shared with grandfather and PB, and they were all heavily invested in this case. Grandfather was outspoken and used unpleasant language about everyone from time to time. PB & SB say he ranted a lot but she was encouraging him. The tone of SB's messages was deeply unpleasant about father, and showed the length she was willing to go to get what she wanted in the private law proceedings. She refers to hating him. She wanted him to have financial problems and lose his house. She did not think about the effects on RA. When she was tracking PB on his phone she said it was because she did not want him to get lost in London. That is in contrast to her hopes that RA's father would get lost when he went to America to visit RA. She gave no thought to RA's welfare if his father got lost and was either late or did not turn up to see him.
- 39 Separated parents in private law proceedings often have strong views about each other, but they shield the children from their views. SB did not do that. It is clear from the messages in this case that she involved RA in the private law proceedings, and was planning to lie if

necessary. At A6 of the Police disclosure I have these messages she sent to PB on 19 May 2022: This is from her to PB:

"I'm having a conversation with [father] about this behaviour when he brings RA back. I need to be on record too. My dad said nothing wrong with what I'm going to do. I'm going to ask RA in front of [father] what is the surname you want – A or A-B? I'm confident RA won't let me down. LOL. When RA says A-B I'm going to ask [father] what his reason is that he cannot listen to what his son wants and requests. And then I'm going to tell [father] the only person that's being malicious in all this is him, and that at no point is he taking into consideration his son. It's all about him. xxxx"

I am afraid it was actually all about her. Then there is a reply: "Well, it's a bit of a gamble, but I think he might even say he wants B and not A. xxxx" Reply from her:

"Slight gamble, but at the end of the day we haven't got that surname, so no real loss. He could mention it in court if RA said 'A', but again I could deny and say actually he said the opposite LOL. [Father] doesn't have the evidence we have. Then I'm going to tell [father] he needs to tell RA why he won't allow it because I shouldn't have to be the one to tell him. xxxx"

Then the reply: "Yeah, I mean the amount of times he is on camera saying he doesn't love him is kinda crazy as well, so fuck it. Xxxx" That is these two adults having a deeply unpleasant plan between them, and willing to lie about it, to try and get RA in front of his father to say he wants a different name. That was harmful to this child. In my judgment, it was emotionally harmful to be engineering this conversation in front of RA. There was no consideration for his welfare. If he did not give the answer he wanted, his mother was going to lie about it.

- 40 PB tries to distance himself from a lot that went on between SB and her father, but he was fully involved in that and other discussions. He did not try to stop her, he joined in. SB was trying to set RA against his father. The amount of time she spent discussing her hostility to father was time she could have spent focusing on her children. In contrast, father, on 12 March 2023, whilst being pleased when he received the CAFCASS report, which did not support RA being moved from the jurisdiction, said he could not talk about it then as he had RA with him. There are only a few messages which are rude about SB. A sharp difference between the maternal and paternal extended family is that MC told him he should not save SB's number in his phone as "Pure evil" and he accepted that, whereas SB and her father encouraged each other's hostility. The Police disclosure shows that in February 2023 SB was counting down the number of nights RA would be staying with his father before she took him to America. She referred to it as "something great" and as "funny" from her point of view, with no regard for RA.

41 Following their arrest in June, PB & SB were interviewed under caution on 7 June and gave "no comment" interviews. SB was given the opportunity to explain why she suggested on the evening of the first arrest that the children could be looked after by relatives a long way away rather than by her father and she did not provide an explanation. She also did not take the opportunity to explain the messages between them or why they seemed to be monitoring father's movements in the months before the murder. The Inspector put this to her about her internet searches on the day of the murder (page 721):

"I want to talk to you about some internet history, and it states that there's a number of internet searches around the 'Family Court process', 'Time for Decisions', 'What to do if an ex-partner takes me to court even though I still allow contact'. There are also some searches that are made on 29 March, the day of the murders. Those searches are for: 'When can you travel without a passport?' 'Flying, driving or a boat cruise from the US', 'Emergency travel with passport', 'Get emergency travel documents', 'Emergency passport', 'Mother and parent apply for parent apply for passport'. 'Is your passport lost or stolen?' 'Have you cancelled your passport?' 'Get a passport for your child', 'Replace lost or stolen passport'. 'British child passport application'."

The police officer asked her why she was looking at those on the day of the murder. After an extended silence she said: "No comment". If she were given permission to remove RA from the jurisdiction she would have valid passports, so those searches are only relevant if she were planning to leave without permission following the hearing before Judge Slaney.

42 PB also gave "no comment" interviews in June, and they both provided prepared statements. The police wanted to know what PB and maternal grandfather had been talking about for half an hour in the evening on 27 March in the hotel – they had found that meeting on the CCTV. All PB told them was what he had to drink, but it was clear that the animosity towards father was worsening.

43 By the time it came to these proceedings PB and SB knew well what the case was against them and they had plenty of time to prepare their statements. They made a lot of criticisms of MC. Neither of them criticised grandfather's actions or his lies. PB did at least acknowledge the impact of the murders. They still do not seem to see that as of much relevance, but the evidence provided by the Police shows me the emotional harm RA was suffering and the actions of PB & SB thereafter added to the harm.

The Evidence in these Proceedings.

44 Fran Balmford provided the initial social work statement for these proceedings. She was concerned about the ongoing risk of emotional harm to the children, and the changes experienced by RA since his father's death. She had completed a Child and Family assessment on 2 May to establish any support or safeguarding needs for the children. SB said she had chosen not to return RA to his school because of the local community's knowledge of the recent events, and the impact of that on RA's wellbeing and safety. FB was not in educational provision, and Ms Balmford thought she would benefit from that to

support her cognitive emotional and social development. Ms Balmford was told that the family was working with a bereavement counselling service on the Base and undertaking emotional intelligence work with RA prior to sharing with him information about the death. Ms Balmford did not know enough of the history, and she took what she was told at face value. She did the same in her section 37 assessment.

- 45 SB was more concerned about the impact of her father being in prison than of the loss of RA's father and grandfather. Ms Balmford said she continued to minimise the importance of these relationships for RA. She thought SB and PB had sought appropriate emotional support for RA and were doing what they could to support the children. She referred to the animosity between RA's parents, but she was not aware of the extent of the animosity from the maternal family, or the extent to which the children were exposed to it. Ms Balmford was undertaking the section 37 assessment when these proceedings were instituted. She referred to the risk of emotional harm to RA if he were to be alienated from his paternal family. MC raised concerns that PB & SB were not prioritising RA's relationship with the paternal family. Ms Balmford thought there was an understandable, if inadvisable, level of acrimony between the paternal and maternal families, but she did not think it then amounted to significant harm or inability to meet RA's needs to a good enough standard. The gift of hindsight has been referred to more than once during this hearing. Ms Balmford made the mistake of thinking the acrimony went both ways, but she did not then know the extent or longevity of the paternal family's animosity. I regret to say that, even with the benefit of hindsight, SB does not seem to me to regret what she or her father did.
- 46 In relation to counselling, Ms Balmford was led to believe that the Base counsellors were advising SB on building RA's understanding of emotions as a foundation for later sharing the news of the death. In fact, the counsellors told Ms Balmford that they would not tell a parent when to tell a child about a death, rather they would support the family with whatever decision the parent makes about this. Ms Balmford, at section 8.19 of her 13 June statement, accepted at face value what PB and SB told her, she now doubts it and, in her oral evidence, Ms Balmford told the court about this.
- 47 First of all about MC, Ms Balmford said that PB & SB were negative towards MC. They did not want the children living there, despite the fact that she was a relative and could provide stability. There was a very strained relationship between them and MC, and she felt an interim care order would mean that the local authority could manage that and support MC. It was put to her that mother said she had concerns that grandmother would cause physical harm to the children. She said FB had bruises. They said that RA could suffer neglect and isolation in MC's care. Ms Balmford said she did not see any of those concerns for herself. I would add that neither have I seen any of those concerns.
- 48 Of SB's decision to home school, she did not know what home schooling had taken place. Her understanding was that it was a stopgap. She was asked about the therapeutic counselling for RA, and she explained what she had understood at the time, but she felt it turned out not to be the case. She said that when RA was removed from his mother's care the second time and she spoke to the therapist, they were clear that they were a front door service providing initial support; their role would not be informing RA about the death or

what could happen, and she said it was due to end the following week, and that was rather different to what PB and SB had said to her.

49 Cross-examined on behalf of mother, Ms Balmford said that SB had given two reasons for not leaving RA at his school, one was that the events were well known and there was the impact of that on RA, and Ms Balmford reassured her that they could address that. The other reason was that they had sold their family home and moved to the Base, and there was a distance. Of course, they knew what District Judge Slaney had said about that. Ms Balmford said that she would not say that she was supporting SB's decision but she was not criticising it and, of course, she did not know what District Judge Slaney had said about the schooling. She was asked about C67 and the pages of her emails with the headteacher at the school and at the time she thought mother was making a child focused decision, and she thought mother intended to enrol RA at the school on the Base, but she does not now think that it was such a child-focused decision.

50 It was put to Ms Balmford that mother should be given a little more slack over her decision making. She said that regardless of their own feelings, the children have to come first, and the counselling – she said that she does not think it was the counselling she was led to believe. It was put to her that mother had been advised to follow RA, and that is what the psychologist has also said, and there was a reference to D3 of the Care Plan. Of course, the Care Plan has other advice in it as well, and being led by RA presupposes that he has been told that his father had died, and SB did not follow the advice that was in that Care Plan. Ms Balmford was asked about this more than once and she said that she was also told by PB and SB that they had told RA about his father's death, but her understanding later was that RA was not told. She acknowledged the reality that it might not sink in, but she said that she could not see that if a child was told his father and grandfather had died he would not process it at all. She said that since then, when RA has had an understanding of death, he talks about it and he has referred to his father being dead. What SB had said in her statement at C28 was read to her:

"SB informed the local authority on 22 May that RA had been made aware of his father's and grandfather's death about one to two weeks prior. She explained that RA has been told daddy and grandad were badly hurt in the same accident, that RA won't be able to see them again, and they are not here anymore. In addition, RA has been encouraged to ask questions, share how he is feeling and that it's ok to be sad. The local authority consider that PB and SB had managed a difficult situation well and have sought appropriate support from professionals to do so."

In her oral evidence, Ms Balmford said she had accepted what she had been told but now she thinks she was slightly misled. She went on to say:

"MC alleges that SB has been confrontational during a contact whereby she and PB goaded MC to tell RA about his father's death in the soft play centre where they were. SB's account differed stating that

she offered for MC to be part of sharing the news with RA and that she was open to this happening whenever MC felt it would be best. SB alleged that MC was yelling at her during the conversation."

I cannot accept that. Having seen and heard SB and her attitude to the parental family, I think that MC was right in her description of that conversation.

- 51 Ms Balmford said that MC had made her aware about the conversation she had had with RA so she went and spoke to RA, and she asked RA if anyone else had spoken to him about daddy and grandad being dead, and he said: "No". She thinks maybe RA did not understand because his mother had not been clear. She is right.
- 52 Ms Balmford was also cross-examined on behalf of PB. She said that her conversations were with both of them. She agreed that with the complexities of RA's age and his difficulties, and the awful situation it was difficult to know how to deal with it and adults vary. There were a range of techniques and responses, but all of them though involved telling RA. She was concerned, as I say, about the accuracy of the information she had been given. She was told, and she accepted, that they had read a bereavement book with RA. Ms Balmford was asked about the local authority's delays in getting counselling but that does not help me in relation to threshold. Ms Balmford's concern about PB and SB was about how emotional support was being provided day to day. She said on her visits RA did not interact with her, they were loving towards RA but that does not mean they were providing the support.
- 53 Cross-examined on behalf of grandmother about the advice that the work should be led by RA, Ms Balmford said she had the dilemma in her head about how RA could ask for help if he had not been told, and she does not know when RA was given the central fact that his father was dead. When RA was placed with MC, she was worried that RA still did not know and asked about the incident when PB and SB had suggested that she tell RA in a play centre, they then said that they had already told RA which, of course, did not add up. SB said that on 22 May RA had been made aware, and that is the part I have just read out. She says that with hindsight she does not think that RA should have been told it was an accident, which is what they did tell RA. She was asked again by counsel on behalf of the children about the support for RA, and she explained that she had rung the counselling service to get some information and that their work was to deal with emotional literacy not bereavement. She was asked about the statement about RA being alienated from his paternal family and whether that would result in him experiencing emotional harm and she confirmed that in the Child and Family assessment she said that PB and SB appeared to minimise the importance of the paternal family. She did not know at that point that private law proceedings had been reinstated and contact was not as free-flowing as she was led to believe. At the time of her early assessments Ms Balmford accepted what SB was telling her because she did not know the history of the animosity towards RA's father and his family. I do not think she is revisiting it with hindsight, she just now has more information on which to base her assessment, and in my judgment what she was doing was revisiting her opinions with the benefit of all the information. I found Ms Balmford's opinion thoughtful and evidence based, and she was right to revisit her opinion in the light of what she knew subsequently.

54 Neither parent wished to cross-examine MC at this hearing. I read her statement and the information she provided to the local authority. Having seen and heard SB, I prefer the account given to the social worker by MC. I am afraid that SB has not been supportive of RA's relationship with his paternal family. She suggested in her 15 June statement that placing the children with MC (whose name she got wrong) would subject the children to emotional harm. She said: "I have always tried to shield them from this but I cannot say for the paternal family." That was not true, she has not shielded the children, particularly not RA, MC has. SB says she told Ms Balmford in an email that she had made RA aware of his father's death on 5 May. When that email was provided it was sent on 5 June. On 10 May SB told RA's school that she and PB had not told RA that his dad was dead, so her accounts vary. It is clear from Dr Hunnisett's initial advice in August that RA had not been given coherent advice as to what had happened. At E113 she said:

"It will be possible for RA to understand the concepts in time, even children with significant learning disabilities can. What can cause difficulties is the failure of adults to help a child with the explanation that is appropriate to a child's age and stage of development. Any explanation will need to take account of his autism. Explanations need to be simple, concrete and without ambiguity. If RA is not given an adequate explanation he may struggle even more than he does to make sense of his world and he may potentially become more anxious. It will not benefit RA to be left in ignorance about what has happened."

I appreciate that that report came in subsequently, but SB was not being truthful about the advice she was getting and how she was talking to RA about what had happened.

55 In her psychological assessment, Dr Hunnisett said that MC explained that RA knew his father was deceased. SB had led the local authority to believe, as I say, that she was getting help, but she did not tell RA the truth. Dr Hunnisett says that since it is not true that his father and grandfather died in an accident, and as RA's writing suggests he is aware that murder and killing were involved his trust in the world of adults may be weakened if he is not told the truth, and she gave advice on how to tell him. It will take time, and I am afraid I cannot see that his mother will be able to support him in this, or to say that his father was a good man and loved him, and that was exactly what was needed, according to Dr Hunnisett. She said that simple statements of facts, while painful, are likely to be more helpful to him than hints or half-truth. For example, his father was a good man. He loved RA. He would never have left RA intentionally. Someone killed his father, and she said other messages of comfort may be helpful too. She went on to express her concerns if he was not given the information in a sensitive way and, as I say, I cannot see that his mother would do that. I am afraid that she still has a negative view of RA's father, and she still does not see anything wrong with her actions.

56 RA did not attend school after 30 March. His mother led the school and the social worker to believe that RA was going to attend the school on the Base. Later, she said she was going to home school RA. I have not heard any evidence about the education she was providing, but

she did not collect his books until 10 May. RA had been at the school for some time, and the team were worried about how he was managing. I see no evidence that returning to school would have been harmful to RA. His mother took him away from a familiar environment. She knew he needed consistent routines. Since RA was placed in his grandmother's care and returned to his old school he has thrived on the predictable routine at school. The school have been able to offer him pastoral support. I see no evidence that he has suffered at school as a result of any knowledge of the events of 29 March. His teacher told the Police that the children in the class were very vigilant of RA, and were all very kind and supportive of him. There was no need to take him out of school at the end of March. His mother and stepfather deprived him of stability and continuity by taking him out of school and in complete contrast to SB's own position that autistic children did not like change.

- 57 In her assessment of PB and SB, Sue Day raised concerns about the effect of a move to the USA for RA, and about SB's low opinion of RA's father and his parenting abilities. She said that the Police records of telephone exchanges demonstrate that father loved his son and that he wished the best for him. She referred to Dr Hunnisett's assessment and said that RA will be reliant on carers who were attuned to the difficulty he has, and will have, in processing the losses. She said it was not clear how SB would be able to support RA to keep alive the positive memories he has of his father. She was not able to recommend that FB and RA be returned to PB and SB's care. I have already said that SB showed no ability to support RA in this. She still does not see anything wrong with her actions or her attitude toward his father. She showed little insight into the effects of her father's actions.
- 58 The assessment of MC and her partner is positive so far. RA is doing well in her care. They are supporting contact, and there is no evidence of any negativity toward contact. The assessments will be updated and concluded after this hearing and they will take into account the findings I make. I will come back to MC.
- 59 PB and SB each filed a detailed statement during the first week of this hearing. They have been able to consider all the evidence and to respond to the findings sought by the local authority. I found SB's attitude toward her own actions striking. She says, and I am beginning at paragraph 3: "It was important to me that [father] should retain contact with RA. I always encouraged contact between RA and his dad." Plainly, that was not accurate. She says: "From the first time that [father's] family met **PB**, they were aware that we would be planning to move to the USA." That may be right, but that does not mean that they have to accept that it is the right thing for RA. She says at paragraph 9:

"[Father] and I maintained a civil relationship despite the private proceedings. We would never allow RA to see any animosity between us. We would be polite to one another in front of RA and he has never seen an argument between [father] and I."

She has undermined the relationship between RA and his father in other ways such as in the name change. She goes on in this statement to describe their plan to relocate and she

describes selling their house. They did not have to sell it as quickly as they did, but they chose to do so.

- 60 SB goes on to say: "During the private law proceedings I did feel that [father] made some accusations that were unfair." She makes no reference to the allegations of her father, which were unfair and not true. She says that: "Dad was my support and I valued his advice. My father and I were close and became closer when my mother died from cancer in 2019." She says that:

"As part of trying to prepare RA for the relocation, I had asked him whether he wanted to stay in the UK with daddy, or whether he wanted to move to the USA with PB, FB and I. RA told me a series of things about his wish to relocate with PB, FB and I."

Then she said:

"I told my father what RA had said and told him that RA had said that he was very excited that he would be moving to America. I did message dad to say that it all went to plan, meaning it all went to RA's plan."

I am afraid I do not accept that. Her plan was to offer inducements to RA. She should not have been having this discussion with RA in any event, and she certainly was not just asking him in a neutral way. She says at paragraph 21 of this statement: "I have no doubt that both children have been severely impacted by their separation from PB and I." She makes no mention of the impact of his father's death.

- 61 Towards the end of her statement SB tries to explain away and minimise the relevance of the messages that she was having with her father and all their internet searches, and how they were planning to leave the country without passports. I do not think that she acknowledges anything wrong in her actions or in anything that she said or did.
- 62 PB, in his statement, in dealing with the messages and the Police disclosure, says that they did not always speak positively, but that was in the text messages between us and not in front of the children. I evidently wrote some foolish things in the messages at times, but they were off the cuff foolish remarks with no intention behind them. He goes on to say:

"I believe that SB and I tried to ensure that we did all we could to shield RA from the ongoing proceedings and I confidently say that FB had no concept of any animosity or any idea about what was going on, given that she was of such a young age."

Children of a very young age can experience emotional harm by picking up on the moods around them.

He refers to the fact that “all the professionals involved prior to the application on 8 June felt we were fully able to care for both children and that we had done our best with RA and FB”. But, with respect, that is because they did not know what we now know. He goes on to explain:

"I couldn't remain here so either SB, RA and FB were to be removed from me if I went back to the USA on my own, which meant FB without her father and RA without his stepfather, or RA was going to have to stay here and be removed from all of us.

No mention at all of RA being able to stay with his father, they just did not consider that an option. At paragraph 14, when talking about the events on the day of the court hearing, he says:

"We returned to the hotel and met with grandfather who was with the children. We talked to him about the hearing and how we were going to get ready for the next hearing, thinking how challenging it was going to be. [Grandfather] said: 'No, PB, you can't hold your life up for this anymore. If you don't win then what?' It was clear he was frustrated by the court process."

This conversation was taking place with the children there.

63 In dealing with the counselling, PB says that they have always ensured RA had the support he needed for his autism, and arranged for him to see a counsellor on the Base on 5 April. SB has always advocated for RA in respect of his autism. Counselling for his autism was not the issue in these proceedings. He goes on to say:

"I know we are being criticised for continuing to want to move to the USA after the murders but I still had no choice but to return to the USA. We wanted to be together as a family and if RA was left behind, or I left the whole family behind, then it would have been a loss for some of us in some way."

They could, of course, have taken a little bit of time to sort everything out for RA before they put in place their plans to move. He goes on to conclude his statement by saying:

"I know that RA was caught up in the middle of the private law proceedings but I believe that SB and I did all we can to shield him from it, and I do not believe that FB had any concept of the animosity or what was going on. I made a note on my phone about the conversation I had with RA as he was saying things of concern about his father but I did not record him. I did not coerce RA to say these things, and whilst I did not feel that [father] had deliberately hurt RA in any way it was something that was obviously important for SB to be aware of."

Frankly, if he knew that father had not deliberately hurt RA he should have made that clear to RA. He encouraged RA, and I now know from his oral evidence that RA was present when he relayed the conversation to SB afterwards. Neither of them told RA that his father did not deliberately hurt him. PB was encouraging this poor child to be critical of his father, and to believe that his father hurt him and had made him ill and then he repeated it all in front of RA.

- 64 I move on to consider the oral evidence of the parents. SB's evidence I think it would be fair to say took rather longer than anticipated. There were probably various reasons for this, but one was that she could not see anything wrong with her actions and so counsel had to go through it perhaps more painstakingly than she anticipated and, secondly, at times she just would not answer the questions. She could not acknowledge the importance of RA's relationship with his father. She was asked some questions by her own counsel, including her response to what had happened, and she said that it was tragic, it has devastated so many people, difficult for everyone. RA lost his father who he loved, and his grandfather as well, and now he has been removed from her care. She said no child should have to deal with so many losses. I am afraid it all sounded a little bit rehearsed. She was asked to reflect on the communications in the Police disclosure, and she just referred to her father going off in rants. She said it was something he regularly did, but she did not say anything about her part in the messages. She explained what she had said to RA, that the father and grandfather had been hurt in the same accident, and he did not seem to understand so she explained that they had died. She said they had gone to the counselling service on the Base for weekly sessions, and they were working on how RA could share his emotions.
- 65 SB was cross-examined for some time by the local authority. She was asked about her relationship with RA's father, and she explained the background to that. Then she said that after they separated contact was a lot more flexible, RA went every other weekend. If either of them wanted to change dates, they were accommodated. She even told us about her getting together with PB, and [father] and his dad seemed to help re-tile her kitchen and everything was amicable. But then she said that RA, as a toddler, was getting some bruises and her father reported them to the NSPCC. She said that RA's paternal grandfather was a good granddad. She did not seem troubled by her father's referrals to the NSPCC although she said she did not think they were a good idea, she would rather have discussed it with [father]. She did not though. She took her dad to A&E with her and she cannot remember why, but her dad said: "Our grandson is neglected when in his father's care. We're worried the incidents of harm could become more serious." She did not do anything to stop those sort of allegations. She explained about RA's diagnosis of autism. She then described RA as running and tending to fall over. This, of course, is at the time her dad was taking photographs of what he said were injuries caused to RA in his dad's care. She took photographs and sent them to her dad. Plainly, all of this was not helping. She says that she can see now that they should not have done that. My concern, of course, is the effect on RA of her doing that. She said that her family thought the paternal family did too much with RA, and the paternal family thought she did not do enough. Well, everybody has different parenting styles. She accepted that [father] was actively involved in the school meetings, they used the school app, they both went to parents' evenings, and she accepted that he was an involved and loving father, and yet she was repeatedly criticising him over

the past few years, and she described how they all got on well when she first got together with PB.

- 66 SB was asked about the problems in July 2021 and she still seems to me to blame [father] for them catching Covid and be rather cross about this. In relation to RA saying, and this is in the document, that his mother had told him his father had made him ill, SB said that she did not tell RA that, but I am afraid I do not believe her. It is quite clear that is exactly what she thinks. She did not correct PB when he repeated the conversation in front of RA about his dad hurting him. She was asked about the CAFCASS report for the leave to remove application and, again, she was raising concerns about [father's] ability to care for RA. She was still complaining about the bruising, still complaining about the sunburn and still being negative about it, and she could not see any positives about him. She was asked about some of the messages in the Police disclosure, and there is an occasion on 19 May when PB said to her, and I have referred to this, about him being on camera being bruised, and that was in the messages about the change of surname. She said: "RA was saying this when his father came to collect him." If he was, she should have dealt with it. It seems to me RA did love his dad, and everybody else saw positive relationships, so I am not quite sure why RA would be saying things against his dad unless he knew that was what his mother wanted to hear.
- 67 There is a comment that [father] was just a "paid babysitter". She accepts it was unpleasant, but then there is also her saying: "It's just another tick on why I hate him". I am not sure there is any reason to hate him. Asked why she would say that, she just said: "Maybe we shouldn't exaggerate." She agrees that it was distasteful to suggest that somebody should run him over. She does not think RA would have picked up on her attitude – I am afraid I do not accept that. RA was exposed to the criticism of his father, and he was living in a home in which there was never a positive word about his father. In reply to a message from father asking for some extra time with RA in July 2022, and he even asked just for a couple of extra hours, PB said to her: "Tell him RA hates him". She did not seem to think too much about that. Asked about the messages in February 2023, when they were getting ready to go to America, she sent some of the messages that are in the Police bundle at A9 to 10. That is the one where she makes reference to a suggestion he runs him over. She was rather pleased about a conversation with a teacher at swimming, apparently they had been "writing negatives and positives, and it has made RA upset the last two mornings because one of his negatives is that when he moves to America he will never see grandpa again. So the teacher asked RA: "Do you mean mummy's dad, or daddy's dad?" RA said: "Mummy's dad" and that is the only person he mentioned. So what is interesting is he never cared or was upset about daddy or grandad, ..and he talks about FB all the time". Then the reply that came back from PB was: "That's absolutely hilarious". I do not think it was hilarious. Then she goes on and makes some other messages about father. They were not encouraging RA to be able to speak about his father because that would not suit her case. I am told that RA is a bright boy, and it seems to me he would have begun to know that he could not talk positively about his father. The guardian's counsel picked up on that in relation to the cafcass report.

68 There are references in the Police disclosure to messages between PB and SB, and PB was making quite a lot of what RA was saying to him. I have already referred to this. RA had apparently said at one point: "Daddy is the worst". PB said: "Yes, RA, that's true, but what makes daddy so bad?" If that is not encouraging a child to criticise his father, I do not know what is. There was the problem with the sunburn and PB was prompting RA to criticise his father about that. It may be worth reading the conversation because this has been mentioned more than once. This is on 24 August 2022. "Do you play Splatoon?" This is obviously a game at daddy's. "No." "Why not?" "Because I don't know". "Did you ask if you could play?" "No". "Why not?" "Because daddy is the worst", and this is the bit I have already pointed to where PB says: "Yes, RA, that is true, but what makes him so bad?" "He does bad things." "What kind of bad things?" "He hurts me." "How does he hurt you?" "He gives me sunburn and gets me sick." "Is there anything else?" "He hits me". "Where did he hit you?" "In the stomach." "Why did he hit you?" "Because I was doing bad things." "What bad things did you do?" "I was punching him." "Why were you punching him?" "I don't know." "Is it because you wanted to come home?" "Yes." "Did you ask daddy to call mummy?" "No." "Did you ask if you could come back to mummy's house?" "Yes." RA is obviously prompted to come up with the right answer. "How many days do you think you asked?" "Probably like 5 times." "So did you have a good time at all at daddy's?" "No." It is quite clear from this conversation that RA was beginning to understand what he had to say. At that point apparently SB calls them down to dinner, and passes on the conversation. According to SB, this was done so that she could raise it with RA's father and PB raised the conversation with her. She was rather evasive when asked where RA was, and she said: "Oh still upstairs, or coming down." I think that from her evasiveness PB was obviously writing this down and raising it with her when RA was there so RA was exposed to it twice. SB said she does not think father hit RA, but RA was being encouraged to make allegations against his father. Nobody told him that his father, for example, did not make him ill and had apologised for giving him the sunburn; he was just being encouraged to criticise his father.

69 On 30 January SB sent a message to PB to say it will piss [father] off when we move." In cross-examination she could not answer why she wanted to do that. She just did not seem to have any regard for the loss that her son was going to suffer. She was asked about the conversation on 1 March where she was recording a discussion of what RA had said he told the CAFCASS officer, and it reads very much as though she was going through a checklist of what she had prepared him to say and then she sent messages to PB because she was pleased about that. Certainly, there is no evidence in that conversation of them being supportive about the relationship with his father. She says in a message:

"RA was a little excited telling me what he said, as if it had gone well and as planned, wanting me to know he'd said all the right things because obviously I said: 'If all goes well we can get to Mario World' and I said the only way he can get to America is with us."

"Planned" is her word. There is a reply from her father saying: "It's important to reward RA and let him know he's fantastic and you'll be going to Mario World." RA had plainly been briefed into what to say. SB was also asked about June 2022 when RA was being asked

who he wanted to live with, and she thought it was hilarious when he said "PB". In my judgment, it was plainly harmful to be asking RA these questions, and he obviously knew the answer he had to give his mother.

- 70 SB was asked quite a lot about the messages between her and her father, these include in July 2022 when she said: "PB is going to play sniper from the balcony window when [father] next picks up RA" and she put two kisses and then sent a picture. She thought it was a joke. I do not think she was able to explain what was funny. On 10 March 2023 she was asked about the message she sent her dad about placing fireworks at [father's] and doing a quick getaway before he sees them. Again, she said it was a joke. Again, she could not say what was funny, and I have said that they were encouraging RA to say what they wanted to say. I note that she said that [father]'s statement would be a concoction of lies. In fact, it was not a concoction of lies, what he said turned out to be quite true, she wanted him to disappear from RA's life. That made her laugh. She sent a message to her dad saying: "I'd love him to disappear." She was asked about the time **PB** got very drunk at her mother's funeral, and she made excuses for his terrible behaviour. What I note about that is that [father]'s slightest mistake is heavily criticised. There was a culture between PB and SB and, indeed, her father that it was funny to do down [father], and to wish him harm. They did not have any boundaries over what was acceptable behaviour.
- 71 There had been a family meeting in June 2022 to see if people could look together at the way forward, and after that she sent her dad a message referring to [father] as "a dick" and referred to scaffolding collapsing on [father]. There were problems at one point in her relationship with PB, and I have already referred to the tracker that she put on his phone. She said that her relationship with her father was close, and she spoke to him on the phone almost every day, and saw a lot of him when he moved down from Boston, and indeed from January she saw him almost every day; he took RA to and from school. Sometimes she saw him for an hour for a catchup and from their evidence though their whole focus on their discussion seems to have been winning their application for leave to remove, and FB was present at a lot of these conversations. SB was referring in messages to the application to go to America as taking over her life, and it being catastrophic if they could not go. It was taking up a lot of hers and her father's time, and the children were not shielded from this.
- 72 SB was asked in cross-examination if she was worried about her father being over involved when she saw his messages about "ending this fiasco" and she said: "Not really" which shows a lack of insight, even with hindsight. She said she was just having a rant when he talked about going to South America. She seems to have not paid any regard to him saying: "Delete the messages", she did not see a reason to worry when he was sending messages about Independence Day. She said that her father's messages did not ring any alarm bells. If that is true, they should have done, because she was plainly fuelling his anger. I notice in their messages that almost everything that [father] did was criticised, and they were spending their time trying to build a case against him. Some of these messages were during school holidays, and her focus should have been on her children. She could have been telling RA what a lovely holiday he must have had when he went to stay with his father, but I do not think she did. When [father] asked for some extra time in September 2022 she said it was not convenient. Before she did all these things she ran it by her father, and he

suggested deliberately winding [father] up. They were derogatory about [father] as part of building their case. She said she was not obsessed but she and her father in these messages were obsessed, even now she does not seem to see much wrong with it. The closest I think she came was saying: "Maybe I shouldn't have done" in relation to some of her actions against [father]. She agreed that she did not think [father] was a threat or a bully, and yet when her father had suggested that [father] used Jekyll and Hyde behaviour she messaged **PB** to tell him [father] was a bully and threatening until he gets what he wants. PB did not say: "No he's not". I have to say, from everything I have read about [father] he was not a bully or threatening. SB may agree with that now but it is a little bit late, because she wanted to portray him in a bad light she was getting her father to check messages, and they were encouraging her and they were making critical notes about [father]. They were deeply unpleasant to him.

- 73 In November, just a relatively minor incident, she spoke to her dad about sending school photos to [father], his reply was: "Sod him." She sent a message to her dad saying she hoped [father] would go to prison – it seems to do with some kind of financial problems. I cannot see how that would be good for RA. Her dad said he would not settle for that, he would like [father] going to hell. Even now, she says it is nothing serious, and she thought her father was being helpful and yet they were spending a great deal of time fuelling each other's anger.
- 74 SB was asked about the events of March last year. She accepted that she did not tell anyone they had moved to a hotel in March. I note she lied in her statement by using her old address; she did not want [father] to know where she was. She did not think about RA. She said that she and her father were discussing boarding school for RA. She did not discuss it with [father]. She told the police twice that RA was going to stay with her father if they could not take him to America. She did not want him to stay with [father]. At court she said RA was going to leave his school because they were going to move to the Base, and that is when District Judge Slaney said that RA should stay at his old school. Asked about why she had not made an appointment for parents' evening she said she had had lots of meetings with the school, but she still usually went to parents' evening.
- 75 SB was asked about events of 29 March, and she said that her father took RA to school and collected him every day. There were several phone calls between her and her father during the morning, she said that was to update him on the conversations with her solicitor. If FB was crying so she could not hear, she would have to ring back. So there were several calls discussing these proceedings and FB was upset. FB was being exposed to the conversations and the tensions and that was harmful to her. They did not, apparently, ask her father where he was going in the afternoon, or why he could not collect RA, and then they all went to collect RA from school together. PB seems to have made a point of introducing himself to the teacher.
- 76 SB was asked why she did not suggest her father look after the children when she was arrested. She said she was in complete shock. She did not want him having the children in a motorhome, and she did not want him to know she had been arrested. She said the children being in a motorhome was not a viable option, and she said she did not know or

suspect it was her father. For someone who describes this as a complete shock and being shaken up, she went through a lot of thought processes to work out why it could not be her father, and why it had to be someone else at a distance who did not know the children very well. I am afraid I do not believe her. They were living in one room in a hotel. Her father could just have got another room in the hotel. She was asked about RA not being told that his father and grandfather had died, and she said in cross-examination it was 5 May. I do not accept that; from the letter from the school it was plainly later than that.

77 In not telling RA, they did not think about the impact on him of not knowing why he was not seeing his father. She was asked about a picture RA drew with the therapist, and she seemed rather pleased that he had not included his father. She ought actually to have thought about whether that showed RA was suffering harm rather than be pleased about it. She wanted the children placed in foster care, rather than being with MC, and she said that was partly for MC's welfare. I do not accept that. She was very critical of MC, and she was making allegations that FB suffered bruises in her care; that had a familiar ring to it in relation to her earlier allegations against [father]. She was asked in the parenting assessment by Sue Day about contact with MC, and she said that if RA wants to see his grandmother they would try and sort it out. She said she accepted the importance of maintaining contact – I am not sure that she did though, given her attitude to the paternal family.

78 When SB was cross-examined on behalf of MC she was asked about RA's contact with his grandmother, and that had taken place on 14 and 30 April, and 7, 13 and 29 May. She allowed MC the bare minimum of contact. When cross-examined on behalf of the children about the email saying she told RA about his father's death on 5 May, the Child and Family Assessment signed off on 9 May says that RA did not know, and I have already referred to the other evidence about the date for that. She accepted that MC had provided some figures like Mario to help keep the memory of his father alive. Asked what she was doing she said she was going to get photos but she had not actually done anything. SB agreed that RA needs to know what is going to happen in his life, so it was not helpful for his dad not to know that he was moving, in fact he moved twice. She was asked about RA not having his school bag causing [father] to ask questions and she said that is because they had bought a new one. I note that they questioned RA about whether he had told [father] that he was staying in the hotel, and that was putting pressure on RA to conceal it. There are messages between her and her father, with her dad telling her what to say about taking RA out of school, and she tried to explain away her internet searches by saying it was to do with getting a visa. I do not accept that. My view is she was planning to take RA out of the Country with or without permission.

79 SB said that she has tried to shield the children from emotional harm. She simply has not. Examples were put to her giving the lie to that, such as the August conversation between RA and PB. He was being encouraged to think badly of his father. She accepted she said nothing to reassure RA that the sunburn was an accident, his daddy had apologised for it. She was asked about the note I have referred to – this was on A13 – that she made after RA had seen the CAFCASS officer. She did not accept that what she said could be influencing RA, but it is quite clear from her attitude that that is what she intended to do, and she was rather hoping he had done it. In fact, he did not say what she had planned to the

CAFCASS officer, he told her what she had wanted to hear. It is harmful a child is feeling he has to lie to his mother because he knows what she wants to say. My view, having heard SB's evidence, is that RA was plainly exposed to her hostility to his father. She still does not see anything wrong with trying to influence him against his father. She does not see how the desire to go to America which she said was "taking over [her] life", was impacting on the care of the children.

- 80 PB was a bit more reflective in his evidence. He, too, said the right thing about how this had been lifechanging and traumatic, what RA had lost. When he was asked about the unpleasant and abusive messages he did say that viewed as a collection they are distasteful and unpleasant, but he said there is not much context. He did not provide a positive context for those messages. He said he was never serious about being violent to [father], and he did not send the messages. No, but he was encouraging his wife to send them. He talked about his own parents having gone through a divorce and how difficult that was – it seems to me all the more reason not to be participating in all of this animosity. He thinks that FB was too young to pick up on things, and she was non-verbal. I am afraid a non-verbal child can still suffer emotional harm and pick up on hostility. He said that they did not particularly have conversations in front of the children except perhaps at night when they were in bed. Of course, those last two weeks they were all sharing a bedroom. Asked about that conversation which he had made a note of, he said RA said a few concerning things and he wanted to bring it up with SB. This was not about RA's welfare, it was about building a case. He confirmed that SB was in the kitchen cooking dinner and he pulled her aside to tell her. RA was present when he was relaying this conversation.
- 81 PB gave some background to his relationship with SB, and then he talked about the plan to go to America and how they sold their house. He said at one point: "RA's father is named on RA's birth certificate so he has a right to oppose." He seemed to regard that more of a legal obstacle than a father/son relationship. He was asked about the text messages, and he said they were off the cuff foolish remarks, and he said he respected [father] as RA's father. That is not borne out by any of the evidence I have seen or heard. He said he has told RA that his father loves him, and he has fun there. I have no record of that in any of these messages. He referred to [father] as a 'contracted babysitter'. On the change of name he claimed he had told RA why he had a different name. I see no evidence of that, they were all rather keen to get RA to say he wanted to change his name. There are messages, as we know, about running [father] over, and shooting him in the face with a rocket launcher. He says they did not want harm to come to [father], but that is what they were discussing. It was put to him that they counted down the number of days [father] would see RA before they went to America. They seemed to enjoy that. He said it is not for him to decide who is important for RA, but he was plainly putting his views into the picture, and trying to say that he was more important for RA than his own father. He said that RA was in a difficult position because of the family proceedings, but they did not need to put RA in that difficult position. You can make a leave to remove application without criticising the other parent in the way they did, and without offering inducements to a child. He said that his statement to the police contained a misunderstanding. Of the photo of FB with the guns, which were produced for the hearing, he talked about them doing some target shooting and letting her look down the scope – he accepts now that it was in poor taste.

- 82 In his statement PB says that he did all he could to shield RA from the animosity in the court proceedings. I have already referred to parts where that plainly was not true. He was asked about that conversation and recording it, he did not answer. The question was repeated again and he said: "Well, if RA was being hit and . . ." he trailed off, and he then had to accept that RA was not being hit. They were not shielding RA, they were trying to get him to say what they wanted. He said there were many times that he told RA his daddy loved him. Again, I do not see that anywhere, all I see is three people who regarded [father] as a nuisance. He said that after the hearing on 27 March SB's father was frustrated by the court process. He refers to them all being in the hotel room with the children. He and SB were upset, he said he did not want to go alone, he would be away from FB, it was tough for him. I say two things about that: first, there was no thought for RA's relationship with [father], secondly, they were all having this conversation when they were upset in the hotel room with the children. All of these things were not known to the local authority until much later.
- 83 On 28 March PB says he told the police he saw SB's father briefly in the lobby, in fact it was rather longer than that, and there were also a number of phone calls going on. He said that they were having discussions when they were all together in the hotel on 28th, with SB and her dad saying they did not have faith in the legal system, and they were discussing just them going and it never ending. Again, I am concerned, even if they were not, about the impact on the children of being exposed to this. RA would have understood what was being said, and FB was exposed to that upset. PB was asked about the routine in the hotel and he, too, described the amount of time SB's father was there. He was asked if he had any regrets and he said: "You can always look back and regret", but overall he said: "We love our children and we would never harm our children." Not many regrets then, and regarding both the children as his.
- 84 Cross-examined on behalf of MC, he accepted that he got on well with [father] at the start, and [father] even did some work on their house, and he thought lots of the remarks between them were a joke. With hindsight, he, rather more than SB, accepted that perhaps things should not have been said and done as they were. He was asked what [father] had done or said that warranted the messages that were being sent. He claimed not to understand the question; I think he understood the question full well. He said he did not have a problem with [father], all the more reason to wonder why he was saying these things. PB said, and this was very telling it seems to me: "Obviously [father] didn't want his son to go to America so it was a difficult situation." In my judgment, if they had run their case on that basis it would have been very different to the way they embarked on this litigation.
- 85 In cross-examination on behalf of the Guardian, PB was asked about the searches on his phone on 8 March 2023 for "Adopt my stepson", that is the day of the CAFCASS report; he said he does not recall that. I find that hard to believe; that they were looking at a way to get rid of [father]. At times, PB was trying to distance himself from SB's actions but in my judgment he participated in her hostility to [father], and in her attempts to get RA to criticise his father.

86 It is said on behalf of PB that there are not many messages from him, but he was living with SB and he did not need to send her messages. He was involved and the messages he did send, and his record on his phone of that chat with RA, show he was trying to influence him. He went to the court hearing to support SB, he knew exactly what was going on. After the court hearing on 27 March they were all discussing this in front of the children. PB regarded [father] as a nuisance. He referred to him in his evidence having a right to oppose the leave to remove application because he is on the birth certificate, rather than because he was a caring father with a good relationship with his son. He was investigating adoption to remove [father] as an obstacle, and he was talking about "our children". He gave that sarcastic salute when RA was returned from contact and he had no respect for [father] as a father. At the beginning of their evidence each parent expressed regret about what had happened, but the reality is that they thought an obstacle had been removed.

MC

87 PB and SB showed no compassion towards MC. She somehow put her feelings on one side to attend contact with RA under SB's supervision. She was in an impossible position if RA asked about his father, but she did what she had to do so that RA could at least see one member of the paternal family. She took on the care of RA and FB at short notice. Rather than support that and thank her for keeping the children together, both PB and SB were highly critical and suggested the children would come to harm in her care. They would not. The viability assessment noted her warm and child focused approach to FB. Her parents' attitude would not have helped at a time when MC was considering whether she could manage to care for both children. Neither parent wanted to cross-examine MC. I have her statement to the police and I accept her evidence. She has been child focused throughout the whole of RA's life; that was in stark contrast to SB's father.

88 Having read and heard the evidence I find that RA's mother did not tell RA about his father's death until much later than she claims, and even then she did not deal with it in a way that he understood. She tried to goad MC into telling RA at contact to cause an incident. MC would then have been given the blame. Moreover, it would have been likely to cause RA further emotional harm when his mother said she was getting emotional support for him through counselling. Although she made criticism of SB in her police statement, MC was setting out the history for the Police. She was not involving RA in it. She describes a loving relationship between [father] and his son, and the fun they all had. She is long since separated from the paternal grandfather but the whole family had good relationships. The history which she gave, which I accept as accurate, included a time when [father] and SB took RA to A&E, and in front of RA, SB was criticising [father]'s care. SB was inspecting RA for bruises when he got home, that sent a negative message to RA. The paternal family were supportive of PB at first. Grandfather and [father] helped with some work to the house. Then MC describes a deteriorating attitude from SB after everyone caught Covid and the various court proceedings that followed. She describes PB trying to slam the door on [father] after the last court hearing on 27 March. PB and SB were plainly cross because they could not go to America at that time, and because the Judge had said RA should stay at school. It is probably of little comfort to MC, but at least [father] was happy and optimistic the last time she spoke to him.

89 During these proceedings MC has had to read and listen to the appalling things that were said and done to her son, and how RA's mother, supported by her husband and her father, criticised him and laughed at the damage they wanted to do to his relationship with RA. She has also heard how they tried to influence RA. Despite all of that, it is clear to me that RA loved his father and his paternal grandfather, and he has suffered a great loss. The evidence I have of MC so far tells me how well she is caring for RA. She restored his stability at school, and she is supporting contact. He is lucky to have her.

Conclusions and My Findings.

90 Before I give my findings, I need to say something about [father] and paternal grandfather. I know little about paternal grandfather but he comes across as a loving and caring grandfather, who supported SB even after she separated from his son. He was a committed family man. [Father] did say a few unpleasant things about SB, but they were in the context of the damage she was trying to do to his relationship with RA, and the harm she was causing RA. He accepted his mother's advice, and his priority throughout has been the welfare of his son. RA has been deprived of a relationship with his father and paternal grandfather who plainly loved him. PB and SB's and SB's father's hostility was wholly unjustified. SB's father's attempts in the criminal proceedings to criticise them added to the harm his actions caused. There is no evidence to support his criticisms of [father]. I have seen a lot of evidence about SB's father's unpleasant attitude and his rants. His daughter did not stop him. She gave him more and more information which fuelled his animosity. In messages to third parties, SB's father showed how heavily invested he was in supporting his daughter's wish to relocate.

91 In May 2022 in messages with his daughter, SB's father was referring to going to South America. He was going to sell his home and live in Panama on around \$4,000 a month as long as the UK do not freeze it. Without a conviction, he did not think it could be frozen. He referred to the Independence Day solution. He was not necessarily referring to the film, but to being free, as he saw it, from [father]. He referred to beating the boredom of prison life. He concluded that conversation by saying to SB: "And important all this is deleted xx". She did not try to stop his 'ranting' (as she calls it). She just said that she was not sure she should be searching for rental properties in Panama for him. She did not consider the likely impact on RA. Despite the recommendations in the CAFCASS report, and the fact that SB told the police she knew her leave to remove application would generally go to a final hearing after the directions hearing on 27 March, she had proceeded on the basis that the whole family was going to America shortly after. They were angry after that court hearing, and then they were all discussing it in a hotel in the presence of the children. In my judgment, that animosity caused both children emotional harm. FB may not have understood the context, but RA would have done.

92 The messages and calls between father and daughter after the court hearing on 27 March show a level of desperation. SB searched for: "What happens if the father finds out he's not the father after 8 years?" She complained to her father about [father]. There were several phone calls between them. She said she had to hang up and ring again more than once because FB was crying. FB was two and a half. This was not a crying baby, this was a child upset from being exposed to the increasing animosity. During the parenting

assessment, SB spoke of children being 'able to pick up on our facial expression, especially RA'. You can pick up on parents' emotions she said, it shapes their mood'. 'Children are like sponges'. SB has a degree in education. She showed an understanding of emotional harm, and yet she exposed the children to the adults' emotions.

- 93 When she was interviewed by the Police, SB said that RA loves his grandpa and would have been absolutely fine staying with him. They saw her father almost every day, and he often took RA to and from school. He was due to collect RA on 29th, she was hesitant about saying why he did not. She told the Police that FB does not deal well with strangers and would cling to her for dear life, yet when she was asked more than once by the Police at the hotel who the children could stay with, while she and PB went to the Police Station, she mentioned a distant relative, not well-known to the children, not her father. She tried to explain that away by reference to the size of the mobile home, or him being cross with her. This family of two adults and two children were living in one room. All she had to do was suggest her father come to the hotel and look after the children there. If the Police needed to seal their room, another one could have been booked.
- 94 In dealing with threshold, it is pleaded that SB knew her father had applied for a shotgun and she told the Police he always had a shotgun. The family are plainly relaxed about guns, and I have seen the photographs of SB and FB posing with guns. That does not mean that she knew her father was going to shoot [father] or grandfather and, in my judgment, those matters prove nothing in relation to threshold.
- 95 I have considered all the evidence carefully. SB's father is a deeply unpleasant man. He developed an unjustified hostility to [father], an obsession with supporting his daughter's relocation application, and had plans to take the law into his own hands. When they were arrested, PB was physically shocked by what happened, SB rather less so. My view is that her failure to name her father as someone to look after the children was because she guessed it was her father who had killed [father] and his father. It was not likely to be anyone else. That, though, does not mean that she played a part in his actions that day. On the evidence before this court I do not find that SB knew what her father was going to do, but she had fuelled his hostility and they had spent months winding each other up against [father]. In my judgment, their animosity became so great that by March the children were living in an emotionally abusive situation. Even now, SB cannot accept that she played a part in fuelling her father's irrational hostility and what it culminated in.
- 96 I have given my assessment of PB and SB at times as I went through their evidence. I was warned, rightly, against hindsight bias, but I am surprised by how little SB in particular accepts about the past even with the benefit of hindsight. She does not see much wrong with the way that she and her father behaved, or the dishonest picture she tried to present about [father]'s parenting capacity. Her lack of insight and ability to meet the children's emotional needs will be considered further at the welfare stage of these proceedings, but they also form part of threshold because she was unable to support RA after his father's death. Had she been able to reflect then on what had happened and to prioritise the welfare of the children, the harm may not have continued. In my judgment, RA was still suffering emotional harm when these proceedings were commenced, and was likely to do so. FB was

living in the environment and impacted by it, and she, too, was suffering and likely to suffer significant harm. It was their actions, all the messages, the emails and the internet searches, which both parents are a part of, which led to the re-arrest, the need for proceedings and the interim care orders.

- 97 I have referred, in my consideration of the evidence, to SB's attempt to portray herself as more positive of RA's relationship with the paternal family than she was, and to her willingness to lie to achieve her aims. SB was not honest with the Police about her relationship with [father]. She said: "We've always had a good relationship", then she falsely, in my view, put the blame for the court proceedings on [father].
- 98 Of the plan to send RA to boarding school, it is said that that cannot satisfy the threshold criteria. In my judgment it does in this case. SB was not considering it because she thought it would benefit RA but because she wanted to go to America and did not want RA to live with his father. She mentioned the quality of education in passing, almost as a joke. On 27 June she said her dad had suggested it and it was not a bad idea. Asked in cross-examination by counsel for the local authority why RA could not live with his father if she went to America and did not get leave to remove RA, she just repeated the plan with no explanation of how it would benefit RA. She could not say that it would benefit him.
- 99 SB knew from RA's EHCP, and from the school, that RA relied heavily on consistent routine. She discussed with her father in August 2022 saying to [father] that: "As you are aware, a child with autism does not like change and 10 days with you is significant change", and yet she was planning a significant change. My view is she wanted to go to America and send RA to boarding school because she did not want him to live with his father, not because it was in RA's interest. Had RA gone to boarding school as she was considering, in my judgment, he would have been likely to suffer emotional harm from being separated from his family, his school and familiar routine, at the age of just seven. Another proposal was for RA to live with SB's father. Again, that would be a significant change for RA. SB knew that her father would not support RA having a relationship with [father] so he would be without any parent or his sister. He would be likely to suffer significant emotional harm living in that situation.
- 100 In 2023 SB sold her house, moved to one hotel for a night and then moved them all into one room at another hotel, and then she took RA out of school, all of which was a significant change made with no thought for either child's welfare. They did not have to sell the house at that time. She did not tell [father] about the move to the hotel on 17 March, so he could not support RA if RA raised it with him. He messaged her to say RA was unsettled at school on 24th and the school provided him with details SB should have provided so that he could understand why RA was unsettled. Her reaction caused harm to RA. RA also told his father he did not need a school bag any more, which caused him to worry about her intention to leave regardless of the outcome of the court hearing. That rather undermines her claim that she only took RA out of school because of the shooting. District Judge Slaney's order included a recital that RA should continue at school. He needed continuity and she deprived him of that. In contrast, [father] was worried about the effects of change on RA. Despite his concerns expressed to his mother on 26 March about SB's actions, he

was worried about not returning RA to his mother because he knew a change in routine would not be beneficial for RA.

- 101 On 30 January 2023, SB was discussing where they were going to live when they sold their house, and she said: "It will piss [father] off when we do move". She was not considering the effects on RA. On 1 March last year, she made references to saying RA told her he does not love daddy, he just loves mummy, PB, FB and grandpa. She was pleased about that. Having seen the conversations noted by her and PB I am satisfied that they were encouraging RA to say he did not like his father, and to criticise his father. It is clear that RA did love his father, and encouraging him to say he did not, and not being supportive of his relationship with his father, was causing emotional harm, and the lack of support for that relationship continued after his father's death.
- 102 SB referred in messages to [father] trying to control her or ruin her life, and to him only thinking about himself. That was so not true. She formed a relationship with a man who would have to go back to America, and she wanted to take RA there. I would not criticise that. The Family Courts often deal with leave to remove applications. A parent can present a positive case for the move and still support the relationship between the child and the other parent. Instead SB tried to damage it. With the assistance of her father and husband, she wanted to build a case against [father] not just one in support of her case for going. She had placed herself in a difficult situation for which she sought wrongly to blame [father]. She was considering taking RA without leave to remove, and not thinking of the impact of the consequences of that on RA. She said the best case scenario was that the scaffolding that [father] works on "just collapses or something", and she said: "That guy is consuming our lives." Her father thought it would be hilarious and horrendous for [father] if the court approved the move abroad. There was no regard for RA's welfare.
- 103 The amount of time the maternal family were spending on the case was, as SB said, consuming their lives, and that would have impacted on the children. She was unable to promote RA's relationship with his father. She and SB's father were working together to paint [father] as a bad father. SB's father was heavily involved in her plans in advising her to tell CAFCASS [father] was threatening. She was messaging her father even when she was at court, and they were winding each other up in their hostility to [father], and her desperation to leave the Country with RA.
- 104 They booked into a hotel for a short time. SB did not book the appointment at parents' evening. In my judgment their actions, and their internet searches, show that they were planning on leaving the Country regardless, knowing the consequences would be harmful for the children. RA would be uprooted from his school and paternal family. They knew there was a likelihood of legal proceedings and a forced return to this Country, that would cause harm to FB as well. They were willing to take that risk, it would have been likely to cause both children significant harm. PB says that only negative messages have been provided by the Police. If there are replies from PB saying that his wife should not involve RA in her plans, or should not be so negative about the paternal family, they could have been provided. In fact, the Police search of the devices revealed that all the comments about [father] by SB and her dad were negative. He also says the conversation on 24 August was

the only one recorded – I doubt it was the only conversation. They were very pleased if RA said anything negative about his father and encouraged it. There is a message from PB to his wife saying: "Should I get RA a milkshake and go take it to him and then shoot [father] in the face with a rocket launcher?" The week before that SB suggested to him that he run [father] over. He did not demur. He played his part in the animosity. I now know more about that conversation which PB had with RA on 24 August in which he was encouraging RA to be critical of his father. It was repeated to his mother in front of RA. [father] had apologised to SB for the sunburn and asked how RA was, but RA was encouraged to think his father was hurting him, and that would have caused him emotional harm.

105 In his statement to the Police, PB refers to the hearing where "we had applied to change RA's surname to a double-barrelled name". SB told the Police that she had changed the surname to fit in with her, PB's and FB's surname, not for RA's benefit. PB said that RA kept asking why he had a different surname to us. If that is correct, they should have told RA he had his daddy's surname just as FB had her daddy's surname, and promoted the relationship with his father. They did not do that. They were encouraging RA to say he wanted to change his name. In my judgment that is part of the desire to exclude PB from his son's life, and it caused RA emotional harm. PB searching the internet for "Adopt my stepson" was being done with the same intention, he was a part of all this.

106 SB was questioning RA after he had seen the CAF/CASS officer in March, and in my view he was telling his mother what she expected to hear. She had been promising him a trip to Mario World to influence him, and he did not understand the implications of the move. She should not have tried to influence him. Dr Hunnisett in her report said:

"RA does not tend to give himself away emotionally. Not showing emotions does not mean he does not feel them. RA loved his father and enjoyed his time with him, but in his mother's home he was being subjected to negative messages and suffering emotional harm."

Following [father]'s death, SB did not reflect on her past conduct or reconsider her plans. She took RA away from school and hampered his contact with his grandmother. She did not explain to him what had happened. By the time RA went to live with his grandmother in June he was anxious and at night-time he could not be left alone. SB had an opportunity to prioritise RA's welfare after his father's death; to keep the stability of school and to support a relationship with his grandmother, and support the memory of his father, instead she continued to cause him emotional harm.

107 In relation to telling RA about the death of his father and grandfather, in my judgment, SB did not have regard to RA's welfare. Counsel for the children's guardian asked her if she was hoping RA's memory of his father might fade, she said "No", but my view is that is what she was hoping. She did not see his father as important for RA, and she could not support him. Her own mother died when RA was much younger, and she took time to tell him, then she told him that his Nan had died, and she had photographs of her about the house. RA was dependent on his grandmother providing some mementos of his dad. PB did not give him any photographs of [father]. I have seen some lovely photographs which [father] took of

him and RA on holiday. SB in her evidence criticised the dirty looking seawater. She was unable to say anything positive about [father], and all the evidence tells me that she did not say anything positive to RA either before or after his father died. SB, in my judgment, did not intend to tell RA the truth. She misled the local authority by implying the counselling service on the Base were advising her on how to tell RA when they were not doing that. She monitored MC's time with RA and tried to goad her into telling RA so she could criticise her. It did not work. The animosity towards [father] continued. The harm RA was suffering continued. His mother did not provide emotional support. She could not see the importance of his father for RA.

108 In my judgment, RA was suffering harm for a long time as a result of the animosity towards his father, and the desire to reduce his father's role in his life. It ran through the private law proceedings. There was an opportunity to change following [father]'s death, but the harm was continuing when these proceedings commenced. I do not have to decide at what point the harm became significant, but when I consider the totality of the harm I am satisfied that he was suffering significant emotional harm when these proceedings were commenced, and that he was likely to continue to do so.

109 FB did not suffer significant harm in the same way. She did not lose a parent. I have referred to some of the effects on her. She was exposed to the animosity. Her family life has been disrupted because of her parents' actions. She has been separated from her brother. She was living in the same atmosphere as RA. The Guardian's counsel was right that she was sharing his lived experiences and she was suffering significant emotional harm. She was spending even more time in the hostile atmosphere than RA.

110 I come to the final Schedule of Findings sought by the local authority at the conclusion of the evidence. I delete paragraph 7. There was some volatility in the relationship between PB and SB, but there is no link between that and the harm the children were suffering or likely to suffer. The findings sought and which I make are:

- (1) At the relevant date, 8 June, when these proceedings were commenced, the children were suffering and were likely to suffer significant harm attributable to the care given and likely to be given to them not being what it would be reasonable to expect a parent to give.
- (2) Animosity towards RA's father. RA was exposed to the animosity displays by the mother, the maternal grandfather and PB towards his father, who he loved and had a warm relationship with, and their desire to exclude him from RA's life. This was damaging and confusing for RA who has additional needs as he has an autistic spectrum disorder. It will be apparent that I find this proved. All the examples given in the subparagraphs are made out on the evidence. They are:
 - (i) The mother wanted the father out of RA's life and sent messages referring to her hope that the father would die or be killed, for example,

saying on 20 June 2022 that the best case scenario is that father would have an accident on the scaffolding.

- (ii) The mother coached RA to say the right thing in court proceedings.
- (iii) The mother denied that RA loved his father and would miss him if RA moved to the USA.
- (iv) The mother and PB made notes of conversations with RA for the purpose of court proceedings, this included the recording on 24 August 2022 in which PB encouraged RA to say that his father had hurt him and recordings of RA saying he did not love his father.
- (v) The mother sent a message to the maternal grandfather on 28 July 2023 saying that PB was working on shooting cans and was going to play sniper when RA's father came to collect RA.
- (vi) PB advised mother to tell RA's father that RA hated him.
- (vii) PB sent a message to the mother asking whether he should shoot [father] in the face with a rocket launcher.

111 The killing of RA's father and paternal grandfather – paragraph (3) is made out. Both children were caused significant harm by the above animosity which culminated in the death of RA's father and paternal grandfather, the imprisonment of their maternal grandfather and the arrest of their mother and FB's father. I would add that the re-arrest in June was made because of the evidence of the animosity obtained by the Police, and that those examples are only a snapshot of the harm that was being done.

112 Paragraph (4) is established on the evidence. The killings took place in the context of acrimonious private law proceedings, and the mother's application to take RA to live in the United States. Mother and grandfather working together within these proceedings to ensure that the mother's application was successful. On 29 March 2023 the maternal grandfather drove to the home of RA's father and shot and killed him. The maternal grandfather then drove to the home of RA's grandfather and shot and killed him too. I do confirm, for the avoidance of doubt, that no finding is sought or made that the mother knew that the grandfather was intending to murder them.

113 Paragraph (5) is proved on the examples given and on the evidence that I have read and heard. However, in my judgment, subparagraphs (iii) and (iv) are not likely to have contributed to the harm. SB's father could have found out where they lived in any event. I delete subparagraphs (iii) and (iv). In relation to the others: subparagraph (v) the mother had encouraged the maternal grandfather's animosity towards RA's father and knew, or should have known, that he posed a serious risk to RA's father and, in particular: (i) the mother was in daily contact with the maternal grandfather and showed him all her communications with the father and asked, or allowed him to draft her responses to the father, and examples were given. Mother involved him fully in the private law proceedings and that included the allegation that RA would be coached to say the right thing. (v) I find that the mother was aware that the maternal grandfather was threatening to harm the father if he did not agree to

live in America. In May 2022 the maternal grandfather sent the mother a series of messages, which he told her to delete, saying it would be Independence Day if the meeting with the father and paternal grandfather was not successful. He told the mother he planned to escape to Panama rather than go to prison. (vi) The mother knew the grandfather had applied for a shotgun licence, always having had a gun. That paragraph is factually correct but there is not a causal link between that and the harm suffered.

114 It will be apparent that I find paragraphs (6) and (8) proved. Paragraph (6) relates to the planned relocation to the US. The mother and PB were determined to relocate to the United States whether or not the court granted permission for RA to be removed from England and Wales, and irrespective of the impact this would have on the children.

- (i) The mother and PB, in consultation with the maternal grandfather, at one stage considered sending RA to boarding school in England or arranging for him to live with the maternal grandfather, even though this would have led to the children being separated from one another and the impact of the separation on both children.
- (ii) In March 2023, the mother and PB sold their home and moved into hotel without telling RA's father, even though RA had a particular need for routine and stability due to his additional needs.
- (iii) On 29 March the mother and PB were considering moving to the US with both children without the consent of the court, even though this would have been a criminal offence and would have caused significant harm to the children as no arrangements had been made for them to live in the US, their education had not been arranged and the mother and PB would be at risk of arrest and imprisonment.
- (iv) Following the death of the father and paternal grandfather, mother and PB continued their plans to relocate to the US even though this would have caused further significant harm to RA who needed to maintain a relationship with his paternal family.

115 Paragraph (7) I delete.

116 Paragraph (8) the lack of support for RA. Following RA's bereavement, mother failed to send him to school or to arrange any appropriate therapy or counselling for him, or to explain to him that his father and grandfather had died, and this increased the harm suffered by him.

117 Paragraph (9) RA was at risk of further harm as he was in great need of emotional support as set out in Dr Hunnisett's report, and the mother and PB, due to their animosity towards the father, were unable to provide him with this.

118 I have already set out the basis for those findings. There will be a transcript of this judgment which I consider needs to be available to those completing any assessments in this case and to anyone else being assessed, because they need to have an understanding of the background. That concludes my judgment.