

IMPORTANT NOTICE

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Neutral Citation Number: [2024] EWFC 104

Case No: TA21P00368

IN THE FAMILY COURT AT TAUNTON
SITTING AT BRISTOL

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Bristol Civil Justice Centre
2 Redcliff Street
Redcliffe
Bristol
BS1 6GR

Date: 14 May 2024

Before :

Mr Justice Moor

Between :

AP

Applicant

-and-

AF

First Respondent

-and-

O (by his Child's Guardian, Justine Radford)

Second Respondent

The **Applicant** appeared in person
Ms Ruth Matthews for the **First Respondent**
Ms Laura Searle for the **Second Respondent**

JUDGMENT

MR JUSTICE MOOR:-

1. This is an application made by the Applicant, AP (hereafter “the Mother”), dated 27 September 2021, to discharge a prohibited steps order and to permit her to take the child of the family, hereafter “O”, to Colombia for a holiday to see her family and learn about his Colombian heritage.
2. Colombia has, in fact, acceded to the Hague Convention but, as I will explain in due course, that does not, in fact, deal with the issue in the case.
3. AF, the First Respondent (hereafter “the Father”) opposes the application as he is concerned that the Mother will retain O in Colombia and he will never see O again.
4. O has been joined as a party, acting through his Rule 16.4 Guardian, Justine Radford. She supports the application and considers it is in the best interests of O to go to Colombia on holiday.
5. The Father is aged 44. He is British but has part Burmese heritage, as well as some Irish ancestry.
6. The Mother is aged 35. She was born and raised in Colombia. Her family remain living there. She lives close to the Father. She now has dual British and Colombian Nationality.
7. There appears to be a dispute as to the exact date on which the parents met but it does not, in fact, matter whether it was 2005 or 2007. The Father had gone on holiday to Colombia and met the Mother there.
8. They married in Colombia in 2007. The Father returned to the United Kingdom and the relationship floundered. In 2009, the Mother travelled to London with a friend to study English. The relationship rekindled and, later in 2009, the parents married in this country.
9. They have one child, O, who was born in 2010. He is now aged 13.
10. By the Autumn of 2013, the parents relationship had broken down. They separated, but both remained in this jurisdiction. In early 2014, the Mother became a British Citizen. In December 2013, the Father applied for a prohibited steps order to prevent the Mother taking O out of the jurisdiction. He alleged that the Mother said she was going to return to Colombia with O

and he would never see O again. He added that he had evidence that the Mother had been researching one-way tickets to Venezuela where the maternal grandmother was then living.

11. On 13 December 2013, the court made a prohibited steps order to prevent removal from the jurisdiction. The case came back to court on 28 February 2014, when a child arrangements order was made for shared care on a split-week basis. The prohibited steps order was to remain in place.
12. The parties divorced here in November 2014, although it appears the decree is not recognised in Colombia, which I find slightly surprising;
13. In February 2015, the Mother applied to take O to Colombia for a holiday. The Father obtained an expert report from an American attorney, Jeremy Morley. It is dated 15 July 2015. He said that Colombia does not adequately comply with the Hague Convention. If the Mother retained the child there, the Colombian Legal System would not return him without enormous effort, great expense and substantial anguish. In a worst case scenario, he would never be returned. It would cost the Father in excess of £10,000. He concluded that Colombia lacks legal mechanisms for effectively enforcing a return order. It is right that he referred almost exclusively to cases involving the USA, but I am quite satisfied that the same would apply in relation to the UK.
14. On 14 September 2015, HHJ Marston refused the Mother's application. The prohibited steps order was to remain in force. In his judgment, he said that the Mother was asking for a 'lives with' order. The Father wanted shared care. The judge found that O had a close bond with each parent. He was a delightful, polite and kind boy. O wanted the shared care regime to continue. The judge noted that the maternal grandfather lives in Northern Antioquia which, at the time, was in an amber area of Colombia, which is an area where the Foreign and Commonwealth Development Office (FCDO) advises against all but essential travel due to risks of kidnapping and terrorism. The judge considered going there would place the child's safety at risk. He made the point that the Hague Convention could not be relied on. He said that, at the time, the Mother had no links to this country. She had no significant job. She was then a part-time waitress. She has no assets here and no family here. The judge considered there was a real risk of non-return and no possible safeguards that could be put in place. He found that it would be disastrous for O if he was not returned. He suggested that a visit to Colombia might be possible when O was a good bit older and some trust had returned between the parents.
15. In 2017, the Mother made an application to vary the prohibited steps order to take O on holiday to France. On 13 July 2017, Cope DJ dismissed the application. The Father says that the judge made a finding that the Mother misled the court about her intentions, namely saying they were going to France, when they were intending to go to Spain. This cannot be verified due to the tape of the proceedings being lost. The Mother told me that there had, in fact been a misunderstanding as, initially, the intention had been to go on holiday with another family to Spain, but the plan was changed to France. Indeed, they eventually went on holiday to France without O. I cannot be

satisfied that the Mother did attempt to mislead the court, given that the eventual holiday was indeed to France. A further order was made on 29 August 2017 to prevent the Mother from applying for a passport for O without the Father's consent or a court order.

16. The Mother made this application on 27 September 2021, over two and a half years ago. It was to discharge the prohibited steps order. She asserted that the Father had broken the order by taking O to Scotland. He did, indeed, do so but I am entirely satisfied that he did not think he was breaking the order. It does appear that he was given bad advice to the effect that this was permitted as being part of the jurisdiction, which is, of course, incorrect. More importantly, as I will explain in due course, the Mother's circumstances had changed. She was, by then, in a settled relationship with Mr M. They had bought a property together and they now have a baby daughter.
17. The Father submitted a statement by way of letter on 26 October 2021. He asserted that the situation had deteriorated in Colombia but that does not appear to be supported by the FCDO evidence. Indeed, the area where the grandfather lives has moved from being in the amber zone to a green zone where the FCDO does not advise against travel.
18. A Cafcass Safeguarding letter was prepared in November 2021 by a Family Court Advisor. She said that a section 7 report was needed. Neither party has any convictions or offences. There had been no Local Authority involvement since 2015. She later confirmed that nothing was reported adverse to Mr M.
19. The case came before Corrigan DJ on 1 December 2021, when a section 7 report was ordered. There have been very significant delays in reaching this final hearing. There is no need for me to explain exactly why that has happened, although I accept it has been highly unsatisfactory. The delay has, however, meant that O has got older and the Mother's roots in this country have become even more significant than they were in 2021, if only because of the passage of time and the birth of her daughter, R, with Mr M.
20. On 11 January 2022, the American expert, Mr Morley confirmed that, if he reported again, his conclusion would be likely to be the same. I am entirely satisfied that this satisfies the need for expert evidence required by some of the Court of Appeal authorities. On 25 January 2022, Cafcass wrote to the Court saying that, in the view of Cafcass, O needed to be joined as a party.
21. The Mother filed her first statement on 29 March 2022. She said she met Mr M in April 2016. She has undertaken a four year training course in counselling. O missed the holiday to France due to the order. She had bought a house with Mr M in their joint names in March 2018. At the end of 2020, the Father had told her there would be no problem about her going to Colombia with O. He then said it should happen at Easter before changing his position and requiring her to get a court order. As a consequence, she had to go alone to Colombia in June 2021. She said she has no intention of abducting O. Her life is here and she is irrevocably committed to this country. She made the point that she has not applied for Colombian Citizenship for O, even

though she could have done so. Her family live around Medellin other than the maternal grandfather who lives in X, some 40 km away. The maternal grandmother lives in the outskirts of Medellin. Other family members live in Barbosa. She went to Colombia with the Father and O in 2012 without difficulty. O deserves to meet his maternal family and learn about his heritage. O wants to go.

22. On 30 March 2022, Davis DJ held that an expert report was not necessary as Colombia is a Hague Convention country, whilst noting that extraction of a child would be difficult, challenging and expensive. A recital to the order rightly says that the real issue is whether there is a chance of the Mother absconding with O. O was joined as Second Respondent.
23. In a second statement, dated 20 April 2022, the Mother said that the animosity between the parents was affecting O. She asked to split the summer holidays with each parent having two weeks at the start followed by one week each rather than the current one week on and one week off. She said that she has never expressed any desire to abduct O. She could have obtained a passport for him and gone but she has not done so. She said that the Father had refused to mediate. O has also missed a holiday in Croatia as well as the one to France. Colombia is a functioning modern democratic state.
24. The Father's statement is dated 21 April 2022. He said that O would like the Summer holidays to remain one week on and one week off. The family did go to Colombia in 2012. He went to ensure the Mother returned to this country. The Mother had told him she would like to stay there and not return, but they did return. When the marriage broke down, she said she would return to Colombia with O. It was very argumentative and nasty. She was looking to buy one way tickets. O reported that she said she was taking him there and he would never see his Father again. I make it clear that all this is strenuously denied by the Mother. I find, on the balance of probabilities, that some foolish things were probably said at that time, but that was many years ago. I do not accept that it is evidence of the Mother's current position and intentions. The Father's statement goes on to say that nothing has changed since Judge Marston dismissed the earlier application. He says the political system in Colombia is much worse. O can visit when he is older and more street wise. O met his maternal grandfather when he visited the UK in October 2018. He has since met his maternal grandmother when she also visited. It would be catastrophic if O was not returned. He has an extremely strong bond with O. The Mother has, he asserts, insufficient ties to the UK. He does not believe she will return. Colombia is not safe. Although the Mother's house with Mr M cost £242,000, he does not know what share she has as it is held as tenants in common.
25. On 28 June 2022, the Guardian applied for a transcript of the 2017 proceedings to see if the Mother did mislead the court as to where she was going on holiday but, as I have already noted, unfortunately, the transcript has been lost.

26. The Guardian reported on 5 July 2022. There had been no concerns from the Local Authority about parenting in the first proceedings. The Mother has visited Colombia twice on her own. The last occasion was in 2021. Although the maternal grandmother was initially denied a visa to come to this country on financial grounds, she was subsequently able to come over Christmas 2022/2023 to see her grandchildren. Mr M works as a project manager. The baby was due in January 2023. Mr M and the Mother have been in a stable relationship since Spring 2016. They own a house in Y jointly that was purchased in March 2018 and which has an equity of around £100,000. O speaks some Spanish. He really likes Mr M. He is fascinated by Colombia. He has worries and concerns for his Father, particularly in relation to his Father's health but I have not explored that as it is irrelevant to what I am having to decide. O is excited by the prospect of the arrival of the baby. He wants to visit Colombia. The Mother is a psychodynamic counsellor. She bought a property in Y, not Z, due to Father being in Y. She encourages regular calls between O and his Father. In the view of the Guardian, the Mother is rooted in the UK. She has built her resilience, support networks and friendships here. If O never went to Colombia, it could harm his cultural identity. There is, in the view of the Guardian, no evidence to support the Father's view that the Mother will remain there. There have been no breaches or attempted breaches of the order to date. The Mother has made substantive changes since 2015. The Guardian concludes that the court should discharge the prohibited steps order to permit holidays abroad, including to Colombia. She recommends a financial bond, secured on the Y property. O is settled here. His home, friends and education is here but the Mother accepts this. It is very different to 2015 when she had no substantive links to the UK. The risk of non-return is now very low. O's clear wish is to explore the World, visit Colombia and see his family there. His wishes should be respected. The Mother is now only intending to travel to Green Zone areas (Medellin, Barbosa and X). The FCDO says that, although these areas are not without risks, such as terrorism, criminality and political instability, the Mother's knowledge of Colombia will assist. The Guardian recommends a holiday in Europe first.
27. On 1 September 2022, Cornford DJ made an order that O was to live with both parents on a shared care basis. On 29 December 2022, O's half-sister, R was born to the Mother and Mr M, so she is now nearly 18 months old.
28. At the various previous hearings, all parties filed Position Statements. On 15 September 2022, the Father's Position Statement said that he does not agree that the benefits of travel to Colombia outweigh the risks. He reminds the court of the violent areas and says that the Mother's family do not live in tourist areas. A bond of £50,000 would not be sufficient to cover his costs of securing O's return. Given the Mother's previous lies, he does not trust her. He has severe concerns as to the pressure that the Mother is putting O under, particularly as he is a sensitive child. On 3 October 2023, the Guardian's Position Statement was to the effect that her views remained as I have set out above. The Mother's document stressed her strong links tying her to the UK. She accepted it would be hugely detrimental to separate O from the UK and his Father.

The law I have to apply

29. The burden of proof in relation to any matter that is in dispute is on he or she that seeks to establish it [see Re Y (No 3) [2016] EWHC 503 (Fam)].
30. The standard of proof is the civil standard, namely the balance of probabilities. The seriousness of an allegation makes no difference to the standard of proof to be applied in determining the truth of the allegation. The inherent probabilities are simply something to be taken into account, where relevant, in deciding where the truth lies (Re B (Children)(FC) [2008] UKHL 35; [2008] 2 FLR 141)
31. I must apply section 1 of the Children Act 1989. O's welfare is my paramount consideration. I must then consider the welfare checklist in section 1(3) in deciding what order to make.
32. The Mother's first language is Spanish, although I make it clear that she speaks English very well. I accept that I must take great care in assessing her evidence, given that processing information provided in a foreign language may put the participant at a disadvantage. I must guard against the very real possibility that questions or answers or both are misunderstood or, at the least, nuances and shades of different meaning are lost in the process. I have taken all this into account in assessing the evidence in this case.
33. Although I am dealing with a Hague Convention country, there is expert evidence, which I accept and which makes it clear that Colombia is very difficult about enforcing the Convention, so it is right for me to treat the case as though it is an application to visit a non-Hague Convention country.
34. There is much authority on applications to remove a child temporarily from the jurisdiction to a non-Hague Convention country. I have to say that I am of the view that some of these decisions would not be dealt with in the same way today, particularly Re R [2013] EWCA Civ 115. The population in the UK is now so diverse with so many families with heritages in other parts of the world that the court has to recognise the reality of so many people wanting to visit non-Hague Convention countries for holidays. It follows that I consider the rigours expected in Re R are simply no longer practical, particularly in two respects. The first is in relation to expert evidence, which I consider entirely impractical in many cases. It may be that someone should prepare standard evidence in relation to each of the main countries so that it is available for all parties, but that is not a matter for me. Moreover, I have got expert evidence in this case.
35. My second concern relates to some dicta in Re R about the need for safeguards that are put in place to have a real and tangible effect in the jurisdiction in which they are to operate and be capable of being easily accessed by the UK based-parent. If this was to be rigorously enforced, it is hard to see how anyone would ever get permission to go to a non-Hague Convention country. The whole point of it being a non-Hague Convention country is that it is very

difficult for these safeguards to have ‘a real and tangible effect’ in the overseas jurisdiction. I take the view that the point of the safeguards is, in reality, the effect that they have on the parent who is going to the non-Hague Convention country.

36. I do, of course accept the point made in Re R that “*the court has to be positively satisfied that the advantages to the child of visiting that country outweigh the risks to (her) welfare which the visit will entail*”. At the end of the day, I consider it all really comes down to whether the court can be satisfied that the child will be returned to this jurisdiction.

37. Having said all that, I am clear that I must, and will, follow binding Court of Appeal authority, namely Re K [1999] 2 FLR 1084 which requires the court to consider three related elements, namely:-

- (a) The magnitude of the risk of breach of the order if permission is given;
- (b) The magnitude of the consequences of breach if it occurs; and
- (c) The level of security that may be achieved by building into the arrangements available safeguards.

38. It follows that the overriding consideration for the court is to consider whether the order would be in the best interests of the child, taking into account the risks of breach, the consequences of any such breach and the safeguards that can be put in place to mitigate those risks.

The oral evidence

39. I heard oral evidence from the two parents and from the Guardian. The Mother gave her evidence first. I have to say that I was impressed by her and I accept what she told me with very virtually no reservations. In answer to questions from Ms Matthews, who appears on behalf of the Father, she told me that O is loving and kind. She did say that he goes along with things rather than saying what he wants, although I am clear that he has made it very clear to the Guardian that he does want to visit Colombia. The Mother told me that O does feel conflicted, which I entirely understand. She said he is stuck in the middle. He is very aware of the dispute. He has grown up a lot recently. He is now more able to say no. He has asked the Mother about the holiday and when it will be allowed. She told him he would be able to go at some point. She did not know if he would blame his Father if he cannot go, but I fear he will. She said that he knows his Father is worried that something might happen. She told me that she had never said that she will take him there to live. He has asked her about terrorism in Colombia. She replied that things have happened in the past. She could not remember if she mentioned kidnapping, but O knows there are dangerous areas in Colombia due to his Father telling him. She did not want to scare O. She added that he is aware of the risks and yet he still wants to go. She made the point that nothing dangerous happened in 2012 and she added that she knows the places that are recognised as safe. She made the point that she would not endanger him as he is her child too. He will be surrounded by family. She said she would feel safe

in Medellin as she knows where she will be going. She accepted that it is the second largest city in Colombia.

40. The Mother also accepted that, if she was to retain him there, he would be very sad. He would miss his Father and his friends. His education would be affected. It would sever his relationship with his Father. She made it clear, however, that she had no intention of doing so. She was asked about the period after the separation. She said it was only natural to want to return to her home country and see her family, but she did not do so. She said she had been quite depressed. She did not feel she had much support. She denied saying she was going to Colombia and would not return and that there was nothing that the Father could do about it. She was asked about some advice she obtained from a lawyer. There was no doubt that this was covered by Legal Professional Privilege but, in any event, I do not consider it unreasonable for any parent to obtain advice as to the law in relation to international relocation. She said, and I accept, that she was entitled to know what the options were. I have already made it clear that I do think some things were said around this time that should not have been said, but that was over a decade ago. Moreover, I am clear that what was said then is not the position now. I have no hesitation in accepting what the Mother told me about her intentions to return to this country after the holiday. As she said, she recognised how important his father is to O. I accept that she has never tried to take the law into her own hands. She has applied to the court and done things correctly. That is to her huge credit.
41. She was then asked questions by Ms Searle on behalf of the Guardian. She said that it will cause an issue if O cannot go. It will be heartbreaking to him if his sister can go and he cannot. He might feel rejected and resent both his parents. I accept that evidence. She then told me that Mr M is a Project Manager. He is British and has no other nationality. His parents live in a village twenty minutes away. She sees them once per week as they look after R on a Tuesday.
42. The Father then gave evidence. I make it clear that I accept that he genuinely fears that his beloved son will be kept in Colombia if the court gives the Mother permission to travel there with O. He was cross-examined by the Mother. I further accept this must have been very difficult for both of them but they both coped very well. He said it was going to Colombia that he was opposed to. He was not opposed to O going on holiday to Europe provided there were safeguards. In relation to Colombia, he said he would have agreed if the Mother had permitted there to be reasonable safeguards, such as Mr M being with her. It was, however, clear that this was not really his position as he simply does not want O to go. He would like O to go to Spain and there is no need for a financial bond if Mr M is there in Spain with O. He did not think that the Mother was truly happy here. He considered she was only here because she has no choice other than to be here. That may have been the case once, but I do not accept it is the position now. He told me he did believe she could remain in Colombia even now and asked how O would be able to return on his own. Even if Mr M went, he asked what was to stop Mr M coming back on his own, although the answer to that would be his daughter, R. The Father said he went to Colombia in 2012 with O as the Mother would have

gone even if he had not gone and he did not believe she would return on her own if he had not gone with her. He does think it is important for O to have a strong connection to his Colombian heritage, but, he said, a couple of years before O goes will not make a difference. He accepted that it would be very upsetting for O if Re can go but O cannot.

43. He was then asked questions by Ms Searle on behalf of the Guardian. He accepted that O had said he wanted to go to Colombia but the Mother had not agreed all the conditions. He said he was torn but Mr M being there would not reassure him. He accepted that probably nothing would reassure him. He considered O should not go until he is able to make the decision himself, which is when he has finished his schooling, when he is either 16 or 18. It was put to him that the Mother had not attempted to remove O to date and he answered by asking how she could have done so. He had to accept that she had applied to the court and done everything right but he said, rhetorically, what else could she do. He said he would be happy for O to go when he becomes 16. He acknowledged that it could be negative for O if he could not go with his Mother, Mr M and R.
44. Finally, I heard from the Guardian, Justine Radford. She was asked questions by the Mother and told me that it will be immensely fulfilling for O to connect with his maternal family in the country where they live. It will be both a cultural experience and an opportunity to bond and build a relationship with the maternal family. O is keen to go. He should be able to go and be listened to now. It will frustrate him if he is not listened to. Her assessment is that the Mother has not done anything to breach any orders. She has always asked for permission. The Mother's life is very different now with different factors applying.
45. She was then asked questions by Ms Matthews on behalf of the Father. She said that it would be detrimental to O if the Mother retained him in Colombia. Being kept apart from a parent is potentially going to sever the relationship. She favoured discharging the prohibited steps order as it would make it easier as neither parent would have to ask for permission and come to court if it was not forthcoming. The parents should agree these matters and share information. The Guardian considered that the risks have significantly reduced. There will always be a risk, so it has not completely gone. Children do want to go on such trips, but O is intelligent. He has an enquiring mind. He wants to explore and experience what his peers do. He is thriving. He has met his grandparents and uncle but there has already been detriment to him by not being able to go to Colombia since 2012. It would just prolong the detriment if this prohibition was to go on for another two years. She felt that the risks in Colombia had reduced following the latest FCDO advice. More of the country was now green than amber. She accepted that there are some risks, such as terrorism but that is true anywhere and the Mother's knowledge of Colombia would enable her to avoid any dangerous areas. The Guardian acknowledged that it would be expensive and difficult if there was no return, but she said she relies on her assessment that the Mother is very rooted here. The Mother has a career here that she does not want to walk away from. She has an established relationship. She has a rich involvement with her partners'

family. She has activities and interests such that her life is very much based in the UK. She has had the opportunity to return to Colombia in the past but the pull has been not to do that. The Mother understands the importance of both parents to O and good coparenting which is happening. The Guardian considers she has put her son first and would not cause emotional harm to him by removing him from this country. I accept the evidence of the Guardian without reservation.

Areas of agreement

46. Overnight, the parties reached some extremely sensible and encouraging agreements in relation to virtually everything other than travel to Colombia. They agreed that O shall live with both parents on an alternate weeks basis. They agreed contact whilst in the other's house. They agreed the arrangements for half-term; Christmas; Easter and the Summer Holiday. In relation to the latter, they agreed that each parent should have O for two weeks each at the beginning of the summer with one week each at the end. They agreed the arrangements for R's birthday. Most significantly, they agreed that each parent can travel with O in the EU, EEA, Switzerland or UK. O's passport will be held by the Father's solicitor. Travel in Europe will be conditional on proof of return flights and production of an itinerary one month before travel. Again, telephone contact whilst away was agreed on the basis of twice per week. Any changes would be communicated to the other parent. O would always have his phone with him.

The remaining disagreements

47. There did, however, remain important areas of disagreement. Travel to Colombia was not agreed. The Father wants to keep the prohibited steps order in place. He also wants Mr M to travel on any trip. Finally, there was some disagreement as to how the charge on the Mother's property would be created and who would pay, as well as the date on which any order will expire.

My conclusions

48. I am clear that it is overwhelmingly in the interests of O to go to Colombia on holiday provided it is safe for him to do so, both in terms of whilst he is there and in being sure he will return.
49. In answer to the first question posed in Re K, I consider that the risk of breach of an order by the Mother not returning O to this country is very small to non-existent. I accept that this is a genuine cause of worry for the Father but I am clear that he need not worry.
50. The situation is entirely different to what it was in 2012/2014. The Mother has now been in this country for fifteen years. She came when she was aged 20. She is now aged 35. She has a stable relationship with Mr M, a British man, who is entirely rooted here with very responsible employment. She has a child with Mr M. She has bought a house here with him. She has good employment here.

51. Perhaps most importantly, however, she recognises the importance of the Father to her dearly loved son, O. I find that she is entirely genuine when she says she would not sever that bond. She has never attempted to do so. She has done everything by the book. I am clear that she just wants to visit Colombia to see her family and renew her experience of that country. She wants her son and daughter to do likewise.
52. It follows that I am entirely satisfied that she will return. Indeed, I consider it would be almost impossible to keep O there against his wishes. She is intending to go on holiday to Europe this summer. She will only go to Colombia next year, by which time O will be nearly fifteen. It is fanciful to think she could keep him there in breach of my order at that age against his wishes.
53. The second consideration is the consequences of any breach. I entirely accept that it would be very serious and detrimental to O's welfare if he were kept in Colombia in breach of my order. The consequences for the Mother would also be extremely serious in a way that simply would not apply if O was ten years younger. At the age of 18, she could not keep O in Colombia. This might even be the case at 16. He would almost certainly be furious with her and reject her going forward. Given his age, it seems highly likely that he would be able to return to this country either via a court order in Colombia or with the help of the British Embassy. The Mother would then have her access to him severely restricted. She would not be able to take him away again. She would probably have to accept only supervised contact. He might not even want that. She would lose her property here. She would lose her job here. She might lose Mr M and have similar problems in her relationship with R. She understands all of this. I am absolutely clear that she will not risk any of this.
54. The third consideration is the level of security available. There will be a charge on her property. She would therefore lose her equity and the Father would be able to spend the money on pursuing her. Second, I am clear that it should be a term of her being allowed to go, until O is 16, that either Mr M must accompany them or, in the alternative, Mr M and R must stay behind. If it is the latter, it gives her a huge pull to return to this country, namely that her daughter remains here.
55. In terms of the other considerations in the welfare checklist, I am clear that O very much wishes to go to Colombia. This is his genuine wish. He would feel dismayed if his Mother, sister and Mr M were able to go and he could not. I fear he would blame his Father and this might well damage their relationship considerably.
56. I accept the evidence of the Guardian that going to Colombia is very important for O in terms of his heritage and his understanding and experience of that heritage. It has been to his detriment that he has not been able to go before.
57. I do accept that there are risks with Colombia, although there are risks virtually everywhere. After all, someone could be unlucky enough to be

caught up in a terrorist incident in this country. Whilst the risks are higher in Colombia, I am clear that the Mother will only be going to green areas. Moreover, her knowledge of the country and the fact that she will be there with the support of her family reduce the risk considerably.

58. It follows that I am clear that I should permit travel for holidays of up to three weeks in Colombia. It is on terms that a charge is placed on the Mother's property to be enforced only by a further order of a Judge following a proved breach of my order. The charge will remain in place until O is aged 16. I am concerned that the drafting of this order could cause significant disagreement and cost. I expect the charge to be a very simple document, of no more than a few paragraphs. Whilst I accept that it could be said that the Mother should pay, I am of the view that it is fairer to both parties to make them contribute equally. This will, in my view, keep the cost to a minimum and ensure that there are not unnecessary disputes about the documentation and how it should be registered.
59. My order is also on the terms set out above in relation to Mr M and in relation to the provisions for notification of the details of the holiday and the production of documentary evidence as already agreed between the parties. The order will last until O's sixteenth birthday.
60. Finally, I am of the view that the prohibited steps order should be discharged. I do not want there to have to be any further applications to the court for permission to travel, unless absolutely necessary. Each party must give the other full details of their plans at least one month before the proposed holiday. This then gives the other the opportunity to apply to the court, but the burden must be on the party objecting, not the party seeking to go on holiday. I remind the parties that there is a shared lives with order. This means that permission to remove from the jurisdiction is restricted to a month in any event and permission to go to Colombia is on the basis that it is for a maximum of three weeks at any one time.
61. Finally I want to pay tribute to the parties and counsel. The hearing was conducted in a very good spirit. Nothing further could possibly have been said or done on behalf of any party that was not said or done.

Mr Justice Moor
14 May 2024