

IN THE EAST LONDON FAMILY COURT

Case. No. [REDACTED]

Courtroom No. 11

6th and 7th Floor
11 Westferry Circus
London
E14 4HD

Friday, 12th April 2024

before

MR M CARNEY
MS E BENNETT
MS A OKENIYI

[REDACTED]
- v -
[REDACTED]

THE APPLICANT appeared IN PERSON
THE RESPONDENT appeared IN PERSON

WHOLE HEARING

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1 **Case called on.**

2 LEGAL ADVISOR: Good morning. Today is 12 April 2024 and sir you would be dealing
3 next with [inaudible] which has the file reference PE22P30287, application by
4 Mr [REDACTED], the respondent being Ms [REDACTED]. Sir, we received notification that there
5 was potential for a legal blogger to be present in court, so the rules around this, take
6 a seat, take a seat, the rules around this are covered by Practice Direction 27.11 and
7 it says, "When this rule applies", so it says that "This rule applies when proceedings
8 are held in private in such in relation to hearings conducted for the purpose of
9 judiciary assisted consideration or negotiations, proceedings to which the following
10 provisions apply: Part 13, proceedings under 54 or 54(a), Human Fertilisation and
11 Embryology Act 2008, or part 14, procedure for applications in adoption, placement
12 and related proceedings; and any proceedings identified in a practice direction as
13 being excepted from this rule".

14 So, this type of hearing C100 falls within attendance at private hearings. It then says,
15 "When this rule applies no person should be present during any hearing other than:

16 (a) an officer of the court.

17 (b) a party to the proceedings.

18 (c) a litigation friend for any party, or legal representative instructed to act on that
19 party's behalf.

20 (d) an officer of the service or Welsh family proceedings officer", that is Cafcass.

21 (e)" a witness.

22 (f) duly accredited representatives of news gathering and reporting organisations".

23 This gentleman has made an application under 2(f)(f), "A duly authorised lawyer
24 attending for journalistic research or public release or urgent purposes and any person
25 who the court permits or who is required at any Practice Direction to be present".

26 LEGAL ADVISOR: Now first off are you a lawyer?

27 MR MAGRATH: I am a lawyer, yes.

28 LEGAL ADVISOR: Okay, are you called to the bar, are you a solicitor?

29 MR MAGRATH: I am a barrister, I was called to the Bar, I have a copy of my court
30 certificate, if that could be useful.

31 MR MAGRATH: I should point out that I'm not practising currently.

32 MR CARNEY: Okay, I am sorry I did not catch your name.

33 MR MAGRATH: My name is Paul Magrath.

34 MR CARNEY: Like the footballer.

35 MR MAGRATH: Like the footballer but spelt Magrath.

1 LEGAL ADVISOR: Your court date is 24 November 1981, this is a copy, yes, so that
2 element is satisfied. The issue for the Court is that we have to preserve the integrity
3 and privacy of the parties wherever possible. Sir, the case as described has been a
4 difficult one. Both parties are litigants in person, we have a social worker to give
5 evidence. It has been explained to me by Mr Magrath that Mr [REDACTED] has contacted
6 them, the organisation that he is working with to specifically have someone in court
7 to then report what has happened in court. Sir, my concern with that is that it is a
8 difficult case, both parties are litigants in person, and it would be important to
9 preserve privacy of both of those parties and also the child in these circumstances.
10 There is a scheme currently being run at the court which is being run at DJ procedure
11 level and we are currently not having [inaudible]. My concern, my open concern is
12 that it would not be appropriate in the circumstances of the case that is before me to
13 have matters reported on the basis that the Court then has no control, editorial control
14 of any of that information inside whatever blogging is done and the open possibility
15 of matters being misrepresented.

16 MR CARNEY: Thank you so, Mr Magrath can you tell us the name of your organisation
17 and also your response to the advice which our learned legal adviser has given us.

18 MR MAGRATH: Yes of course, so the organisation of which I'm a trustee is called the
19 Transparency Project. I have a copy of a letter from the chair of the Transparency
20 Project, Lucy Reed KC, explaining that my purpose in attending proceedings is as a
21 duly authorised lawyer as your adviser has explained and the Family Proceedings
22 Rules 27.11, subparagraph 2, subparagraph (f)(f), as a duly authorised lawyer,
23 sometimes known as a legal blogger. So, I'm here on behalf of the Transparency
24 Project basically intending to report the case if given permission, which of course is
25 entirely up to you, for public legal education purposes. So, I'm not a news reporter,
26 I'm not working for a newspaper, I am working for a charity which is dedicated to
27 public legal education.

28 MR CARNEY: Sorry to interrupt you but my immediate concern is that we, as far as I know,
29 we did not have any notice of this. We are a lay bench, we have no knowledge of
30 projects that our legal adviser has been referring to. The projects are not
31 authorised/supported at our level, certainly they would be to a district judge.

32 LEGAL ADVISOR: Currently the project that is running is district judge and circuit judge
33 level, it has not been extended. Sir, I will just read out to you that next part, paragraph
34 3, it says, "At any stage of the proceedings the Court may direct that the persons
35 within paragraphs 2(f) and 2(f)(f) shall not attend proceedings", Sir, I will just read

1 out this section for you, “At any stage of the proceedings the Court may direct that
2 persons in paragraphs 2(f) and 2(f)(f)” and this gentleman falls within 2(f)(f), “Shall
3 not attend proceedings or any part of them where the Court is satisfied that it is
4 necessary in the interests of any child concerned, in or connected with the
5 proceedings, of the safety or protection of a party of witness in the proceedings or a
6 person connected to such a party of proceedings or orderly conduct of proceedings
7 or justice would otherwise be impeded or prejudiced”.

8 Sir, that is why I indicated to you at the beginning that this case has been particularly
9 difficult and fraught and those are the reasons why I do not think it is appropriate for
10 there to be anyone in the courtroom and for there to be an audience for either of those
11 parties, the Court needs to concentrate on the wellbeing of this child, to make an
12 appropriate order in those circumstances.

13 MR CARNEY: We are minded to accept your advice, would you like us to get on?

14 LEGAL ADVISOR: I do not know if Mr Magrath wants to say –

15 MR MAGRATH: Could I just finish what I would like to say?

16 MR CARNEY: Go ahead.

17 MR MAGRATH: Please, there are two issues, one is the attendance in court, which is partly
18 designed under the Family Proceedings Rules to ensure that the court is, although not
19 in open hearing is subject to a measure of scrutiny. Secondly, the second issue is the
20 question of reporting, now I cannot report anything, even if I sit here all day, I cannot
21 report anything without your permission and whatever I report is entirely constrained
22 by whatever permission you would grant, if you had granted permission and I would
23 need to make a separate application for that after the hearing.

24 Moreover, I am also bound by the standard statutory restrictions on publication of
25 any matter concerning a child in private family proceedings under the Administration
26 of Justice Act 1960, section 12 or under the Children Act, if these are Children Act
27 proceedings under section 97 of the Children Act. I am aware of these because I
28 have written a textbook on the matter of transparency in the family courts. I have co-
29 written this textbook.

30 So, I am aware of the limitations of what I can do. So far as my relationship with
31 any of the parties is concerned, as this a matter of evidence I think I should be allowed
32 to provide some rejoinder on that as it appears to be a matter of supposition and
33 observation on my behaviour since arriving at the court. All I can say is that
34 journalists are not obliged to disclose the reason why they wish to attend proceedings
35 if they’re permitted to attend proceedings and that applies to legal blogger as well.

1 However, I'm perfectly happy to admit that as a member of the Transparency Project,
2 we are notified very frequently by litigants informing us of cases which we think,
3 which they think we might be interested in reporting for public legal education
4 purposes. I make no presumption about that but I'm here as an observer.
5 I understand however that your adviser has made the distinction between the risks of
6 reporting the case and the risks of mere attendance and that you do have power to
7 exclude me or any report from attendance if you feel that that would have deleterious
8 effect on the conduct of the proceedings and I certainly don't dispute that, I just want
9 to be clear to be told clearly what the reason is –

10 MR CARNEY: Have you thought about giving notice?

11 MR MAGRATH: Well I wrote to the court yesterday.

12 MR CARNEY: Did you?

13 MR MAGRATH: Yes, I wrote to the court specifying which case I was attending or which
14 court.

15 MR CARNEY: Did you get a reply?

16 MR MAGRATH: I got a reply saying that owing to Covid restrictions, I couldn't expect to
17 hear within 48 hours or something and that I might have to make, I mean in other
18 words I got a standard reply and nothing more than that. But I went to court office
19 this morning and established that they had received my email with the documents
20 which include the letter from the Transparency Project, the chair and a form which
21 I'm about to fill in under the Family Proceedings Rules which is under Practice
22 Direction 27(c). So, those documents should have been before the Court.

23 LEGAL ADVISOR: As far as the Court is concerned, the notice was received for all intents
24 and purposes sir, this morning.

25 MR CARNEY: Well, I think –

26 LEGAL ADVISOR: Whilst the gentleman may have emailed the court sir, the notice for
27 the court was effectively this morning. If there are no further submissions from
28 Mr Magrath then sir, it would be a matter for you to make a decision after a short
29 recess.

30 MR CARNEY: [Inaudible]?

31 LEGAL ADVISOR: Sir, yes to give it some thought.

32 MR CARNEY: Well, if we ask Mr Magrath if it's easier to withdraw.

33 MR MAGRATH: I can withdraw.

34 MR CARNEY: Yes please.

35 **Court rises.**

1 **Court resumes.**

2 LEGAL ADVISOR: So, you return to the case of file reference PE22P30287. This is the
3 application by a barrister, Mr Magrath to be present before you under Rule 27.11,
4 2(f)(f).

5 MR CARNEY: Mr Magrath, we received your application at very short notice. It has not
6 been properly[?] to consider your application under the current scheme, which is
7 operating at this court, at the East London County Court. A scheme that does operate
8 allows reporters in front of district judges and circuit judges currently. Magistrates
9 have never been asked to allow reporters.

10 Looking at the nature of this case there is a history of difficulty between the parents,
11 and this is still a young child aged 11. We do not believe it is appropriate for a third
12 party to be in court that may affect the way that the parties respond within this
13 process, therefore we decline your application, thank you.

14 MR MAGRATH: Okay.

15 [Crosstalk]

16 LEGAL ADVISOR: While you are here, what you might want to do is check with the usher
17 and see whether or not there are any cases that you could sit in front of, in front of a
18 DJ or a CJ today, under the other scheme that is running in the building.

19 MR CARNEY: The transparency, the reporting [inaudible].

20 LEGAL ADVISOR: Yes, so there is that option open to you so we have got cases obviously
21 running the rest of the day in front of DJs and CJs so you might want to see if there
22 is a case. I think the scheme is running for public law cases so there may well be
23 something that you can do today if you speak with the usher or go back to the front
24 desk and see if there are any cases that you could possibly sit on, okay.

25 MR CARNEY: Okay.

26 MR MAGRATH: Thank you.

27 MR CARNEY: You have made a note, I will probably take your note to ensure that I put it
28 on –

29 MR CARNEY: Yes, [inaudible].

30 LEGAL ADVISOR: I have put that on the front of the document.

31 MR CARNEY: Right, I think it is –

32 LEGAL ADVISOR: Sir, good morning today is 12 April 2024, so this is your day case, it
33 has the file reference [REDACTED], applicant is a Mr [REDACTED], who is a litigant in
34 person, the respondent is Ms [REDACTED] who also appears as a litigant in person. [REDACTED]

35 [REDACTED]

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[REDACTED]

Sir, just so the parties are aware there was an application for a Mr Paul Magrath, a barrister called in November of 1981 to be present as part of a transparency project for public and legal educational purposes. Sir, you refused the application on a number of bases, the first being the Court given very short notice as the application. It came in yesterday and currently there is a project running here for transparency, that is to DJ and CJ level. There are no current projects running for Magistrates but on using the criteria within that particular revelation, sir that you were very conscious of, is that there have been difficulties between parties, this is a very young child and the Court was concerned that it didn't want to have an audience in the courtroom that could potentially affect the way in which the parties responded to questions etc, which passed to the child so sir I now formally hand over to you.

MR CARNEY: Thank you, good morning I am Mike Carney, I am the lead justice today. My colleagues are, introduce yourselves.

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