



Neutral Citation Number: [2021] EWHC 553 (Fam)

Case No: FD19P00297

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/03/2021

Before :

THE HONOURABLE MRS JUSTICE JUDD DBE

Between :

F	<u>Applicant</u>
- and -	
M	<u>1st Respondent</u>
- and -	
T and S	<u>2nd & 3rd</u>
(through their Guardian, Ms Roddy)	<u>Respondents</u>

Ms S King QC & Mr A Perkins (instructed by Brethertons LLP) for the Applicant
Mr E Devereux QC & Dr R George (instructed by International Family Law Group) for the
1st Respondent
The 2nd and 3rd Respondents were not represented at this hearing

Hearing dates: 10-22 February 2021

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
THE HONOURABLE MRS JUSTICE JUDD DBE

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Covid-19 Protocol: This judgment will be handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down will be deemed to be 10:30am on 12 March 2021. A copy of the judgment in final form as handed down will be automatically sent to counsel shortly afterwards

The Hon Mrs Justice Judd DBE:

Introduction

1. This is a fact finding hearing within proceedings brought under the inherent jurisdiction for the return of two children aged 8 and 6, to Country A (a country to which the 1980 Hague Convention does not apply). The court has previously refused an application for a summary return of the children to Country A, and has set the case down for this fact finding hearing.

Background

2. The parents met in about 2009 and married a few years later. The father has been married before and has two children from that relationship who he sees regularly, X and Y. In 2012 T was born and in 2014, S. In 2015 the parents separated. Proceedings were brought in the Court in Country A and in 2016 an order was made providing that the mother had custody, care and control of the children and that the father should have ‘reasonable and liberal access’ during the week, alternate weekends and during the holidays.
3. During 2017 the mother stated that she found S (then aged 3) touching herself. The children also told her that they had baths with the father which concerned her. The parents began to attend parenting sessions with a psychologist, as the mother said that she found the father to be very dismissive of her whenever she raised concerns about the care of the children. In April 2018, the mother started to see another psychologist after she became worried about S’s clinginess, and her anxious and unsettled behaviour. In May the mother said that S returned from her father with a redness in the genital area. The mother began to take photographs of this area each time she returned from her father’s home, and also to record conversations that she regarded as significant. In June 2018 the mother took S to the hospital where she was diagnosed as having an infection. She was prescribed cream. Later in June the mother noted redness again upon S being returned from her father and stated that she told her mother that she felt sore in the genital area.
4. In late June and early July the mother took S to the doctor on three occasions and she was diagnosed again with various infections for which she was prescribed antibiotics. On 15th July S complained again of being sore when she returned from her father’s house, causing the mother to be more worried still, and to continue to take intimate photographs. A week later the mother took S to Hospital X where she was examined by Dr. A. Dr. A prepared a report of a medical examination for the police (which in Country A is completed on a particular pro forma) which was

countersigned by Dr. B. It stated that this was a case of ‘suspected defilement’, due to acute genital injury elicited by trauma. The same medical report noted that there were no bodily injuries such as bruises or bites, and the nature of the genital injury was not specified. A swab was taken which was negative

5. During the course of that week the mother photographed S’s genital area every day to see whether it improved over the week, and whether it got worse after contact on the next occasion.
6. The mother stated that S returned from contact with a very red genital area. On that Sunday night she decided to take S to Hospital X once again. S was examined there by Dr. C. She set out a number of findings, including a genital bruise and concluded that these were ‘consistent with defilement’. In her notes she proposed a visit to the specialist paediatric clinic at Hospital X. Dr. D was one of the paediatricians there who was specially trained in the examination of pre-pubescent girls (and also trained in the giving of evidence).
7. The following day the mother returned without S who was at school. She spoke to Dr. D. On 2nd August Dr. D produced a medical report for the police which said that the findings were consistent with an infection.
8. Over the next few weeks, contact continued in accordance with the 2016 order. The mother continued to record conversations with the children on various occasions. On 26th September the mother recorded a conversation with the children who were in the bath, in which she said that there were discussions about the father’s genitals’. A further recorded conversation took place on 5th October, and the mother then took S to the local police station where she was spoken to by a victim support officer. This was made into a statement which was signed by S. It said that she did not want to go to her father’s house and gave a description indicating she had been exposed to sexual behaviour by the father.
9. In the autumn S and T attended what was said to be a therapy session with Ms F which took place outdoors as part of a picnic. The mother recorded this as well. The police were informed that S had made disclosures of sexual abuse. In November there was a hearing in the Court of Country A, which ordered that the contact should continue as per the 2016 order and adjourned the father’s custody application until February 2020 (this was then adjourned to the summer 2020).

10. Later in November 2018 the father was arrested and charged with child defilement. He was arrested at the beginning of a contact visit, and kept overnight in the police station. He was released without bail conditions although two friends of his were required to put up a bond to prevent him absconding.
11. In December the mother and S attended the central police station. A few days later the mother and a friend, Ms H, attended the police station and spoke to Inspector Z in which it was alleged that the inspector was very confrontational. In January, a relative of the mother's made a complaint about the case to the Metropolitan Police in the UK. The mother wrote to a government official in Country A and also to Country A's human rights agency to complain about the way things were being dealt with. Throughout the following weeks contact continued with the father much as usual. In April a social worker in Country A reported their concern that the father was continuing to have contact with the children. Therefore the mother made an application to the court to prevent the father seeing the children, but this was refused.
12. In May 2019 the Director of Public Prosecutions in Country A informed the criminal investigations officer that there was insufficient evidence to warrant a prosecution, and that the case would therefore be closed. The same month, the mother removed the children from Country A to the United Kingdom without the father's permission. The court in Country A ordered the mother to return the children forthwith to Country A and to surrender their passports. The mother has not complied with this order, and the father accordingly took proceedings here for the return of the children.

The allegations

13. The mother's case is that the father has sexually abused S in a number of ways, including touching and raping her. The mother further alleges that the father exposed T to the sexualised behaviours of his son Y.
14. Moving away from the sexual allegations, the mother seeks findings that the father exerted a high level with financial emotional and coercive control upon her to withdraw her allegations. It is said that he threatened the mother with applications to commit her to prison, to remove the children from her care, with formal complaints to the police, and proceedings for defamation of character.
15. The father alleges that the mother caused the children significant emotional harm by making false allegations of sexual abuse against the

father in respect of S. He states that the mother caused harm to the children by repeatedly recording them (covertly and overtly), embroiling them in inappropriate sexualised conversations in an attempt to put words in their mouths, and asking them leading questions about alleged sexual abuse. He also complains that she took repeated and intrusive photographs of S. The false allegations were, he says, disseminated amongst the community in Country A. The father alleges that the children were made to attend sessions of therapy and endure repeated questioning by therapists, doctors, police, and social workers, and also that the mother sought to bring improper pressure upon those professionals conducting examinations and investigations in pursuance of her campaign to prove the father sexually abused his daughter.

16. The father alleges that the mother abducted the children from Country A, removing them from their lives, social networks, schools, and family. She subjected them to living a peripatetic existence, moving homes on several occasions.

The evidence

17. I have read all the documents in the bundle for these proceedings, and also for the Country A proceedings. I heard evidence from the mother, father, Dr. Birch (Consultant Paediatrician, the jointly instructed expert), Dr. D (a consultant paediatrician at Hospital X), Ms H (a friend of the mother's), Dr. J (the father's current partner), Ms K (the father's first wife and mother of his two oldest children), and Inspector Z (the case officer who investigated the allegations in Country A).

The Law

18. When making findings of fact the burden of proof lies upon the individual or body making the allegation and the standard of proof is the balance of probabilities (*Re B (Children)* [2008] UKHL 35; 2 FLR 141). At paragraph 2 of *Re B*, Lord Hoffmann stated:-

“If a legal rule requires a fact to be proved (a “fact in issue”), a judge or jury must decide whether or not it happened. There is no room for a finding that it may have happened. The law operates a binary system in which the only values are 0 and 1. The fact either happened or it did not. If the tribunal is left in doubt, the doubt is resolved by a rule that one party or the other carries the burden of proof. If the party who bears the burden of proof fails to discharge it, a value of 0 is returned and the fact is treated as not having happened. If he does discharge it, a value of 1 is returned and the fact is treated as having happened”.

19. Findings must be based on evidence including inferences that can properly be drawn, and not on suspicion or speculation (Re A (A Child); Fact Finding: Speculation) [2011] EWCA Civ 12). The decision as to whether the facts in issue have been proved to the requisite standard must be based on all the relevant and admissible evidence including from the alleged perpetrator and family members. Medical evidence must be considered in the light of all the other evidence; evidence should not be considered in compartments (Re T [2004] 2 FLR 838). The account of the child, considered in an age-appropriate way, is very important (Leeds City Council v YX and ZX [2008] EWHC 802).
20. Witnesses may tell lies during an investigation or hearing, but this may be for many reasons including shame, misplaced loyalty, panic, fear and distress. The fact that a witness has lied about some matters does not mean that he or she has lied about everything (R v Lucas [1982] QB 72); see also (Re H-C; Children) [2016] 4 WLR 85). Also, when repeated accounts are given discrepancies can arise as a result of faulty recollection, confusion, stress, or mistake. The possible effects of delay and repeated questioning upon memory should be considered as well as the effect on one person of hearing accounts by others, and ‘story-creep’ can occur without any inference of bad faith (Lancashire County Council v M and F [2014] EWHC 3).
21. There are a significant number of cases which emphasise the importance of children being questioned in an open-minded way, following on from the Cleveland Inquiry in 1987, the Orkney Inquiry in 1991, and as specified in ABE guidance which is intended for police and other professionals. In Re P (Sexual Abuse – Finding of Fact Hearing) [2019] EWFC 27, Mr Justice MacDonald determined allegations of sexual and other abuse in a case involving six families and numerous intervenors. At paragraph 584 he said this about the importance of the way in which children are questioned:-

“Once again, [...], it is important to understand why the cardinal principle of the need to retain an open mind when considering allegations of sexual abuse has such a long pedigree. Mr Bagchi and Ms Bains have drawn the court's attention to a paper by Ceci and others entitled *Children's Suggestibility Research: Things to know before interviewing a child* (Anuario de Psicología Jurídica 25 (2015) 3-12) in which Ceci and his fellow authors highlight the operation of "confirmation bias" in the context of allegations made by children, being a tendency, identified in the research, for a person to be biased towards information that confirms their own personal beliefs. In the

paper the authors note, in the context of research by Bruck amongst others, as follows with respect to the potential consequences of confirmation bias when interviewing children:

"A person's established beliefs are often difficult to change and resist contradictory evidence (Ross, Lepper & Hubbard, 1975). This phenomenon, referred to as "confirmation bias", can have especially detrimental effects when working with child witnesses. If an interviewer enters a room, prepared to question a child, and brings along pre-established beliefs about the case or the accuracy and credibility of the child, the interviewer may unintentionally put disproportional weight on some statements the child makes while ignoring others. If the interviewer's initial suspicions are incorrect, this could create a false report. Confirmation bias is potentially a problem for all people who may interact with a child witness, even professionals in the field of forensics, human development and social science. In fact, experts tend to be more confident in their evaluations of witnesses than others, despite not necessarily being more skilled at distinguishing accurate from inaccurate statements (DePaulo et al., 2003; Wessel, Drevland, Eilertsen, & Magnussen, 2006)."

22. At paragraph 858 he said this: -

“Within this context, the Court's assessment of the ABE interviews will be informed by the need for caution regarding children's recollection that I set out above when considering good practice with respect to the handling of initial allegations of child sexual abuse, which need for caution constitutes one of the fundamental rationales for the ABE Guidance (see *Re B (Allegation of Sexual Abuse: Child's Evidence)* at [34-35] and the ABE Guidance at [2.162]). Namely, once again:

- i) Children, and especially young children, are suggestible.
- ii) Memory is prone to error and easily influenced by the environment in which recall is invited.
- iii) Memories can be confabulated from imagined experiences, it is possible to induce false memories and children can speak sincerely and emotionally about events that did not in fact occur.
- iv) Allegations made by children may emerge in a piecemeal fashion, with children often not reporting events in a linear history, reporting them in a partial way and revisiting topics.

v) The wider circumstances of the child's life may influence, explain or colour what the child is saying.

vi) Factors affecting when a child says something will include their capacity to understand their world and their role within it, requiring caution when interpreting children's references to behaviour or parts of the body through the prism of adult learning or reading.

vii) Accounts given by children are susceptible to influence by leading or otherwise suggestive questions, repetition, pressure, threats, negative stereotyping and encouragement, reward or praise.

viii) Accounts given by children are susceptible to influence as the result of bias or preconceived ideas on the part of the interviewer.

ix) Accounts given by children are susceptible to contamination by the statements of others, which contamination may influence a child's responses.

x) Children may embellish or overlay a general theme with apparently convincing detail which can appear highly credible and be very difficult to detect, even for those who are experienced in dealing with children.

xi) Delay between an event recounted and the allegation made with respect to that event may influence the accuracy of the account given.

xii) Within this context, the way, and the stage at which a child is interviewed will have a profound effect on the accuracy of the child's testimony”.

The allegations of sexual abuse

23. At the core of this case are the allegations by the mother that the father sexually abused S. All the other allegations made by each of the parties arise from them and depend to an extent on whether or not I find them to be true.
24. The mother's evidence is that S started to demonstrate some sexualised behaviour from about 2017. In December of that year, S spoke of matters which suggested some sexual contact. The mother said S began to be increasingly withdrawn and when anxious she would bite her lip and curl

up her tongue. The mother said that she demonstrated extreme separation anxiety and would respond to her questions as to what was wrong by saying 'nothing'. In March 2018 the parties (at the mother's instigation) began co-parenting counselling with a psychologist, Ms G. The mother drew up a list of concerns about what was happening in the father's household and there were a number of sessions where they were discussed. A session of art therapy was recommended (which the mother said the father made various attempts to try and stop), and during this the mother said she was concerned because S drew both the parents with their genitals.

25. At around this point the mother began to notice that S had a sore and red vaginal area on her return from contact. She took S to the doctor on several occasions and began to take repeated close-up photographs of her genitals. Additionally, she started to make recordings of the children during various conversations. I have listened to all the recordings and read the transcripts.

The statements of the children

26. In her written evidence the mother set out a number of statements that she said had been made to her by the children, many of them recorded by her on her mobile phone. They were highly concerning, for in many instances it is hard to envisage how a child, particularly as young as S, could volunteer the information she did unless she had seen or experienced the relevant events.

27. A comparison between the mother's account of what the children had said in the recordings with the recordings themselves, however, is extremely revealing. For the most part, the children do not say the words the mother attributed to them. If they do (and this particularly relates to S), the words (I do not think they justify being described as allegations) appear after persistent and suggestive questioning from the mother.

28. On 5th October, the mother tried to persuade S to speak to the police. S was very reluctant, and the mother's line of questioning is once again suggestive. She also kept telling S that if she did not tell the police officer about the problem she would have to go and see her father that weekend.

29. On 9th October, S, T and the mother joined Ms F for a picnic. The event was clearly set up with a view to obtaining evidence, and it is recorded by the mother. The children had been primed by being read a book about

private parts, and the line of questioning once again is highly suggestive and leading.

30. In my judgment the way in which the questioning was conducted on the recordings (the mother recorded the children on at least 17 occasions between April 2018 and January 2019) created precisely the conditions whereby false allegations emerge, especially in combination with the children being taught about keeping their genitals private. I note that the children were quite resistant in the early recordings to the line of suggestive questioning and gave answers which (if the mother had been open minded) should have been reassuring. These answers and cues mostly seemed to pass unnoticed by the mother.

The medical evidence

31. At the beginning of June the mother took S to Hospital Y. She was seen by Dr. E. The diagnosis was of an infection for which she was prescribed a cream. She was seen again by Dr. E later in June and July for the same problem. The diagnosis in mid July was again an infection for which she was prescribed antibiotics. A week later the mother was once again concerned that S returned from contact with inflammation and redness. This time she took S to Hospital X, which is the hospital which deals with cases of suspected child abuse, where she was seen by Dr. A. Dr. A who stated that the findings were consistent with the circumstances alleged (namely that S had been abused). The medical report was co-signed by Dr. B who (like Dr. D) is trained in the examination of children for suspected sexual abuse. According to the mother neither she or S ever met Dr. B. This police referral did not seem to prompt any specific action.
32. On 29th July the mother took S back to Hospital X after she came home from contact, again with redness. She was examined by Dr. C. Dr. C recorded a bruise. The findings were said to be consistent with 'defilement'. Dr. C advised that S be brought back the following day to be seen at the paediatric clinic. The mother did come back the following day, but without S because she had taken her to school. This meant that S did not undergo the expected full examination by the one of the two doctors at the hospital who were trained and licensed to do so.
33. Notwithstanding the fact that he had not examined S, after he had seen the mother Dr. D filled out another police report stating that he had examined her. This report stated that S had redness and that the findings were consistent with infection, not defilement. Dr. D filed a statement for these proceedings which also recorded that he had examined S on 30th

July. Understandably the mother was extremely concerned both in Country A and here that a doctor who had not examined S was purporting not only to have done so, but whose report also contradicted that of Dr. C.

34. Dr. D gave evidence to the hearing and explained that he had prepared the report because Dr. C was not trained or licensed by the police to give evidence. He said he had spoken to Dr. C about the examination on the telephone. What was interesting is that he had no recollection of her mentioning a bruise. His understanding of the conversation was that she was concerned about the redness. The difference between their views related to the interpretation of that finding, which he considered was consistent with a medical rather than an abusive aetiology.
35. At the examination on 29th July swab tests were taken. They were negative save that staphylococcal bacteria were found. On 12th August the mother took S back to see Dr. E. She was examined again. After this S's symptoms settled down, and she did not see a doctor again for this condition.
36. Dr. Birch, the jointly instructed expert in these proceedings, considered the medical records and chronology. She stated that this infection is a fairly common condition in young girls, and that the presence of bacteria could cause infection in the presence of poor hygiene or allergies to toiletries or soap. It can also be caused by sexual contact. Urinary tract infections and E Coli can also cause infections and co-exist with sexual abuse. The numerous photographs taken by the mother were consistent with infection.
37. Dr. Birch noted that the Country A medical reports were very basic and did not give a full account of things such as S's position during the examination, and it does not appear that a colposcope was used. There were no professional photographs or DVD recording.
38. I note that the reports from the Country A doctors referred at different times to the findings being consistent or inconsistent with the allegations of defilement. This may be a different way of expressing things, but from the point of view of Dr. Birch the findings were consistent with an abusive or natural cause (save for the bruise).
39. Dr. Birch's opinion was that the medical evidence was inconclusive. The one finding which was of concern was the healing bruise on the genitals which was indicative of some kind of trauma but was non-specific.

Other evidence

40. There is evidence that S began to be distressed at contact handovers and expressed a reluctance to go with her father. S's school noted it, so too did Ms H and to an extent, Ms K.
41. No sexualised behaviour on the part of S or T has been noted by anyone other than the mother. The father has two older children who he sees regularly and with whom he has a good relationship. Ms K's evidence was entirely supportive of the father despite the fact they have been separated for many years. She seemed entirely sensible and straightforward. She said that the father was a strong character, and that 'he does eventually listen'. She said that she was a regular visitor to the house when the father was there with all the children and said that the atmosphere was relaxed and happy.
42. There is some other evidence of the children being seen with their father by professionals in Country A, which notes that they were happy to see him. They have also appeared to enjoy contact with him in this country (including by WhatsApp video). In her discussions with the children, the then Guardian, Kate Goodridge, noted that they were both uncomfortable discussing her father, and S told her that she did not like it when her father picked her up in the car.
43. The mother's perception of what the children were saying in the recordings she has produced (and as to the drawings they did) is, in my judgment, so distorted that it makes it very difficult to place any reliance on her evidence as to what the children said outside of them. The same applies to her other observations – for example of S's behaviour in May 2017 or April 2018, or even her demeanour before and after contact. During the whole of this period the mother was plainly angry with the father. She produced what has been described as a speech (dated 27th February 2018) which she apparently read at a lawyer's meeting which set out a litany of what she considered to be his failings as a character and a father.
44. There is nothing in the father's written or oral evidence that throws doubt upon his denials. For much of the time that he had the children with him there were other people around, including the children's nanny, the father's older children, and his first wife Ms K.
45. In all the circumstances, I have come to the clear conclusion on the balance of probabilities that the father did not sexually abuse S. Nor do I

consider that Y has behaved improperly to T. Such allegations that the children did make are inherently unreliable because of the way in which they had been repeatedly questioned. The medical evidence is inconclusive. The finding of a bruise is a matter of concern, but there is no description of the apparent injury other than that it was healing, and there is no diagram or photograph (the mother's photograph of the same date does not show it). Dr. C has not given evidence to me, and I accept the evidence of Dr. D, who spoke to Dr. C on that night, that he was not made aware of it. Added to this, there is no other supportive evidence. S's distress and reluctance to go with her father is just as consistent with the tension between the parties over this period, and indeed suggests she may have been picking up upon the mother's anxieties. I accept the evidence of Ms K that the father has been a good father to X and Y, and that S and T were relaxed and happy when she visited on occasions when they were staying with him.

The father's allegations against the mother

46. In denying the allegations of sexual abuse made against him the father's case is that the mother caused the children emotional harm by having repeated and taped conversations with them, asking leading questions about sexual abuse and taking intrusive photos of S. He alleges that she has alienated them and wrongly removed them from the life they had in Country A to England. It is also alleged that she shared the allegations of sexual abuse widely amongst the community, exposed them to unnecessary therapy, and embroiled them in the parents' dispute. It is also said that the mother improperly pressured medical staff to make findings of abuse, did not cooperate with the investigation and tried to influence the police.
47. I have said above that the mother's perception of what the children were saying to her in the recordings she made was distorted. It was clear that by the time she started to record the children and photograph S in May 2018 (which was before the start of the police investigation) she had developed a view that S had been sexually abused. She found it very difficult to accept evidence which pointed in the other direction, and any reassurance that was given to her appears to have sent her looking for more support for her pre-conceived views. It is difficult to know why this was, but no doubt it was fuelled by her deep distrust of, and anger with, the father. During her evidence she repeatedly referred to finding things 'strange', whether that was the fact that the redness stopped in August (which she attributed to the father being 'tipped off' by someone in the police as opposed to the prescribed antibiotics), or the fact that the

therapist, Ms G, stopped returning her calls, or S's behaviour in telling her that nothing was wrong.

48. Some of the mother's behaviour is understandable because of difficulties in the investigation in Country A. It was odd that Dr. D said he had examined S when he had not, and that his opinion appeared to contradict Dr. C's, who had (and had noted a bruise). That must have been very difficult for the mother to accept and given her mindset inevitably led her to believe that the father had successfully corrupted the investigation. There was no independent interview of S, and it is true that the mother's recording of events in the police station gives support to her claim that the attempt to interview her took place in a room where there were a number of other people present discussing other things. Then there was a long delay. There has been some confusion as to whether the father was interviewed or not, but in any event, he was allowed to go back and care for his children immediately after being charged with defiling his daughter. There were no bail conditions (although there were sureties).
49. The mother is not trained as to how to question children and even those who are find it extremely difficult. The case law is replete with examples of professionals asking children leading and suggestive questions, thereby undermining the reliability of what children say.
50. Even making all these allowances, however, I do consider that the mother went beyond what was reasonable behaviour. There were plenty of reasons, even for an anxious parent, to doubt that the father was abusing S. The redness happened over a period of about three months and occurred only once before and never after that. There was a perfectly plausible medical reason for it. I accept Dr. C noted a bruise (although this was not apparent in the photo the mother took that day). Many of the children's answers to her questions were reassuring if she had only been prepared to listen. Objectively she should have been aware that it was she who was repeatedly making suggestions to the children rather than them making spontaneous allegations to her. There are 26 recordings in all which is a significant number, and some were made on consecutive days. There are times in the recordings where the children plainly wish for the questions to stop. There is a point in the interview on 26th September when T said, 'I don't want to talk about this'. In her statement the mother said, 'it started to concern me that T was getting traumatised every time S blurted out something'. This shows a distinct lack of awareness on the mother's part – for T was undoubtedly reacting to her questioning, and S did not blurt anything out.

51. Asking children repeated questions in this way is undoubtedly distressing and harmful to them and is likely to have led them to believe they have reason to be anxious about their father. Added to this, S will have been conscious (at least at the time) of her mother repeatedly examining her after she arrived back from her father.
52. Having read the documents and heard the mother giving evidence, I do not think that her motives were cynical. I consider that her beliefs were genuine, albeit misguided and based upon a distorted assessment of the evidence she had.
53. I am not prepared to make findings that the mother did not cooperate with the Country A authorities. It is not difficult to see how the way the case was investigated made her very anxious and fed a belief that the father was somehow pulling strings behind the scenes. The combination of the delay in investigation, the contradictory medical reports, Dr. D appearing to say he had examined S when he had not, the fact that the father was not questioned and was permitted to see the children for contact after being released, and the court refusing to suspend contact all fed into the mother's distrust. In her state of mind, that led her to seek help from various different bodies. I do not think there was a deliberate attempt to spread the allegations around the community either; it was just a consequence of living within a small community.
54. I consider that the mother's decision to abduct the children from Country A arose out of a combination of her fixed belief about S being abused in combination with her more understandable concern about the Country A investigation. The abduction was harmful for it did indeed remove the children from their schools, friends, and father, and has caused significant disruption to their lives. They have hardly seen their father since.
55. The mother has alleged that the father exerted a high level of financial and emotional control and coercive pressure for her to withdraw her allegations. It is true that he instructed his solicitors to send a number of letters to her threatening her with a formal complaint to the police, and proceedings for defamation of character. He took proceedings in the High Court for custody of the children.
56. I have to bear in mind that the investigation in Country A was conducted somewhat differently to what we might be used to in this jurisdiction, when there would have been bail conditions and where I think solicitors would not have sent letters of the type that were sent in this case. The father was responding to allegations of the utmost seriousness, which for

better or for worse, were becoming known in the community. No doubt he was extremely worried about them. I am not prepared to find that his behaviour in response was abusive or unacceptable in the particular situation in which he found himself.

Conclusion

57. My findings are therefore as follows: -

- (a) The father did not sexually abuse S, or behave in a sexually inappropriate way to either her or to T.
- (b) T was not exposed to sexually inappropriate behaviour by Y.
- (c) The father's behaviour in response to the allegations; namely by threatening court proceedings or to make a complaint to the police was not improper or coercive in the circumstances.
- (d) The mother undermined the children's relationship with the father and put them at risk of emotional harm by repeatedly questioning them in a leading and suggestive fashion, by recording them repeatedly and also by repeatedly taking intimate photographs of S . She developed a fixed view that the father had sexually abused S and was unable to consider evidence which suggested that he had not done so.
- (e) The mother's belief as to the sexual abuse was genuine, albeit misguided.
- (f) The mother's lack of faith in the Country A investigation was understandable and justified; and her actions in carrying on her own investigations after July 2018, and her removal of the children to the UK in May 2019 (and failure to comply with Country A's court orders) must be seen in the light of that.
- (g) The mother did not gratuitously or cynically share allegations of sexual abuse, nor did she manipulate or obstruct public officers in the exercise of their duty.

Postscript

58. I am very conscious of the terrible stress the events of the last few years must have placed on the mother, father and children in this family. I wish to repeat that it appears to me that the mother's beliefs have been sincerely held, that she loves her children very much, and that leaving these issues aside she is and has been a good mother. I have not found that her campaign to seek justice, though misguided, was cynical. The children are clearly delightful, communicative and intelligent, and credit for that must go to both the parents for that.

59. I also noted on some occasions in her evidence that the mother was prepared to be reflective and to acknowledge some things that she might have done differently. I wish to emphasize to the mother and the father,

that the purpose of this hearing and my judgment is not to seek to humiliate or punish anyone. Sometimes a combination of events – and the characters of the parties concerned – leads to a ‘perfect storm’ and a series of wrong turnings. This is what I believe to have happened here.

60. I hope that following this judgment the parties are able to reflect upon what has happened, and to give careful consideration to what should happen to the children in the future. Much will depend on the response of the mother – if she is able to accept the findings and acknowledge the father does not pose a risk to T and S. The father also needs to consider how he responds to questions and criticism. No doubt the best outcome for these children is for them to have a strong and loving relationship with each of their parents – and also with their older siblings, and the question remains as to how this is best achieved.

61. I wish to thank counsel, Mr. Devereux QC and Dr. George for the mother, and Ms. King QC and Mr. Perkins for the father, for their exemplary conduct of the case and the assistance they have given the court.