

Relocation of a 2 1/2 year old to UK

With the infamous 'Italian Girls' case taking media centre stage recently, international relocation matters seem to be the hot topic under scrutiny in the family law arena. In reality, international relocation Applications are not uncommon, one recently having been determined by the Federal Magistrates Court in Sydney.

Facts:

The case involved an Application by the 27 year old mother of a 2 ½ year old boy to return to the UK with the child. The mother was born in the UK but had been living in Australia since she was 12. The 28 year old Australian born Father opposed the Application, seeking that the child continue to live in Australia and spend time with both parents.

The parties had lived together for 10 months and separated prior to the child being born.

The Mother wished to relocate because her extended family lived in the UK. She proposed to live in Cornwall where her mother lived, obtain local employment and pay for the Father to visit within the first 6 months after relocation, following which she would return to Australia annually.

The Father lived with his Father in Sydney, was in receipt of Centrelink benefits and had 2 children from a previous relationship whom he did not spend time with.

In a Family Report commissioned for the trial the Family Report writer observed:

- a developing attachment by the child to his Father;
- the following 12 months to be critical for consolidating the father and child bond;
- the Father had a history of previous inconsistent parenting, raising concerns about his reliability;
- the Father had past issues with drug and alcohol abuse which raised safety concerns; and
- recommended the Mother be permitted to relocate with the child to the UK after 9 months, during which time intensive work should be done on the bonding and attachment between the child and his Father.

Court Found:

- The Mother was the child's primary caregiver and it wasn't in the child's best interests for him to live with the father if the mother were to relocate to the UK.

- However, if the child left immediately he would have a slim chance of establishing a satisfactory relationship with the Father.

Court Order

- Mother should be permitted to relocate with the child to the UK once the child turns 3.
- In the meantime, the Father to spend regular time with the child to develop the attachment, each Saturday from 9am until 5pm and on special occasions.
- 6 months after the relocation the Father may visit the child in the UK for a period of up to 2 weeks and spend time with the child from 9am until 5pm each day with the Mother to pay the travel costs.
- Thereafter, the mother to travel with the child to Australia for at least 2 weeks annually.