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IN THE FAMILY COURT AT OXFORD

IN THE MATTER OF SECTION 39 THE CHILDREN ACT 1989
AND IN THE MATTER OF SECTION 5(1) PART 1 SCHEDULE 2
FEMALE GENITAL MUTILATION ACT 2013

Date: 17th December 2019

Before: HHJ Vincent

Between:

OCC

Applicant

and

AD

First Respondent

and

BD

Second Respondent

and

CD

Third Respondent

and

ED AND FD

(acting by their children's guardian Ginny Davies)

Fourth and Fifth Respondents

Nicola Hurrell, barrister (employed) for Oxfordshire County Council
Anna Pugh of Jackson West solicitors for the First Respondent mother
The Second Respondent father was not in attendance and not represented
Fay Paice of Oxford Law Group solicitors for the Third Respondent oldest daughter
Paul Pavlou instructed by Barrett and Thomson solicitors for the Fourth and Fifth Respondent children

JUDGMENT

Introduction and background to the applications

1. The parents have four children. Three girls, CD, ED and FD, who are 19, 17 and 15, and a son GD, aged 11. The family are from Country X and came to the UK in August 2016 for the father to undergo a one year training course with the Ministry of Defence.
2. They had been due to go home in July 2017. However, in around March 2017 CD had discovered and reported to her general practitioner that she feared plans had been made for all three girls to undergo female genital mutilation (FGM) after they had returned. The paternal grandmother is involved in the organisation and hosting of initiation ceremonies and the girls' names were listed in an online article together with thirty-three other females due to be initiated into the [*redacted name of community*] in December 2017. Referrals were made and the local authority applied to the Court for FGM protection orders and Emergency Protection Orders on 5th June 2017. Those orders were granted and the girls were removed from their parents' care. Care proceedings followed. The local authority carried out an assessment and the girls came back to their mother after a couple of weeks; the evidence was that their parents had no wish for them to undergo FGM and they were not at risk with them in England. The parents acknowledged they would be unable to protect the girls from that risk should they return to Country X.
3. The father returned to Country X in July 2017 but his wife and children remained in the UK.
4. The final hearing in August 2017 was attended by an attaché from Country X's High Commission who made it very clear that FGM is prohibited in Country X and the President of Country X is forthright in his anti-FGM stance. However, acknowledging the risks identified in the particular case, the High Commission supported the local authority's plans for the children.
5. The Court considered expert evidence and concluded that the girls were at risk of FGM with dire consequences both immediate and long term, and that if returned to Country X they would suffer familial and communal repercussions for disclosing the [*redacted name of community*]'s FGM rites, for refusing to undergo the rites and thereby bringing shame and disrepute to their community, family and grandmother.
6. HHJ Hughes found that the risks to the children and their mother were so overwhelming that they could not possibly return safely to Country X. The FGM orders remained in force. The girls were made the subject of care orders on 24th August 2017. At the time their right to live in this country was in doubt, and their situation was unsettled.

The present applications

7. In January 2018 the mother and her children were given leave to remain in this country for five years.

8. No attempts have been made to remove the girls from the jurisdiction nor any attempts to arrange for them to undergo FGM. CD is now 19 years old and her care order has expired.
9. The local authority applied on 10th October 2019 to discharge the care orders in respect of ED and FD, and to vary the FGM protection orders to reflect that the girls should be allowed the opportunity to travel around the world, albeit they are still at risk should they travel to Country X. None of the girls has any intention of travelling to Country X but they would like the freedom to visit other places in Africa and all over the world.
10. I am grateful to all legal representatives in this case, in particular to Mrs Pugh and previously counsel Miss Kotilaine, who represented the mother in the care proceedings and have acted for them pro bono in these applications. Miss Paice today represented CD, funded by the local authority. Mrs Hurrell for the local authority has meticulously and clearly set out the local authority's case in the applications and draft orders and shared with all parties in good time.
11. All parties have had an opportunity to consider the consequences for the girls of the care orders being discharged and the revised terms of the FGM orders, and have consented to the local authority's applications.
12. I write this judgment as a testament to the great courage and resilience of this mother and her children, and to highlight the support and help that they have received over the past few years from a number of different sources.
13. In July 2017 the mother found herself the sole carer for four children in a foreign country, without her husband by her side, unable to speak English and with no source of income.
14. She sought legal advice and submitted a claim to the Home Office. She accessed support from Gloucestershire Action for Refugees and Asylum Seekers (GARAS). This organisation has given expert advice and a great deal practical support to this family, and in doing so made a huge difference to them.
15. In October 2017 with a week's notice the family was relocated by the Home Office from their home in Oxfordshire to Gloucestershire, while their asylum claim was looked into. At the time CD was in her final year of school, had submitted her UCAS form and was preparing to take her A-levels the following summer. Rather than leaving school at this crucial time, she was supported by the generosity of family friends who offered their home to her so that she could stay with them and complete the year. The local authority swiftly carried out an assessment which enabled that family to be authorised as foster carers.
16. The mother and her younger three children moved to Gloucestershire. The property had some problems and the mother, supported by GARAS and the local authority, managed to get the housing provider to carry out works to make it clean and safe. In the meantime, this meant that the family had to

temporarily relocate to hotel accommodation in Croydon. They settled back into Gloucestershire and enrolled at schools but in February 2018 the Home Office gave notice to the family to vacate the property. They were given emergency accommodation in Bristol, though not school places. The children were very upset at the disruption but ably supported by their mother. With the assistance of a housing solicitor in Bristol the family were finally relocated back to a two bedroom flat in Gloucestershire in May 2018.

17. All this time the mother, again with the assistance of GARAS, had been working to get herself on the register for permanent housing and in July 2019 she signed a new tenancy for a three bedroom property.
18. The mother has been attending an English course at Gloucester College while working part time as a care assistant. She is a qualified nurse in Country X and hopes to obtain an equivalent qualification so that she may work as a nurse in this country.
19. She has made a huge sacrifice for her children. She has put them before her marriage, has given up her home in Country X, has separated herself from extended family and friends, and given up her career. Even at times when they had no permanent home, no money, no food or heating she has kept her family together, and encouraged and supported her children. She has worked with the local authority and other agencies and has expressed to me a number of times her deep and sincere gratitude for the support that she has received, in particular from social workers Emma [*surname redacted*] and Susie [*surname redacted*], who have throughout this difficult period provided friendship, advice, encouragement and assistance as and when needed.
20. The father maintains contact with his wife and children through skype and has visited them in the UK.
21. The three girls attended both hearings before me with their mother. It was my great pleasure to meet them and they are a credit to their parents and to themselves. They were confident, articulate self-possessed young women, with a natural warmth, and engaging personalities.
22. CD is studying at university and excelling in her degree in economics, politics and international relations. She has great plans for her future. She showed an extraordinary degree of courage in raising her fears about FGM for herself and her sisters in the first place. She has shown great resilience ever since, especially when separated from her family for the last year of school. She is a wonderful role model for her younger siblings.
23. ED is seventeen and FD fifteen. Despite huge disruption to their studies and their home life, they have also shown great resilience over the past two and a half years. They are both doing extremely well in their studies, have made friends and also have big plans ahead. ED is in the process of applying to universities and FD is planning to do the same in due course. I acknowledge their hard work, and their successes.

24. ED is already seventeen, so as CD has been, she is entitled to access services provided to care leavers when the care order is discharged. She would have a Leaving Care Personal Advisor, with whom she will prepare a pathway plan. She will be entitled to maintenance at £57.90 per week. After six months if she is still living with her mother she would become a Qualifying Care Leaver and would receive assistance with living expenses if she is in higher education as well as continuing advice and assistance from Children's services.
25. Because FD is younger, she would not have access to the same provisions. However, she and her mother are clear that this would not in any way restrict her ambitions and while they are grateful to the local authority for the support they have given, they do not consider that continuing the care orders would be justified. The local authority's proposal that she is stepped down to a child in need plan for a short period and all parties agree. The rationale is that the family continue to need some limited assistance to engage with relevant authorities including the UK passport agency to establish themselves independently in this country.
26. Their younger brother has not been subject to any orders to the local authority and there has never been any question about his parents' abilities to care for him. He is a talented football player and has been invited to participate in tournaments abroad. It is in his interests as well as the family's as a whole that the level of restriction on travel in the original orders is reduced.

Conclusions

27. I have had regard to all the circumstances and I am satisfied that the care orders should be discharged. There are no concerns at all about the mother's ability to parent her children and albeit from a distance, she is supported wholeheartedly by her husband. The children are thriving in her care. There is no basis for the local authority to continue sharing parental responsibility with them.
28. So far as the FGM protection order is concerned, I am satisfied that the risks remain around FGM should the girls return to Country X at this time. I agree that all three sisters should continue to have the protection of the FGM protection order.
29. However, there has to be a balance between making the protective orders and allowing the girls the freedom to travel the world as they wish to do as young adults.
30. CD is 19. She understands very well the risks she and her sisters face in their home country, she has had a positive experience of asking for help and being listened to. She and her sisters are mature and sensible girls who can be trusted to make decisions for themselves about where they can travel in the future. Their parents are fully supportive of their choices and they are not subject to any pressure from them to return to Country X, nor have any intention themselves to go there.

31. I agree that the restrictions in respect of CD's travel should be discharged and that the orders restricting ED's and FD's ability to travel should remain in place only until they are eighteen. Given the relatively short period of time the orders have left to run I am satisfied it is proportionate that the orders cover not just Country X but neighbouring countries as well.

32. I acknowledge the care, help and support that this family has received from a wide range of different agencies and from the local authority. I am full of admiration for the girls and their mother. I wish them good health, success in their educational endeavours, and every happiness for their future lives.

Joanna Vincent

17th December 2019

HHJ Vincent
Family Court, Oxford