

## Finding my abducted child - acting quickly, thinking creatively

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### #ModernFamilies

A mother's decision to ignore a court order and take her two daughters to live in her home country (Ukraine) without their father's consent, has made the headlines today. These types of cases are enormously difficult for everyone involved: being refused permission to take your children back home after a relationship breaks down can be devastating; equally the prospect of a former partner moving abroad with your children, reducing quantity and quality of time they can spend with you, is an appalling prospect.

In this case the mother was refused permission to return to the Ukraine, but she has taken the children to live there regardless. When parents take that decision unilaterally the implications can be shattering. Whilst usually the parent who has the child will give very valid reasons for their actions, the left behind parent is often terrorised by the prospect of not knowing when they will next see their children or what the future holds.

For the children it is of course extremely unsettling and can be very traumatic. I have seen children whose personal and educational development have suffered following such a removal. Families are torn apart and anxiety reigns.

The first question is whether the country to which the children have been taken is a signatory to the Hague Convention on Child Abduction. If so there should be an established procedure for the child's immediate return but some cases can be very challenging – especially when there is first the need to find the children, so lawyers advising parents have to act quickly and think creatively. In this case an additional challenge might be (depending on where in Ukraine the children have been or might be taken) is that whilst Ukraine is a signatory to the Hague Convention on Child Abduction it has made clear that it cannot currently guarantee its obligations in certain areas due to the Russian Federation's occupation of Crimea and its control over certain districts. The Russian Federation (also a signatory) refutes that position and states that the Convention can and should be complied with. The current situation must make the father in this case particularly more nervous about the chances of a return.

Family Court cases involving children are almost always heard privately with reporting restrictions to protect children from being identified in the media. In this case however, the Times and others applied to the High Court for permission to report. Whenever the media is involved in any of my family cases (and not just those of this nature) I've asked our media team for their assistance as they know how to handle these sensitive situations. A multidisciplinary approach to such important decisions is key. A decision about the role of the media can have a significant impact upon the case and a key consideration is whether the involvement of the media will be beneficial to the child because once engaged the media profile will not be erased.

The court will have to make a decision balancing the right of privacy of the children, but not ignoring the parents, with the right of freedom of expression in the context of what is in the best interests of the child. The mother's right to privacy is less likely to be persuasive in circumstances where she has ignored the court's order, but what is best for the children is finely balanced with the potential argument that publicity might help to bring the children back. Whereas usually parents want to retain privacy, media involvement might help to locate the children and so the Court will need to ensure that the children's best interests are centre stage on the decision about media reporting. I will be following this case with interest.

### **UPDATE: High Court Judge uses twitter to try to find missing child.**

Whilst we are waiting for the Court of Appeal to decide whether the name and photograph of the mother who abducted her children to Ukraine can be published, a High Court Judge, Mr Justine Williams, has taken direction action by turning to twitter to try to find Oilly Sheridan, who has been missing, with his mother, Elly, for 6 months.

Olly's parents are in the midst of family court proceedings. The judge decided to tweet a message direct to Olly's mother, Elly, to reassure her that he will treat her case fairly and to ask her to come home. The court had already decided in this case that anonymity should be lifted to increase the chances of finding Olly. This direct approach (judge to mother via social media) is new and it will be interesting to see not only how effective it is, but whether it becomes used more regularly in future.

One of the most compelling arguments for increased transparency with family cases is that the public can better understand the court's role and process, and the decisions that are made. The judge was keen to explain to Elly that the fact that the court appointed a welfare officer is not an indication that Olly may be taken into care. The court welfare officer is there to help the court decide what is in the best interest for Olly, and to speak directly to the parents and him in a setting that is familiar to them. It is standard procedure. However, for most people having the court involved in their family life is extremely unnerving, and so standard procedures can easily be misinterpreted.

Having the judge speak directly like this should help to increase understanding and awareness, not just for this family but for all parents in family proceedings. In other cases, where appropriate, judges have written letters to the children involved to help them to understand the decision that has been made and to know that their voice has been heard and given due consideration. Family cases require this level of human understanding and empathy; using social media will not be right in every case but if used correctly it could make a big difference; in every case improving levels of communication between the court and parents is real progress.

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