

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

MATRIMONIAL OFFICE

BETWEEN:

M G

Petitioner;

-and-

TG

Respondent.

WEIR J

[1] This judgment has been anonymised and nothing may be published concerning it that would serve to identify the parties or their children.

[2] In this case the petitioner wife initially issued a petition for divorce grounded in unreasonable behaviour. The respondent husband filed an answer and cross-petition also alleging unreasonable behaviour on the part of the petitioner. Subsequently an application was made on behalf of the petitioner for leave to file a second petition grounded in two years' separation with consent and on 21 July 2009 Master Redpath made an order permitting that course.

[3] The second petition was accordingly filed, the respondent consented and I heard the petition on 14 June 2010. However, while satisfied that the evidential basis for the grant of a decree nisi on the two year ground had been established, I was not satisfied that suitable arrangements for the children of the family had yet been securely put in place in accordance with the proposals ultimately made by the petitioner as set out at paragraph [12] below. I therefore adjourned the matter until they have been and are seen to be working consistently, at which stage the decree nisi will be granted.

[4] During the prior course of the proceedings it had become apparent that there was serious difficulty about contact between the respondent and his parents on the one hand and the two small children of the family, T now aged 5½ years and S aged 4 on the other. The matter was reviewed by Stephens J. on 9 February 2010 when he directed the preparation of an Article 4 report in respect of contact. The social worker submitted a detailed report dated 26 April 2010 followed by a supplemental report dated 10 May 2010. The petitioner then applied on 11 May 2010 for a residence order in respect of the children.

[5] As is well known by practitioners, I strongly deprecate the unnecessary use of the unreasonable behaviour ground in divorce since experience has convincingly demonstrated that the making of allegations and counter-allegations of poor behaviour by the parties frequently leads to acrimonious dispute. That in turn has the effect of creating problems for the ongoing contact arrangements that are so important to children who have already suffered the loss of whichever parent has left the former matrimonial home and are then deprived of contact while a bitter battle is waged over their heads and is frequently never satisfactorily resolved owing to the implacable hostility of one or both of the parties. This case is a perfect if rather extreme example of that situation.

[6] The parties separated in June 2007 following a domestic argument to which the police had been called by the petitioner. The respondent withdrew from the matrimonial home that night at the suggestion of the police who took him to the home of a friend. No further police action resulted but the parties never resumed their life together. After a few months the petitioner also left the former matrimonial home and moved with the children to the other side of the province, ultimately establishing herself about 80 miles distant from the respondent. The respondent's parents, a mature couple, were most anxious to have continuing contact with the children and not long after the separation achieved an arrangement with the petitioner whereby once a month they collected the children from her home on a Friday and brought them to their own home where they stayed over until the Sunday after lunch when the grandparents drove the children back to the petitioner. While the children were staying with his parents the respondent was able to see them and the arrangement seems to have worked reasonably well with a measure of civility being maintained between the grandparents and the petitioner until after what proved to be the last visit in June 2008.

[7] In the early part of July 2008 the grandparents telephoned to arrange the visit for that month. They hoped that it could correspond with the respondent's birthday as they planned to have a party for him in which the children could join. The mother refused to allow the children to go because, the grandparents say, she told them that she intended to take the children on holiday at that particular time.

[8] It much later emerged that the petitioner would assert that the true reason for her refusal was that on the day that the children returned home from that last visit in June she noticed on preparing them for bed that each of them had injuries around its anus and that the older child T had then disclosed to the petitioner over a period of time a litany of serious sexual abuse perpetrated upon her and her young sibling S by the respondent. It was for that reason that she was not agreeable to the children returning for contact to the grandparents. Unaccountably, she agrees that she did not mention these serious matters to the grandparents in whose care the children had been, either when she claimed to have discovered them or at any time thereafter, nor did she take the children to hospital or to a doctor nor report the matter to anyone except (according to her) to a friend and to her mother until the month of August when she first made the allegations to her health visitor. At that stage there could of course be no mark or injury for anyone to see. Perhaps significantly, neither the friend nor the mother was called to confirm in evidence the petitioner's account of having made contemporaneous complaints to them.

[9] I heard evidence relating to these allegations beginning on 13 May last and continuing on 17, 19 and 21 May. Over that period evidence was given by the petitioner, the respondent's mother, a police officer and a social worker. Records of the petitioner's complaints to the health visitor, two social workers, the Family Care Centre and in a statement of complaint to the police were all, by agreement, admitted in evidence without formal proof.

[10] The petitioner was a highly unsatisfactory witness. Her evidence was most inconsistent and at times frankly incredible. She repeatedly contradicted herself in the course of her evidence and under patient and methodical cross-examination by Ms McGurk BL piled one incompatible assertion upon another. The complaints that she had made to the various professionals were shown to be inconsistent with her evidence and the recorded complaints were also irreconcilable one with another. Initially I thought that she might be suffering from some form of paranoid delusion but as her evidence proceeded and its frailties were painstakingly exposed to her I concluded rather that she was motivated in large measure by spite directed towards the respondent and that her evidence was mendacious.

[11] Ultimately, on the final day of the hearing, I was obliged to caution the petitioner about the possible consequences for her of lying under oath and I adjourned for a short period to enable her to discuss her position with her counsel. In taking this step I was finally prompted by the several highly significant discrepancies between her evidence to the court and the contents of her written statement made to a police officer in January 2009 to which her explanation under cross-examination had been that the police statement was wrong. I am satisfied that the true position was that the petitioner had told so

many inconsistent lies to so many people that the extent of her falsehoods was by then obvious.

[12] Following the adjournment Mrs Dinsmore QC on behalf of the petitioner informed the court that she had instructions from the petitioner to withdraw the allegations which had been made against the respondent and each of his parents. She sought a Residence Order in favour of the petitioner (to which there was no objection on behalf of the respondent) and that a contact order be made in favour of the petitioner and the grandparents on the following basis:

- (i) That one weekend each month the children should go to the home of the respondent's parents and stay overnight with them as previously.
- (ii) That the respondent should have unsupervised access to the children provided that the overnight stays were to be at the home of the grandparents.
- (iii) That the petitioner could have telephone contact each evening with the children while they were staying with the grandparents.

[13] By reason of the withdrawal of her allegations, in which course I consider the petitioner was very well advised, I do not think it necessary to set out here the detail of the many lurid and extreme allegations made by the petitioner either to any of the several professionals with whom she has come into contact or in the course of her evidence before the court. It is sufficient for present purposes if I say that I am entirely satisfied that they are wholly without foundation. In the course of work at the Child Care Centre the child T did make some relatively minor allegations of improper behaviour on the part of the father but nothing of a sexual nature and I am satisfied that what was "disclosed" was as a result of coaching by the petitioner. The conclusion of the Child Care Centre was that over the course of her attendances T did not disclose any information which indicated sexual abuse by her father. Significantly, in the report of the Centre it is recorded in respect of the petitioner "she was obviously disappointed that T did not disclose anything of a sexual nature in the sessions."

[14] It is however not satisfactory to leave the matter there. I wish to record that the evidence that I heard from the respondent and from his mother, the children's grandmother, was cogent and satisfied me that neither the respondent nor either of the paternal grandparents has been involved in any abuse of the children in this case. The grandmother was a particularly impressive lady who gave her evidence in a calm and dignified fashion and although plainly much affected by the grave allegations concerning harm alleged by the petitioner to have been suffered by her grandchildren while in her care, dealt in a comprehensive and convincing fashion with all the matters that were put to her. I am satisfied that no harm came to these children while

they were in the care of the grandparents but that, on the contrary, the children gained much from the opportunity to visit their grandparents and father on a monthly basis. It is a source of great regret that they have been maliciously deprived of that contact for a period of almost two years so that the sooner it is reinstated in accordance with the renewed contact arrangements belatedly offered on behalf of the petitioner the better it will be for them.

[15] On one view it might be thought that as the petitioner ultimately withdrew her allegations there is no need for this judgment. However, I am sufficiently concerned about the petitioner's presentation to think it necessary that these matters should be set down for the record and that copies of this judgment should be provided to Social Services and kept upon their file in case in future it requires to be consulted. It concerned me to learn in the course of the hearing that the petitioner had prevented T, a first year primary school pupil, from going with the class on an outing to a pantomime last Christmas and, but for my intervention, she would have prevented the child from going on another school trip arranged for the last day of the hearing. Her explanation for those fatuous decisions was an expressed concern that the child might be kidnapped by the respondent while on either of the trips. I am satisfied that that explanation was entirely bogus and that the petitioner's selfish action in that regard was solely for the purpose of attempting to bolster her false claims against the respondent regardless of its consequences for her child.

[16] In all the foregoing circumstances I consider it most important that Social Services should keep a close eye upon the welfare of these children while they continue in the care of the petitioner and liaise regularly with the school authorities to ensure that nothing of concern arises in relation to their care. I hope that this judgment will be made available to any social worker who is in future involved with these children or their parents.