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IN THE HIGH COURT OF JUSTICE  
FAMILY DIVISION

Neutral Citation Number: [2018] EWHC 4021 (Fam)

Royal Court of Justice  
Strand, London WC2A 2LL

Monday, 9 July 2018

Before:

**THE HONOURABLE MRS JUSTICE GWYNNETH KNOWLES**

**Welfare: Fabricated Induced Illness**

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**Ms B. Badejo** appeared on behalf of the Applicant.

**Ms M. Kaler** appeared on behalf of the First Respondent.

**Mr S. Chippeck** appeared on behalf of the Second Respondent.

**Ms I. Watson** appeared on behalf of the Children's Guardian.

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**A P P R O V E D J U D G M E N T**

MRS JUSTICE KNOWLES:

- 1 I am concerned with the welfare part of care proceedings relating to two little boys: X, who was born on 28 May 2013 and is now five years old, and Y, who was born on 12 January 2016 and who is two years old.
- 2 By a judgment dated 23 February 2018, I made a variety of findings about the behaviour of the children's mother towards Y in particular. In that judgment, I was satisfied that the mother's behaviour caused or was likely to cause Y to suffer significant physical and emotional harm. That harm was measured by many unnecessary months in hospital during which Y was separated from X and, notwithstanding visits made by the father and X to hospitals where Y was an inpatient, Y was unable to enjoy family life with his father, his brother, and his wider family. Y had numerous investigations and interventions, multiple x-rays, biopsies, endoscopies, and blood tests in the vain pursuit of a medical explanation for his unexplained feeding problems and weight loss.
- 3 As the events following 24 February 2017 demonstrated, Y's recovery was entirely attributable to the removal of his mother from caring for him. This allowed him to be fed enterally for a sustained period of time in contrast to what had gone on before. Thus, on the balance of probabilities, I inferred that it was his mother's behaviour which accounted for his feeding difficulties and for his weight loss. I was satisfied also that a number of surgical interventions which took place after 22 November 2016 were medically unnecessary. To be blunt, I found that Y was, by late February 2017, a starving child who weighed little more at the age of 13 months than he had done at the age of six months and his wellbeing was, in my judgment, seriously compromised by his mother's behaviour. I expressed the view then that it was fortunate that he had made a good physical recovery and I am pleased to learn that that continues to be the case.
- 4 The findings that I made were the basis for further assessment of the mother by a consultant psychiatrist. There were also assessments, following my judgment, of (a) the father to see whether he was in a position to provide long-term care for both his sons and (b) the paternal grandparents as special guardians. Other than to observe those matters, it is not necessary for me to rehearse the remainder of the history of this case though I note that there have been some discussions and some court time, taken up with the issue of domestic violence between the parents both in 2013 and in 2017. I will return to that later on in this judgment.
- 5 Today, the parties are represented by counsel: Ms Badejo on behalf of the local authority; Ms Kaler on behalf of the mother; Mr Chippeck on behalf of the father; and Ms Watson on behalf of X and Y through their children's guardian.
- 6 The mother was not present at court today. She chose late on Friday to inform the parties that she would not be present because she was travelling to undertake the duties of a bridesmaid at the wedding of a friend. She had not made any application in the many months in which this date had been fixed for final hearing to ask for an adjournment or to explain that she was double booked, if I can put it that way.
- 7 The father is not present today. He has food poisoning. In fact, both X and Y have been poorly over the weekend and the father himself is now unwell though he was able to give instructions to Mr Chippeck on the telephone. The paternal grandfather has been present in court throughout the hearing.

- 8 I say as a necessary corollary that, first, in coming to the decisions that I have about this case, I have borne in mind those matters which are listed in s.1 of the Children Act 1989. In particular, the need to demonstrate that making an order is better than not making an order, having regard to s.1(3) of the welfare checklist, and also having regard to my primary concern as set out in s.1(1) of the Children Act 1989, namely that the decisions that I make on behalf of the children should be dictated by their welfare being my paramount consideration.
- 9 In summary, the assessment of the mother by the consultant psychiatrist in the light of my findings concluded that the mother was not accepting of the findings that I had made about her behaviour and lacked insight into her behaviour. She clearly required, in **Dr** the view of the consultant psychiatrist, substantial therapeutic work.
- 10 There was a positive assessment of the father by an independent social worker and also a positive assessment of the paternal grandparents as special guardians.
- 11 Turning first of all to the question of placement for both X and Y, all the parties are agreed that I should make a child arrangements order in respect of Y and X placing them in the care of their father. That is something with which the paternal grandparents agree and which the mother signalled her agreement to on 3 May 2018. So that is the order I make with respect to the children's placement.
- 12 Secondly, I am asked to consider making a public law order in relation to both boys, namely, supervision orders. The threshold criteria is, in my view, clearly crossed in relation to both children, certainly as far as Y is concerned but also in respect of X. It is plain in the light of the findings I made about the mother's behaviour to Y, and about that behaviour having caused him actual physical and emotional harm, that there was also a likelihood of harm to X arising from her behaviour. In the light of the seriousness of the findings I made, this seems to me to be utterly self-evident.
- 13 The local authority, at the start of this hearing, had not invited me to make a public law order but during the course of exchanges this morning, I invited the local authority to reflect on that position and after the luncheon adjournment, the local authority told me that it would submit to the making of a supervision order and suggested that that order should be for a duration of six months. Ms Kaler, on behalf of the mother, clearly has no instructions on the point. The father accepts the necessity and the desirability for making a supervision order but suggested it ought to be for between six to twelve months. The guardian invited me to make an order for a period of twelve months.
- 14 Having thought carefully about this, on balance, I make the supervision order contended for by the parties and I make it for a period of twelve months. That duration reflects the complexity of the task facing the local authority here. The local authority needs to deal with life story work which has not even begun, and it needs to consider and plan for a foreseeable future where the contact between the mother and these boys requires supervision. Whilst the local authority may, and I understand from Ms Badejo, supervise contact during the life of the supervision order, steps need to be taken now to plan for a future without such supervision and that requires some assessment of perhaps members of the maternal extended family as contact supervisors. There is a lot of work to be done and a lot of work in terms of managing the arrangements for contact going forward.
- 15 I note in the paternal grandfather's statement, which is a joint statement with himself and his wife, that he had raised his concerns that clearer plans for contact would be of benefit to

everyone. I agree wholeheartedly with that observation and hope that those matters can be taken forward by the local authority in a proactive way.

- 16 Before I turn to the question of contact, I make an observation about the allegations of domestic violence made by the parents against each other upon which the local authority sought findings. I have before me today a document agreed between the local authority and the father and one upon which the children's guardian is neutral. That document concerns three incidents: one in July 2013; one in August 2017; and one in September 2017. The mother, given her absence today, has not been able to agree the contents of that document and the local authority told me that there had been an amendment to paragraph 4 of that document removing the final three sentences.
- 17 I note that what has been agreed between the local authority and the father endorses much of what the mother complained about in her statements save in relation to the incident that took place on 14 September 2017. In respect of that latter incident, I make no findings. It seems to me to be unnecessary to do so. The mother is not here to advance the positive case that she puts forward but, in any event, the evidence seems to me to be problematic because it is said that she admitted to the father she had fabricated part of her evidence in support of the allegation that the father had forced the door open to the family home throwing the mother backwards such that she hit her head against the wall behind her sustaining a cut lip and a cut to the back of her head. That admission, it appears upon investigation, was only made to the father. He is not here today to provide witness evidence in support and I also note that the mother did not pursue a prosecution in relation to that incident of domestic violence such that the Crown withdrew its case against the father in March 2018.
- 18 Given the findings I made in relation to the mother's behaviour towards Y and by extension X and given the findings of the various independent assessments that have taken place, I accept what has been agreed by the father and the local authority but I go no further in making any findings.
- 19 As far as the supervision order is concerned, I will require the local authority to update its care plans within seven days and to provide an updated written document to each of the parties. I turn now to issues of contact.
- 20 This is not agreed both as to the amount of contact there should be between the mother and the boys, and to the arrangements for telephone contact. The position of the parties is as follows. The mother opposes any reduction to contact which presently takes place once a week between herself and the boys on a Saturday and is supervised by the local authority. The local authority proposed a reduction to monthly contact. That was supported by the children's guardian save for the speed of the reduction. The local authority said it should be fortnightly for a period of two months. The guardian said monthly after the end of July. In essence, there is a difference of one contact occasion between the position adopted by the local authority and that of the children's guardian. The father has agreed to abide by the contact proposed by the local authority and makes no positive submission either way.
- 21 Given the stage at which the proceedings now find themselves, contact needs to be set within the context that both boys are to live with their father pursuant to a child arrangements order. Contact should also be seen in the context that the local authority agree to the making of a supervision order and that I have decided one should be made for a period of twelve months. Finally, it must be viewed within the context of the very serious findings I made about the mother's behaviour to Y, and the fact that she does not accept

those findings, lacks insight into her contribution to Y's painful experiences or indeed, as I observe, to the disruption to X's home life.

- 22 In that context, the boys need to have their relationship with their mother maintained but not at a level which, in my view, has a disruptive impact on their day to day life. This is not a case where a fairly standard private law order for contact is appropriate. The mother's care for Y and for X has been found seriously wanting by this court and she remains, given her lack of insight and acknowledgement, a risk to them. The children need to settle in their father's care and to have some parity in the contact arrangements for each of them.
- 23 With all of that in mind and standing back, I have come to the conclusion that the level of contact between the boys and their mother should be set at a monthly frequency for up to four hours. It should be reduced, as the local authority suggests, so that there will be three occasions of contact until contact at the end of August which will take place on Saturday, 25 August when it will take place thereafter at a monthly frequency. The contact before then with the mother and the boys will take place on 11 August and 28 July, and again on 14 July if the mother has returned from her duties as a bridesmaid. That allows for contact over the summer holidays but also going forward in the autumn to a more established and predictable routine of contact. I note that X is at school.
- 24 As far as telephone contact is concerned, the arrangements for X to have contact with his mother have not been, if I may say so, entirely straightforward. The telephone contact should be at a time when X wants it. The fixed times provided for on Wednesdays and Saturdays have caused difficulty and they run up against the reality of family life and of what X himself wants which is sometimes not to speak to his mother at all but sometimes to speak to her. It seems to me that a child-focussed arrangement for telephone contact should permit both X and Y to telephone their mother when they want to speak to her and I understand that the father will facilitate this. That seems to me to be a more sensible way going forward than to hitch the children to a rigid routine of contact taking place at particular times and days.
- 25 As far as contact supervision is concerned, I have already observed that for the foreseeable future, the mother's contact requires to be supervised. It should not involve supervision by the paternal family who, in any event, have a major role in caring for these two little boys. There is a possibility, I am told, that the mother's sister may be capable of supervising contact but if that is the case, that requires a complex piece of assessment work by the local authority. My suggestion would be that the mother's sister is contacted by the local authority in writing to ask if she wishes to be assessed as a supervisor of contact going forward and then that the local authority undertake that piece of work. They should be at liberty to discuss with her the findings that I made in my judgment as part of that assessment process if she signals her consent. However, a solution for the long-term supervision of contact will need to be found over the course of the next twelve months.
- 26 Having dealt with the arrangements for contact, the making of the supervision order for a period of twelve months, providing for updated care plans, and also coming to a view on the necessity of whether I should go further than the agreed document of findings, those are my decisions and that is my judgment.
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**This transcript has been approved by the Judge.**