Abuse Is Never Okay: Case of Re P (a child) (dismissal of application – abusive applicant) [2023] EWFC 86

Her Honour Judge Lynn Roberts' recent judgment in the matter of Re P (a child) (dismissal of application – abusive applicant) [2023] EWFC 86 highlights the issue of abuse that parties and professionals alike often suffer from in family court proceedings. It is hoped that this case will be treated as a warning by those who believe that constant aggression, threats, and abuse is a proper way of communicating. The judgment serves as an important warning shot to litigants, highlighting that acting in this manner will do nothing to either help them win their case, nor improve the way in which it is progressing. There is also the additional issue of vicarious trauma that is so acutely familiar to those working with vulnerable clients. As professionals, we may well know how to seek help and how to cope with abusive conduct, yet it does not mean it is any way acceptable to perpetuate this type of behaviour.

The case of *Re P* concerned an application by the Father to spend time with his one-and-a-half-year-old son. The Father represented himself and the mother had representation. As the matter evolved, and due entirely to the father's behaviour, the court was presented with a further application by the mother for the father's application to be dismissed and if not dismissed, for there to be a psychiatric assessment of the father. The transcript reveals a litany of severely abusive remarks emanating from the father, aimed at court staff, social workers, and the mother's solicitor. The remarks make for sobering reading even for those not involved in the case at all. For those enduring the abuse from this father, the effect must have been long-lasting. Ahead of dismissing the father's application, the judge gave him an opportunity to file a statement to address the grounds for dismissal and went as far as spelling out what specifically needed addressing in his evidence. Further time was allowed (and in fact, it was strongly encouraged) for the father to seek

independent legal advice.

At a later hearing, the judge moved on to address the application and consider the potential of making a Section 91(14) barring order, stopping the father from making any further applications without the leave of the court.

Section 91(14) of the Children Act 1989 allows the court to prevent any applications for an order with respect to a child by any person named in the order without leave of the court. These orders are made particularly where further proceedings could risk being used as a form of continuing domestic abuse, or if they could be used as a vehicle to cause harm to the children and parents involved. Courts can make these types of orders of their own motion (i.e., without a need for an application to be made by a party to the proceedings).

To portray the seriousness of the abuse, the threats made by the father towards the mother and her parents in this case resulted in a panic alarm and a fire box being installed in their property. All professionals involved, including the court staff, the CAFCASS officer, the Local Authority and the mother's solicitors, who received vile and abusive communications, including posts on social media, examples of which are provided in the transcript. The father's behaviour continued unabated against anyone involved, *"however peripherally in this case"*, notwithstanding numerous undertakings, non-molestation orders and prohibited steps orders. The mother's solicitors also decided to take civil action.

The judge took a hard-line approach, dismissing the father's application, finding it unsafe for the child to spend time with the father even on a supervised basis, given the continuing abuse. She did so even without a fact-finding hearing taking place, given the gravity of the father's presentation and his actions to date. She also made a s.91(14) order and provided that if father wished to make any further applications, he would need to apply for permission first. It was made clear that any appeal would need to be made within 28 days to the High Court.

Professionals working with families are regrettably all too familiar with unnecessary terse and forthright correspondence. One can also often lose sight of the impact of enormously draining litigation on parents going through the Family Court, and how this stress manifests itself in communication. However, in *Re P* the father's communications descended into an intolerable diatribe of rage. The father's outrageous actions in this matter warranted a careful and robust response from the Court, and the judgment will no doubt be welcomed by anyone working with families in the family justice system.

For the full judgment please see: https://caselaw.nationalarchives.gov.uk/ewfc/2023/86

Agata Osińska
agata.osińska@iflg.uk.com
The International Family Law LLP
www.iflg.uk.com