



Neutral Citation Number: [2024] EWHC 2650 (Fam)

Case No: FD24F00058

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

IN THE MATTER OF THE GUARDIANSHIP (MISSING PERSONS) ACT 2017

AND IN THE MATTER OF RULE 57.25-33 OF THE CIVIL PROCEDURE RULES
1998, PRACTICE DIRECTION 57C

AND IN THE MATTER OF STEPHEN JOHN BARTRAM (d.o.b. 21.9.1974)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18/10/2024

Before :

THE HONOURABLE MR JUSTICE COBB

Between :

SHEILA BARTRAM

Claimant

- and -

STEPHEN JOHN BARTRAM

Defendant

The Claimant in person
The Defendant was not present nor was he represented.

Hearing dates: 18 October 2023

Approved Judgment

This judgment was delivered on 18 October 2024
and has been released to the National Archives.

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THE HONOURABLE MR JUSTICE COBB

This judgment was delivered in public.

The Honourable Mr Justice COBB :

Introduction

1. This Part 8 CPR claim is brought under section 2 of the Guardianship (Missing Persons) Act 2017 (the ‘G(MP)A 2017’). It is dated 16 July 2024. It concerns the Defendant, a 50 year old man, Stephen Bartram (for shorthand hereafter, I shall refer to him as ‘SB’, but note this is *not* an anonymised judgment).
2. The Claimant is SB’s mother (the ‘Claimant’); she seeks a guardianship order, appointing her a Guardian in respect of all of SB’s property and financial affairs. She has been assisted at court by SB’s brother, Kevin Bartram. SB’s father is aware of the proceedings and has filed a witness statement; SB last saw his father, who lives abroad, in 2022. SB’s father plays no part in the proceedings.
3. SB suffers from mental ill-health, and has a diagnosis of paranoid schizophrenia; for some time, he has been supported by adult social care in the city in which he lived, Southend. He has suffered periodic relapses of his mental illness; on at least one occasion in the last few years he has attempted to take his own life. He has gone missing once before, about ten years ago, but only for about six weeks. He has also travelled abroad in the past, occasionally at times when he has been suffering from declining mental health, but during those periods has invariably kept in touch with the Claimant; complete cessation of contact is, I am told by the Claimant, “out of character”.
4. SB has not worked since 2022; he is in receipt of state benefits. He is not known to have ever used an alias, or alternative or substitute names. He was a regular church-goer in his locality, although the Claimant believes that “increased religiosity is one of the symptoms of his illness”.
5. The Claimant last saw SB on 22 September 2023; at that time, SB was talking about going away, possibly to Scotland. He appears to have made no plans or preparations to leave his home (his washing was still hanging up in his flat when the police visited), although he had handed a box of possessions to the vicar of his local church (“the vicar”) on 18 September, indicating as he did so that he was planning to go away; he did not say where. A note in the police records indicates that mental health services in Essex spoke¹ with SB on 26 September 2023, and that he had reported that he felt well. The Claimant reported SB missing on or about 26 October 2023.
6. Piecing together evidence from the police and other sources, it is possible to trace some of the last known movements of SB. It appears that he left Southend on or

¹ The police record separately refers also to the fact that mental health services *saw* SB on 26 September 2023. I believe that this reference to the mental health services ‘seeing’ SB must be an error.

about 22 September, and drove north. He abandoned his car at Morpeth station (it acquired multiple parking tickets). SB apparently sent a letter to the vicar by e-mail in late-September / early-October 2023; the letter contains random musings of SB but it suggests, by its contents, that he was by then on the Shetland Islands. This indeed was confirmed by a sighting of SB by the police in Lerwick on 25 September 2023. It now transpires (from police disclosure) that, while in the Shetland Islands, SB attempted to board a boat heading to Norway; he was unsuccessful in doing so. It is likely that SB then returned to the Scottish mainland before flying to Dublin (probably on 3 October 2023), and then he travelled (though it is unclear how) to Munich.

7. On 8 October 2023, SB had sent an e-mail to a friend in which he stated that he had crossed the Bay of Biscay to Bilbao. Police intelligence reveals that SB's laptop was used in Germany on or about 12 October 2023. On 13 October 2023, SB apparently sent an e-mail to the vicar, saying that he was in Switzerland, having travelled on a bus "between Spain and Paris" (this would tend to validate his claim to have travelled by boat to Bilbao); he indicated his intention to travel to Israel (where he had previously visited). His bank card was indeed used once in Switzerland at about this time; later bank transactions placed him in southern Italy on the 14 October 2023, 16 October 2023 (Bari) and on 17 October 2023 (in Maglie, Lecce). It seems likely (by reference to card purchases) that he had travelled to Maglie by train. There has been no activity on his bank account since that date, and there has been no other trace of SB.
8. Attempts to call SB on his mobile phone throughout this period have failed; his usual number would not accept the call. Voice messages and text messages have been left for him, but have remained unanswered. SB's social media accounts have been routinely checked, but have shown no activity. Enquiries have been made of all places which SB regularly visited near his home (including his gym) to no avail. There has been surprisingly little record of his passport having been used in the period under review; it is possible that SB has two passports (the Claimant suspects that he may have acquired a second passport in the country where his father lives), but border controls in the UK and in Europe appear not to have detected him at any stage as he travelled from country to country.
9. SB has a former partner, and child; he has had no contact for some time with either, long pre-dating his disappearance.
10. In February 2024, Kevin Bartram travelled to southern Italy to see if he could find his brother, and discuss matters with the Italian police; he sought to retrace SB's steps as far as they could be ascertained. This visit provided no traces, leads, or clues.
11. Local police and Interpol have tried to find SB, without success. There has been an International Alert out for him in Europe and Worldwide.
12. At an earlier directions hearing, I ordered the Chief Constable of the Essex Police to provide to the Claimant, and to file with the court, a report setting out the details of its enquiries in relation to the disappearance of SB, its contacts with other police forces, and Interpol. The police complied with this request and I now have a large file of computer generated documents (more than 330 pages) which disclose the steps which the Essex police have taken to locate SB. Within those documents (which have

materially informed the information which I have set out at §§5-8 above) it is noted that in May 2024 an unidentified body had been found in Germany which was initially thought by Interpol to be SB; DNA evidence disproved this. The police have now closed the file, subject to periodic review.

13. The Claimant believes in her heart of hearts that SB is still alive, and that one day he will return to Southend, whereupon she hopes that he will be able to receive treatment for his mental illness. She is concerned that, untreated, SB is at considerable risk to himself.
14. SB has left his financial affairs in something of a mess, and the Claimant needs authority to deal with them. SB owns his own property at [XXXXX] subject to mortgage; the property is also subject to a trust, and the equity is held in 1/3 proportions for SB, KB, and the Claimant. There is a tenant living there, but the rent does not cover the mortgage; the Claimant believes that she may well need to sell that property. In her evidence she says:

“My instinct is to preserve the flat in SB’s ownership for as long as possible, but I don’t think this is sustainable in the medium to long term. He had expressed interest in selling it over the years, but I was desperate for him to have a secure place of his own”.
15. There is a credit card debt. The Claimant has been trying to manage SB’s utility bills and council tax. There are debt recovery firms involved, who have not (up to now) been prepared to deal with the Claimant. The Claimant has dipped into her own savings to keep the ‘ship afloat’ as far as she can. She is worried about the Defendant’s property being re-possessed; it requires some remedial work, which she can ill-afford.
16. When considering the papers and giving directions at an earlier hearing, I recorded my satisfaction (in accordance with section 4 G(MP)A 2017 and on the evidence provided by the Claimant) that she has sufficient interest in relation to SB’s property and/or financial affairs to make this application, and to be appointed as Guardian. I was further satisfied that the Claimant had (in accordance with section 20(1)(b) G(MP)A 2017) properly advertised this application in the local newspaper (the Echo newspaper for both Southend and Basildon) on 8 August 2024 (a hard copy of the newspaper having been provided to the court at the hearing), in accordance with the rules; I was further satisfied that no person gave intention of an application to intervene, and no person had attended the hearing as a result of this advertisement.
17. I directed the Claimant to identify, by account number(s) and name(s), all bank and credit card accounts in SB’s name; I required her to list all of the assets in SB’s name, including details of his second car (the car in which he had travelled north has been destroyed as it was of no economic value); I directed her to set out what she knows of SB’s relevant wishes and feelings that he may have expressed at any time (section 18 G(MP)A 2017) in relation to his property and affairs; I required her to set out what she knows of the beliefs and values that would be likely to influence SB in how he would manage his affairs (section 18 G(MP)A 2017). The Claimant, albeit unrepresented and without legal advice, complied with this direction comprehensively, timeously, and conscientiously.

The law

18. The G(MP)A 2017 enables the High Court to appoint a “guardian” over the property and financial affairs of a “missing person”. A missing person is defined in section 1 of the G(MP)A 2017. For present purposes, it is sufficient to record that the relevant provisions are that SB “is absent from his ... usual place of residence”, and from his “usual day-to-day activities”, and his whereabouts are “not known at all”. The Claimant has been required to demonstrate that SB has been “missing throughout the period of 90 days ending with the day on which the application was made” (section 3(2)(b) G(MP)A 2017), and that it is in the missing person's best interests to make the order.
19. It is necessary for the Court to take into account any relevant wishes and feelings expressed by SB (the missing person) at any time, including any relevant written statement made by the missing person, the beliefs and values that would be likely to influence the missing person, and any other factors that the missing person would be likely to consider (section 18 G(MP)A 2017). Hence my directions discussed at 17 above.

Conclusion

20. For the reasons set out above, I am satisfied that SB is ‘missing’ within the definition of the G(MP)A 2017 (section 1 and 2 *ibid.*), and that the absence condition is met; he has been absent from his usual place of residence and from his usual day-to-day activities (including his church) for more than one year. In spite of the considerable efforts made by the police, and also by Kevin Bartram, and the family, SB’s whereabouts are truly unknown. Given the dismal state of SB’s finances, the risk of re-possession of his home, and the sizeable debts which are mounting and being pursued, I am satisfied that that it is in SB’s best interests to make an order appointing a guardian (section 18 *ibid.*), so that his finances can be regularised. I am further satisfied that the Claimant is an appropriate appointment to fulfil this role (section 4 *ibid.*).
21. The Claimant seeks an order for the maximum term of four years. At this stage, I consider it appropriate to make an order for two years; within this time, I hope that the Defendant’s affairs can be regularised. This part of the order is of course extendable (section 12 G(MP)A 2017). In many cases it is appropriate for the Court to require the Guardian to give ‘security’ for the exercise of their functions (see section 6(3) G(MP)A 2017); I have had regard to the Claimant’s modest financial circumstances, and to the extent to which she has already made considerable financial outlay to settle liabilities incurred by SB in his absence. I do not consider that I should, additionally, require the Claimant to give security in this case.
22. I consider that it would be appropriate to give the Claimant the widest range of powers in respect of all of SB’s property given the limited nature of the estate and the apparent claims upon it. I have annexed to this judgment, the form of order which I propose to make in this case.
23. This short *ex tempore* judgment has been given in open court, following a hearing conducted in public. The judgment is published without any anonymisation. The Claimant and Kevin Bartram indeed hope that if, by the publication of this judgment,

a small degree of public interest is stimulated, this may in turn shed light on SB's whereabouts.

24. That is my judgment.

ANNEXE

ORDER

CLAIM NO. FD24F00058

IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

IN THE MATTER OF THE GUARDIANSHIP (MISSING PERSONS) ACT 2017

AND IN THE MATTER OF RULE 57.25-33 OF THE CIVIL PROCEDURE RULES 1998, PRACTICE DIRECTION 57C

AND IN THE MATTER OF STEPHEN JOHN BARTRAM (d.o.b. 21.9.1974)

ORDER MADE: 18 OCTOBER 2024

BETWEEN:

SHEILA BARTRAM

Claimant

and

STEPHEN BARTRAM

Defendant

UPON HEARING the Claimant in person, supported by her McKenzie Friend, Kevin Bartram.

AND UPON there being no attendance from Stephen Bartram ("the Defendant");

AND UPON the Court considering the Part 8 Claim form issued on the 16 July 2024.

AND UPON the Court considering the Claimant's witness statements dated 28 March 2024 and 7 September 2024, together with supporting witness statements from Kevin Bartram and the Defendant's father

AND UPON the Court considering the documentation provided by the Essex Police in relation to its searches for the Defendant.

AND UPON the Court being satisfied that notice of the hearing was given to the relevant parties, namely the Claimant's son / Defendant's brother, Kevin Bartram.

AND UPON the Court being satisfied that fourteen days have elapsed from the publishing of the missing persons advertisement.

IT IS ORDERED THAT:

1. Sheila Bartram ("the Guardian") is appointed to act as the Guardian in respect of all of the property and financial affairs of the Defendant, Stephen Bartram, and by this order, the Guardian shall have all of the Defendant's rights and powers in relation to the property and/or financial affairs to which the order relates.
2. The Guardian shall at all times in fulfilment of her role, act in what the Guardian reasonably believes to be in the Defendant's best interests.
3. For the avoidance of doubt, this order appoints the Claimant as Guardian in relation to (but not limited to) the following:
 - a. the property at [XXXXXX] including permitting the Guardian to sell, let and/or mortgage the said property;
 - b. the Defendant's Metro bank current account, account number [XXXXXX];
 - c. the Defendant's Metro bank credit card, account number [XXXXXX];
 - d. the mortgage account with Santander number [XXXXXX];
 - e. all utility and other services in respect of the property at [XXXXXX] including but not limited to: Essex and Suffolk Water... Council tax ... British Gas...;
 - f. the Defendant's pension (1) ...;
 - g. the Defendant's pension (2) ...;
 - h. investments for and on behalf of the Defendant;
 - i. any and all financial commitments relevant to the Defendant's car... including making representations to DVLA with regard to securing V5 documentation in respect of the same, and if appropriate selling it;
 - j. executing deeds and other documents on behalf of the Defendant;
 - k. recovering money owed to the Defendant;
 - l. bringing or conducting legal proceedings on behalf of the Defendant;
 - m. making a gift out of the Defendant's property;
 - n. all administration with and liabilities to the HMRC;
 - o. the Gateway property management account ... in respect of the property at [XXXXXX];
 - p. dealings with the Child Maintenance Service...;
 - q. the limited companies (dormant) registered with Companies House, including ...;

- r. the Department for Work and Pensions
4. The Guardian must keep a record of all dealings with the said property that is the subject of this order and keep all communications, statements, vouchers and other financial information.
 5. This order takes effect immediately.
 6. The order is limited for a period of two years from the date this order is made up to and including 17 October 2026.
 7. The Guardian must submit a report to the Office of the Public Guardian of his dealings with the Defendant's property and financial affairs when required to do so.
 8. The Guardian shall not be entitled to any remuneration.
 9. The Guardian may make an application to the Court in relation to the affairs of the Defendant. Any such application must be made on notice to the Defendant and Kevin Bartram.
 10. In accordance with the provisions of section 3(4) G(MP)A 2017, this order shall be served by the Guardian on the Office of the Public Guardian.
 11. The Guardian is entitled to be reimbursed out of the Defendant's property in relation to the sums which she has expended for and on behalf the Defendant since 26 October 2023, limited to a maximum of £2,500.
 12. The Guardian is entitled to be reimbursed out of the Defendant's property for reasonable expenses incurred in connection with the exercise of functions as a Guardian limited to a maximum of £2,500.
 13. The Guardian shall pay the costs of the provision of the police material within these proceedings within 28 days, which are assessed by the court at £250. The Guardian shall recover this sum from the Defendant's funds, together with the court fees.

Service of the order

The court has provided a sealed copy of this order to the serving party, namely the Guardian.

18.10.24