

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

M.751/81

925

IN THE MATTER OF _____

an infant

A N D

IN THE MATTER OF An Application under
 Section 9 of the
 Guardianship Act 1968

BETWEEN

REID,

Manager and

REID

Married Woman, both
 of Royal Oak, Auckland

Applicants

A N D

THE DIRECTOR-GENERAL
 OF SOCIAL WELFARE

First Respondent

AND

G

Workman

and

G

Married Woman, both of
 Onehunga, Auckland

Second Respondents

Counsel:

G.S. Millar for Applicants

Parker for First Respondent

J.G. Adams for Second Respondents

S.A. Thorburn for Child

Hearing and

Judgment:

7 August 1984

ORAL JUDGMENT OF SINCLAIR J.

On 21 February 1984 I made orders on a temporary basis
 to cover access to this little girl,

by her mother, she then living within the household of the applicants. Unfortunately it transpired that there were some circumstances which had arisen which had not reacted for the well-being of all concerned and I do not intend to try and apportion the blame for that because it is incapable of definition and is one of those matters in the circumstances which exist or happen from time to time.

When the matter was raised before me, it was sought to obtain reports from Dr I.R. Brooks and Dr Karen Zelas. Those two reports are now available. If one took the hard line attitude that pervaded the Courts some years ago, then there are matters within the reports which would justify the Court terminating all access so far as the natural mother is concerned. Fortunately, everybody has approached this matter on a much more enlightened basis. So far as the child is concerned, the inevitable consequence of the reports is that she should stay where she is with the Reids at the moment, if not for all time. Mrs G has expressed some hope that at some time in the future she may be able to resume custody of the child, but Mr Adams was realistic enough to accept that in all probability that will never come to fruition. That certainly would be the situation having regard to the reports which are now before this Court.

The question is, what is the best for the future? At the moment there is a Wardship Order made, but I am doubtful whether that need remain in all the circumstances.

There has not been a situation where Mr and Mrs Reid have been able to really deal direct with Mrs G and it seems to me that here we are trying to build up a situation of trust between the two, but with the intervention of third parties when in all probability and with a little bit of goodwill on either side, the necessity for that will disappear.

I am of the opinion therefore, that at least in the meantime the Wardship Order should disappear and it will be cancelled. If there is any necessity for it to be brought back into existence, that can be done without very much difficulty.

On the question of guardianship, I can understand that Mrs G may feel that if Mr and Mrs Reid were appointed guardians, it may whittle away her rights with regard to I hope she will appreciate that somebody who has the day to day care of the little girl ought to be in a position where they can make decisions as guardians without that being interfered with by other persons when all the indicators are that the Reids are acting in the best interests of this child. Therefore, I see no criticism at all really in appointing Mr and Mrs Reid as guardians of and at the same time there will be a custody order in their favour.

That will then leave the question of access which I am hopeful can be resolved to a very large degree by Mr and Mrs Reid dealing direct with Mrs G. In Dr Brooks'

report there is a suggestion by him which would justify a conclusion that the access should terminate but he equally recognises Mrs G's right to see her daughter grow up and to maintain a relationship between mother and daughter. The access which has been had of recent date I am informed, has been in somewhat unnatural circumstances. I intend as a starting point to take a stand somewhat broader than that recommended by Dr Brooks in the hope that it may work.

As an interim measure only, Mrs G will be entitled to access 4 times a year and to try and assist the parties, I would suggest that it should be on a Saturday so that the access can be such that the visits can be made to places like the zoo, to museums, restaurants - places of that nature - in the summer months possibly even the beach. I would recommend to the Reids and Mrs G that those 4 visits be equally spaced throughout the year and as a recommendation to them but not making it an order, I would suggest that the first access under this head be on the first Saturday in October. Thereafter the visits to be spaced equally throughout the year, recognising that there may be periods when Mrs G may not wish to have for some good reason at a particular time in the year or that the Reids may have taken away on holiday with them somewhere and there may be some good reason why the access has to be shifted either forward or backward depending on the requirements of either party. That access in the meantime should be for 2 hours and in the presence of Mrs Reid who should be as unobtrusive as

possible, but so that she is there to deal with any crisis that might result but I am hopeful that we will have a lack of crises in this particular time to re-establish some sort of contact between natural mother and daughter. If the access works out reasonably well, then the Reids may be inclined without any further visitation to this Court to allow extended access. If there are any areas of concern, then there is no doubt that both Mr and Mrs Reid and Mrs could have quick access to this Court to enable the matters to be ironed out.

Accordingly, I will make Orders in the above terms with the mere suggestion as to how the access should be put into effect, but if there are any difficulties arising in that direction, then in that respect and in respect of access in general, leave is reserved to either party to apply back to the Court at any time in the future for access to be further defined. That in my mind should mean that the parties will know that they have an access to the Court without having to file further new applications and the matter can be brought in a relatively informal sort of a way.

I wish to express the Court's gratitude to Mr Thorburn for the manner in which he has approached his duties in this matter and with the rather unusual result he has had in having two persons have a look at this little girl and come to a somewhat unanimous conclusion without ever having seen one another - that is something which is usually rather

strange in this particular scene. If Mr Thorburn submits his account for costs in due course, it can be referred to me and I will have the matter dealt with by the Registrar.

P. A. inf.

<u>Solicitors for Applicants:</u>	Messrs Peak Rogers, Auckland
<u>Solicitor for First Respondent:</u>	Social Welfare Department Solicitor
<u>Solicitors for Second Respondents:</u>	Messrs Cairns, Slane, Fitzgerald and Phillips, Auckland
<u>Solicitors for Child:</u>	Messrs Malloy, Moody and Greville, Auckland

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