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**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

Neutral Citation: [2024] EWHC 988 (Fam)
Royal Courts of Justice
Strand, London, WC2A 2LL

Case Number: FD23P00574

Date: 26 April 2024

Before
His Honour Judge Middleton-Roy
Acting as a Judge of the High Court

Between

A

Applicant

-and-

R

Respondent

-and-

N

Intervenor

Ms Jennifer Perrins, Counsel for the Applicant, instructed by international Family Law Group LLP
Mr Gibson-Lee, Counsel for the Respondent and Intervenor, instructed by Chancery Children's Services
Solicitors

Hearing date: 25-26 April 2024

APPROVED JUDGMENT

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His Honour Judge Middleton-Roy:

Anonymity

1. In line with the Practice Guidance of the President of the Family Division issued in December 2018, the names of the children and the adult parties in this judgment have been anonymised, having regard to the implications for the children of placing personal details and information in the public domain. The anonymity of the children and members of their family must be strictly preserved.

The Application and Background

2. The Court is concerned with the welfare of four children. They will be referred to in this judgement by the initials, 'E', 'Z', 'D' and 'V'. The children are each of primary school age.
3. The Applicant father, 'A', is represented by Ms Perrins of Counsel. The Applicant father applies under the inherent jurisdiction of the High Court for an Order for the summary return of the children to the jurisdiction of the Republic of Uganda.
4. The Respondent is the mother of the children, 'R'. She is represented by Mr Gibson-Lee of Counsel. She opposes the application for an Order for summary return under the inherent jurisdiction.
5. 'N' is the father of youngest child, 'V'. The child's paternity was established during these proceedings. Consequently, he was joined as an intervenor pursuant to an Order made by Mr Justice Williams on 21 February 2024. 'N' opposes the application for an Order for summary return of the youngest child, 'V'. He supports the mother in her opposition to an Order for the summary return of the older three children.
6. There are several background facts that are not in dispute. It is not disputed that Uganda is the country of origin of each of the children and the adult parties. Each subject child was born in Uganda and lived in their country of origin until November 2022. It is not in dispute that the children and their mother arrived in England in November 2022 and have been present in this jurisdiction ever since. 'N' arrived in the United Kingdom a little earlier, in June 2022.
7. It is not disputed that the children were the subject of a final judgment made in court proceedings in Uganda for the dissolution of the marriage between 'A' and 'R'. Those proceedings concluded with a 'consent judgment' made in the Chief Magistrates' Court at Kira. The judgment is recorded as having been made with the consent of 'A' and 'R' on 19 September 2022 and bears the signatures of both parties. 'N' was named as Second Respondent in that Order and the consent judgment bears his signature also. The judgment in the Ugandan court proceedings records that both parents would share joint custody for the children. Further the judgment in the Ugandan proceedings stipulated that neither parent was permitted to take the children out of the jurisdiction of Uganda without the consent of the other nor change the names of the children without the written consent of the other parent.
8. There is no dispute between the parties that, consequent upon the final judgment of the Ugandan courts in September 2022, the children moved to the care of their mother on 27 November 2022 as part of the shared care arrangement between the parents. The

children were, as part of that Order, due to spend the first part of their school holidays with their mother.

9. Further, it is not disputed that the mother applied for passports for each child. It is not disputed that on 30 November 2022, the mother then removed the children from Uganda, in breach of the terms of the Ugandan judgment. The mother travelled with the children to the United Kingdom, without the father's consent or knowledge, joining 'N', who had travelled to the United Kingdom some weeks earlier. The children have remained living in the United Kingdom with their mother and 'N' for a period now of some seventeen months. There is no dispute between the parties that the mother and 'N' are present in the United Kingdom legally on the basis of visas allowing them to live and work in the United Kingdom.
10. The Applicant father applied to this Court on 14 November 2023 seeking, variously, a Location Order, a Disclosure Order and an Order for the summary return of the children to Uganda. In the course of the proceedings, the mother challenged the issue of the paternity of the youngest child. Directions were given for independent expert evidence by way of DNA testing. The DNA test report concludes that 'A' "cannot be the biological father" of 'V'. Further DNA test results provide strong evidence that 'N' is the biological father of 'V' with a probability of paternity of at least 99.99%. The expert evidence is not challenged by any party.
11. There is no dispute that the mother and 'N' married, although there is some peculiarity in the evidence as to the date of the marriage, it being recorded that the marriage took place in Uganda in December 2019, prior to the dissolution of the marriage between the Applicant and 'R' in September 2022.
12. There are several facts that remain in dispute. The father asserts that the mother changed the names of the children, in breach of the Ugandan judgment, obtaining passports for the children using their new names. The allegation is denied by the mother. Both parties produce in evidence conflicting birth certificates for each child. Further, the mother makes serious allegations against 'A' of domestic abuse. Those allegations are denied by 'A'. At an earlier Directions hearing the Court examined whether, in order to sufficiently identify what the children's welfare requires, it should conduct an inquiry into the disputed facts and, if so, how extensive that enquiry should be. The Court concluded there should be no fact finding element to this Final Hearing. This is not the forum for determining those allegations, in the context of this application for an Order for the summary return of the children, as the welfare of the children does not require it.
13. In the course of these proceedings, a report was obtained from Cafcass to ascertain the wishes and feelings of the children. This Court had the real benefit of hearing oral evidence from the Cafcass Family Court Adviser, Ms Huntington, alongside her written report of 21 February 2024. Additionally, the Court considered the documents filed, including a bundle of comprising just short of 500 pages, together with a further bundle of authorities. No oral evidence was heard from the parties. All parties were present and legally represented, the Applicant father attending by video from Uganda. The Court was greatly assisted by helpful and focussed submissions from Ms Perrins and Mr Gibson-Lee of Counsel, for which the Court is enormously grateful.

The Legal Framework: The Inherent Jurisdiction

14. Uganda is not a contracting party or signatory to the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (“The Hague Convention”). This being a non-Convention case, the approach to be taken by the Court in exercising the Inherent Jurisdiction remains that as set out in the leading authority, being the decision of the House of Lords in Re J (A Child) (Custody Rights: Jurisdiction) [2006] 1 AC 80. The following principles are derived from the seminal judgment of Baroness Hale:
- a. The welfare of the child is the Court’s paramount consideration; the focus has to be on the individual child in the particular circumstances of the case; there should be no assumptions about what is best for an individual child; reference should be made to the welfare checklist in s1(3) of the Children Act 1989;
 - b. The specialist rules and concepts of the Hague Convention are not to be applied by analogy in a non-Convention case: there is no warrant to extend the principles of the Hague Convention 1980;
 - c. The Court has power, in accordance with the welfare principle, to order the immediate return of the child to a foreign jurisdiction without conducting a full investigation of the merits;
 - d. The Judge may find it convenient to start from the proposition that it is likely to be better for a child to return to their home country for any dispute about their future to be decided there. A case against them doing so has to be made;
 - e. Rather than focusing on the technical concept of habitual residence, the Court should ask itself: what is the child’s home country? Factors such as the child’s nationality, where they have lived for most of their life, their first language, their race or ethnicity, their religion, culture and education will all come into this evaluation. The period of time spent in each country is also a relevant factor.
15. In In the Matter of NY (A Child) [2019] UKSC 49 at paragraph 49, Lord Wilson commended the use of the welfare checklist under s1(3) Children Act 1989, although it is not expressly applicable to making Orders under the inherent jurisdiction: “...their utility in any analysis of a child’s welfare has been recognised for nearly 30 years. In its determination of an application under the inherent jurisdiction governed by consideration of a child’s welfare, the court is likely to find it appropriate to consider the first six aspects of welfare specified in section 1(3)... and, if it is considering whether to make a summary order, it will initially examine whether, in order to sufficiently identify what the child’s welfare requires, it should conduct an inquiry and, if so, how extensive that enquiry should be.”

Analysis

16. Having regard to the evidence before the Court and having listened to and considered carefully the submissions of counsel, this Court is satisfied that it is not in the best interests of any of these subject children to be returned summarily to the jurisdiction of Uganda pursuant to the inherent jurisdiction of the High Court. The Court’s reasons for so deciding are as follows.

17. Having weighed the evidence, this Court is satisfied that, at the point the children were removed from Uganda by their mother in November 2022, Uganda was their home country. The children are all Ugandan nationals. They had spent no time outside Uganda, with the exception of one of the children for a short period, the circumstances of which are not of direct relevance. The children, with the exception of the youngest child, were all educated in Uganda. The youngest child was of pre-school age prior to coming to the United Kingdom. Their wider family network was present in Uganda on the maternal and paternal sides. The children each had an exclusive and complete integration in a family, culture and social environment in Uganda.
18. Upon arrival in the United Kingdom, the children had no settled home and were not in education. The Applicant father and the children's extended family remained in Uganda, with the exception of a maternal aunt in England. None of the children had visited the United Kingdom previously. They believed they were coming to the United Kingdom for the purposes of a holiday. Although the children were, on the evidence, excited by that prospect, the children were not aware at that time, of the mother's intention to bring them to this jurisdiction with a view to them remaining here permanently.
19. In the seventeen months they have been living in England, the children have integrated into the fabric of life to a significant degree. They speak English, they attend school and they have developed a network of friends. They have secured a degree of integration in a family and social environment in England. The question of habitual residence is not central to an application for summary return under the inherent jurisdiction, the Court having the power to make such an Order under its inherent jurisdiction, whether the child in question is habitually resident here or in another jurisdiction, for the reasons explained in *Re NY (A Child)*. Pursuant to the principles articulated in *Re J (Child Returned Abroad: Convention Rights)*, the Court's foregoing conclusions with regard to their home country at the time the father issued these proceedings lends weight in this case to the starting proposition that it is likely to be better for the children to return to their home country for any disputes about their future to be decided there and that a case against their doing so has to be made. The proposition is not determinative and the proposition falls to be weighed against other matters. In this case, weighing the competing factors, this Court is satisfied that a welfare case against the summary return of the children to Uganda is made out.
20. The mother asserts that she was the victim of immense physical, psychological, emotional financial and sexual abuse perpetrated by the Applicant father. She refers in her statement to being the victim of gender-based violence and repeated incidents of rape within her marriage to the Applicant. She asserts that some of the abuse she received from the Applicant father was in the presence of the children, which caused the children to suffer trauma. She further asserts that the children were at risk of sexual abuse from the father, asserting that the children shared his bed and that he watched pornography in their presence. The mother further asserts that the children contracted urinary tract infections whilst staying with their father. She accepts that she did not report any incidents of abuse to the authorities in Uganda. She says that is because the father boasted about having connections with people in government, including a family member who was closely connected, she says, with the President. Furthermore, she points to background source material suggesting that, even though marital rape is said to be a widespread issue, there is no recorded evidence of a marital rape case ever being brought against a spouse in Ugandan case law.

21. The father denies each of the allegations, asserting that the allegations are fabricated in an attempt to justify her actions removing the children from Uganda. At their highest, the allegations are serious and significant. Ms Perrins for the father points to aspects of the mother's evidence generally that raises questions about her credibility. However, the Court has not heard oral evidence from the parties on the disputed issues and their assertions have not been tested in cross-examination.
22. The mother accepts deliberately breaching the Ugandan Order. That is a serious matter in any jurisdiction. She tells this Court that by bringing the children to the United Kingdom, she sought to protect the children. She also asserts that the consent judgment in the Ugandan proceedings was 'forced' upon her, telling this Court that she did not want the judgment, "but there was nothing I could do at the time." The mother was legally represented in those proceedings. She asserts, however, that she felt intimidated into providing her consent.
23. The mother further asserts that she was not permitted to speak directly with the father regarding any matter, including in respect of the children, without going through a 'mediator' named in the Ugandan judgment. The mother asserts that she tried to raise the issue of her move to the United Kingdom by seeking to speak with the mediator but he rejected her requests for a meeting. She asserts that she then told the mediator that she had removed the children, after she arrived in the United Kingdom. Furthermore, she asserts that her father, the maternal grandfather, who remains in Uganda, has since been the subject of threats and torture, including a threat that when the mother is located, she would be imprisoned and raped.
24. Moreover, the mother asserts that the Applicant father engaged in a media campaign against her, through local newspapers and on social media. She produced evidence of the same. The mother made clear that the press reports in Uganda named the children, shared their photographs and provided lurid accounts of her relationship with 'N', naming him and the company he worked for.
25. This Court is mindful that the children's current circumstances living in the United Kingdom are in clear contravention of the terms of the Ugandan judgment. The circumstances in which the children came to live in the United Kingdom were clearly clandestine. Their removal was evidently without the father's knowledge or consent. The Ugandan judgment contains specific arrangements for the children's care to be shared between the mother and the Applicant father. That judgment was final. There are no ongoing proceedings in Uganda.
26. This Court has the benefit of a comprehensive report from Ms Huntington, an experienced Cafcass Family Court Adviser, by way of written report dated 21 February 2024. This Court also had the benefit of having heard Ms Huntington's oral evidence. In the course of her enquiries, a safeguarding referral was made to the Local Authority in whose area the children live in England. A risk assessment was completed by the relevant Local Authority. The Local Authority took no further action and closed the case. Further, the Family Court Adviser liaised with the children's schools, spoke with the mother, the Applicant father and with the children.
27. Each of the children report being happy at school and happy at home with their mother. Each child is reported to have settled well in the United Kingdom and each has established secure friendship groups. The emotional and behavioural presentation of each child was described in positive terms, each meeting age-related expectations in respect of their education. They were each described as

having a positive relationship with their mother. The older three children refer to 'N' as "uncle" and the family dynamic is reported to be cordial. 'V' refers to 'N' as 'Daddy', as she does the Applicant. The children are said to have a close extended maternal family network in the United Kingdom.

28. 'Z' conveyed to the Family Court Adviser that the Applicant father and mother were always fighting and that she found the shared care arrangements in Uganda difficult. She spoke about the period living with her father in conflictual terms. She described an occasion when the father pulled them out of their mother's house, into the car and then drove them away. 'Z' reported "really liking" Uganda, although her experience of school in Uganda was marred by corporal punishment. She spoke effusively of her life in the United Kingdom, describing "really liking" life in England, having "so much fun," and having made lots of friends. 'Z' told the Family Court Adviser in particular about her father, "I don't want to say things that will make him sad. He has done lots of things for us". She described missing her father but was clear about her wish to remain in the United Kingdom, "100%" telling the Family Court Adviser that she would like her father also to come to the United Kingdom and that she would feel "upset a bit" if she had to return to Uganda.
29. 'E' similarly spoke positively about school and life in the United Kingdom. She too misses her father. Her wish is to stay with her mother and sisters in the United Kingdom. She did not wish to return to Uganda.
30. 'D' spoke of both parents in positive terms. She described liking Uganda "a little bit" but was less positive about her school experience in Uganda, stating that she had been beaten by her teachers. She described missing her father. Her wish was to remain in the United Kingdom, telling the Family Court Adviser that she would feel sad if she had to return to Uganda and expressing resistance to returning.
31. 'V' told the family Court Adviser, "I don't want to go back to Uganda. I don't want to stay there forever." The Court recognises that 'V' is still very young and she is unlikely to have a real understanding of her situation.
32. The older three children in particular are of an age where their wishes and feelings are important. The wishes and feelings of a mature child do not carry any presumption of precedence. The weight to be attached to the child's wishes and feelings will depend on the particular circumstances of each case. It is important in every case that the question of the weight to be given to the child's wishes and feelings is evaluated by reference to the child's age and understanding. Within this context, albeit that the children are each of primary school age, their wish to remain in England and not to return to Uganda has been expressed clearly and repeatedly. In light of their opposition to being returned to Uganda, such return would likely cause each child real upset.
33. In considering the children's 'understanding', it is important to consider the extent to which each child's understanding of their situation has been the subject of parental or other influence. There is no reliable evidence to lead this Court to a conclusion that the children's wishes and feelings have been influenced by their mother. In her oral evidence the Family Court Adviser told the Court that the children gave balanced information regarding their father. The Family Court Adviser told the Court, "The children were not worried or reticent in speaking positively about their father. I did not gain any sense that they were influenced by their mother." The children are, there can be no doubt, aware of their mother's views of not wishing to return to Uganda. Their own views are closely aligned to the views of their mother in this context. This Court also bears in mind that the

children's wishes are balanced, with some positive memories of Uganda and with some positive aspects in respect of their relationships with their father in the past. I am satisfied, however, that the confluence of the views of the mother and the children arise out of matters of mutual concern, grounded in a shared lived experience in Uganda. The Family Court Adviser told the Court that the children were, "very aware" of the parental conflict in Uganda, whether or not they witnessed the domestic abuse as asserted by their mother. Moreover, the Family Court Adviser told the Court, "The children expressly stated to me that their previous circumstances were difficult under the shared care arrangement in Uganda. They felt they did not have sufficient time with their mother."

34. Whilst satisfied that the children have been acutely aware of their mother's views, on balance this Court is satisfied that the wish of each of the three elder children not to return to Uganda is genuine and grounded in a shared lived experience in Uganda. Within this context, in this Court's judgment, the expressed wishes of the children not to be returned to Uganda must carry weight in the Court's welfare evaluation in this case. Their priority is to remain in the care of their mother, in the United Kingdom, albeit sharing a sense of loss in respect of separation from their father. None of the children raise any concerns nor speak of any mistreatment from 'N'. In this Court's judgment, a return to Uganda would cause each of the children to struggle emotionally.
35. In her oral evidence, the Family Court Adviser told the Court that, from her discussions with the children, it was apparent that they only became aware they were travelling from Uganda when they went to the airport their mother. The three older children had never previously left Uganda. They lived there all their lives until that point and were 'Ugandan children', integrated into schools in Uganda and integrated into Ugandan life. The Family Court Adviser told the Court that the move to the United Kingdom was a significant change in circumstances for them. It is inevitable, in this Court's judgement, that having now spent seventeen months in the United Kingdom, having established a home, having established themselves into the fabric of United Kingdom life, including school and friendship groups, a move back to Uganda at this point in time would amount to a further significant change, uprooting them again, contrary to their expressed wishes.
36. In the event that the mother does not return with the children to Uganda, in the context of her expressed fear of returning, the children would face separation from their mother, who has been their primary carer for the past seventeen months. That would amount to another hugely significant change for the children, contrary to their expressed wish. The Family Court Adviser told the Court that in her professional opinion, the worst situation for the children would be separation from their mother.
37. Furthermore, the likelihood of separation of the sibling group, with the youngest child 'V' remaining in the United Kingdom with her father, would amount to another major, significant change in the lives of these children. The Family Court Adviser recognised in her written report in respect of the child 'V', given the clear and reliable expert evidence in respect of her paternity, that it would be difficult to see how there could be proper consideration of a return to Uganda for 'V' in these circumstances. The Court recognises that it is well established that a person may have the status of 'parent' in a social and psychological sense, even if they are not a biological parent (*Re G* [2006] UKHL 43). The Family Court Adviser, however, observed in her evidence that 'V's time with the Applicant father in Uganda was

more limited than the time spent between 'A' and the older three children, by reason of her young age. 'V' has spent a significant part of her life in the United Kingdom as a proportion of her childhood and she views 'N' in a parental role as a father figure. Further, the children have been raised as a sibling group. Their sibling relationship is a positive one and there is a strong sibling bond. Separation of the sibling unit would have significant implications for the sibling relationship. The Applicant father and the mother both agree that the child 'V' needs to remain living with her sibling group, and to be treated equally with her sisters. However, there would, in those circumstances, be the real likelihood of 'V' returning to Uganda as part of sibling group, without her mother and without her biological father, with no biological parent exercising Parental Responsibility for her. The Family Court Adviser observed that it was not in the interests of all the children for one child to remain in the United Kingdom and for three of the children to return to Uganda. Furthermore, if the youngest child was ordered to return to Uganda, that would deprive her of her natural father. The Family Court Adviser was clear that the children should be kept together as siblings and they should not be separated from their mother. The children should have regular contact with their father. Respectfully, I agree with the conclusions of this experienced Family Court Adviser.

38. The significant change of circumstances that would follow in any of those scenarios must be balanced with the feeling of loss the children have expressed in respect of their relationship with their father. The consequence of not returning to Uganda would continue to have an impact on the children in terms of that relationship. This can be ameliorated to some extent by continued regular video contact with their father, such contact having been put in place by Order of Mr Justice Cobb on 13 December 2023. The mother has expressed her willingness for regular video contact to continue. Further, the mother is agreeable to direct contact taking place between the children and their father, if the father was able to travel to the United Kingdom.
39. Having regard to the children's educational needs, the older children expressed a preference for education in England, referring to corporal punishment being a feature of their education in Uganda. The children have settled in education in England. This Court is satisfied that remaining in England would not prejudice the children's educational welfare. Conversely, a further change of circumstances by returning to education in Uganda would have an adverse impact on the children by way of disruption to their education. The children have stability of accommodation and education in England, where they are being cared for by their mother as part of their strong sibling group. Within this context, this Court is satisfied that the change of circumstances that would be constituted by a summary return to the jurisdiction of Uganda would be significantly de-stabilising for the children and would be unnecessarily disruptive.
40. In respect of the disputed allegations of harm, the Family Court Adviser was rightly concerned that the mother's allegations against the Applicant father raise significant risk factors. Further, the Family Court Adviser made plain that it was evident from her discussion with the children that they had been exposed to and involved in varying degrees in the parental dispute for a number of years. Furthermore, the mother and 'N' have both expressed fear about the mother's safety if she returned to Uganda with the children in the context of their belief that the father has connections with people in power in Uganda. They consider,

whether rightly or wrongly, that the father would attempt to exert influence in his favour if the dispute was determined in Uganda. The Family Court Adviser observed in her oral evidence that the mother was “very distressed” at the possibility of returning to Uganda: “She conveyed feeling fearful for her safety and for the safety of [‘N’]. She was fearful she would be separated from the children and criminalised with no recourse to fair and accessible welfare proceedings. She could not conceive being separated from her children but conveyed real concerns about the consequences of being separated from the children in Uganda. This was not just about a reluctance to return to Uganda. She showed real fear about her circumstances and for the children in the event of a return...if ordered to return to Uganda, this would cause her great distress and fear.”

41. With respect to the children’s physical, emotional and educational needs, this Court bears in mind that a decision not to return the children to the jurisdiction of Uganda will inevitably interfere with them re-building and developing a relationship with their father. There is concern that if the children grow up with no direct relationship with their father, emotional harm to the children is a potential prospect. However, in this Court’s judgment, the fact of returning the children against their wishes, which may serve to increase the opportunities for contact between the children and their father, may cause further damage to the relationship between the children and their father in circumstances where they may blame him for the disruption to their lives and they may feel he has not listened to their expressed views. Within this context, this Court is satisfied that, given the strength of the feelings expressed by the children, the consequences for the children’s relationship with their father of being forced to return against those wishes would be contrary to their best interests. Having regard to the foregoing, this Court is satisfied that in the short to medium term, the children’s relationship with their father may be better promoted by weight being accorded to their wishes and feelings and for contact to continue on a regular thrice weekly basis by video. In this Court’s judgment, there is a greater prospect of a relationship between the father and the children being maintained if their wishes and feelings are listened to than if not. Whilst this Court accepts that remaining in England will make it more difficult for the children to maintain a relationship with their extended family, this Court is satisfied that the children could maintain their relationship with their wider extended family albeit on a remote basis at this stage.
42. This Court takes into consideration the age, sex, background and other characteristics of each of the children and in particular their nationality, culture and family background. If a return Order is not made, the children will not return to a country that constitutes a significant part of their identity and their cultural heritage. Against this, in light of the history over the past seventeen months, the children have a degree of connection to England. The children have spent a significant period of time in the United Kingdom now. They know the country well. They are fluent in the English language, which is also the official language in Uganda. The United Kingdom is a multicultural society. This Court is satisfied that whilst living with their mother and siblings, each child will continue to understand their heritage. Whilst the mother entertains strong negative views about a return to Uganda, there is no evidence to suggest she is not capable of promoting the children’s culture and heritage. Once again, it is important in this context to recognise that the children form a very close sibling group and a shared heritage.

43. Having regard to the capability of the parents of meeting the needs of the children, the mother has been their primary carer for the past seventeen months. Prior to that, the mother and Applicant father shared the care of the children. The detrimental effect on the mother's capability to care for the children were she to have to return to Uganda, in the context of all her articulated fears, is a factor that cannot be excluded from the analysis.
44. The Court has considered whether the mother and the children could be adequately protected on their return. The father has proposed a package of protective measures to secure the position of the children in the event of their return to Uganda. He would agree to a suspension of the existing shared care arrangement provided for the Ugandan judgment, pending further hearing in the Ugandan courts. He would agree to the mother and children living separately from him. He offers assurances about not publicising the case further in Uganda. Further, he has offered to obtain, at his own cost, a mirror Order, in advance of any return by the children to Uganda, to formalise the protections he offers.
45. The Family Court Adviser observed in her oral evidence, having regard to the newspaper articles published in Uganda, that in her experience, she had, "not seen many cases with such a huge amount of publicity that had identified children to that extent" and that, "if the children became aware of those reports, it would be highly distressing for them." The Family Court Adviser accepted that the adverse press reports could potentially affect the mother's ability to reintegrate back into society in Uganda, directly impacting on the children.
46. Further, as the Family Court Adviser observed, if the children remained with their mother on a return to Uganda, whilst the protective measures proposed by the father may reduce the exposure she would have to the father and some of the behaviours she complains about, the mother would say that she experienced significant post-separation coercive, controlling and abusive behaviour from the Applicant father, while living separately, which would not be assuaged by the measures proposed. Furthermore, whether the police decide to prosecute the mother in Uganda is outside the father's control, even in circumstances where he does not support a prosecution.
47. This Court must be deeply concerned about the mother's flagrant breach of the final judgment in the Ugandan court proceedings and her decision to remove the children clandestinely from their home country, without the knowledge or consent of their father, contrary to the specific terms of the Ugandan judgment. The Ugandan Order did envisage revisiting the arrangements for the children in the event of either parenting remarrying. The mother has entered a second marriage. This Court has the benefit of a report from an experienced Family Court Adviser who has identified the children's wishes and feelings as can be ascertained currently. Looking at all the evidence available now, when applying the factors in *re J*, this is not a case where the welfare interests of the children, individually or collectively demand their summary return to Uganda. This Court must conclude that to do so would be contrary to their best interests and would cause them considerable and unnecessary disruption to their lives. Further, the children would be exposed to a degree of risk of harm upon return, either by way of emotional harm consequent upon any separation from their mother's care or consequent upon impairment of their mother's parenting capacity which would inevitably result from being required to return to a situation she is so fearful of. The potential effect on their mother, as their primary carer, is profound.

48. This Court is not satisfied that the protective measures proposed by the father would sufficiently ameliorate the risks, for the reasons articulated by the Family Court Adviser and for the reasons herein. Ultimately, putting all factors in balance, by reference to s1(3) Children Act 1989, the welfare of the children being the Court's paramount consideration, when asking itself the question, is it in the best interests of the children to remain in England so that the dispute between the parents is decided here or to return to their country of origin so that the dispute can be decided there, the Court must properly reach the conclusion that the children should remain in England as a single sibling group.
49. Having regard to the foregoing analysis, on balance, considering each child individually, this Court is satisfied that it is not the best interests of any of the subject children for a summary return Order to be made under the High Court's inherent jurisdiction requiring the children's return to the jurisdiction of Uganda.
50. In the circumstances, the Court declines to make an Order for the summary return of the children. The father's application must be dismissed.

HHJ Middleton-Roy
26 April 2024