

THE HIGH COURT

FAMILY LAW

[2022] IEHC 729

[2022 No.19 HLC]

**IN THE MATTER OF THE CHILD ABDUCTION AND ENFORCEMENT OF
CUSTODY ORDERS ACT 1991**

AND

**IN THE MATTER OF THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF
INTERNATIONAL CHILD ABDUCTION**

AND

**IN THE MATTER OF SARAH, A MINOR
(CHILD ABDUCTION: GRAVE RISK)**

BETWEEN:

G.D.

APPLICANT

AND

J.F.

RESPONDENT

Judgment of Ms. Justice Mary Rose Gearty delivered on the 20th of December, 2022

1. Introduction

1.1 This is an application by a father for the return of his child, called Sarah for the purposes of this judgment, who has already been the subject of family law proceedings in Northern Ireland. The defence of grave risk is raised. A brief summary

of the issues is that the Applicant, who was awarded custody of the child in recent court proceedings, is alleged to be a poor parent due to drug misuse, neglect leading to injury and illness, and one complaint of using violence against the Respondent. All of these issues are said to put Sarah at grave risk of suffering psychological harm.

1.2 The case involves allegations of a conflict that, it is agreed, occurred in Sarah's presence. The main difficulty for the Respondent is that the issues have been explored by a court in Northern Ireland and that court, which is privy to more information than is available in this jurisdiction, has awarded custody of the child to the Applicant.

1.3 The exhibits relevant to the issue of grave risk reveal that there have been several incidents of conflict between the Respondent and various social workers. In one report, which is quoted from below, the author confirms that the Respondent has been diagnosed with mild hypomania which leads to volatile and emotional reactions to certain situations on her part. She does not accept this diagnosis, according to the report and, given that she does not refer to it in her affidavits either, it appears that she has no insight into the relevance of this condition to Sarah's welfare.

1.4 The Respondent seeks to persuade the Court that there is a risk of grave harm to Sarah such as to justify refusing to return her to her home. In fact, the reports reveal a lack of insight on the Respondent's part as to how her confrontational approach to others, which results in arguments in front of her daughter, is capable of affecting such a very young child. While she clearly loves her daughter and is a very capable parent

in many ways, in this respect she risks harming her daughter and does not appear to recognise the steady and secure home that the Applicant has created for Sarah.

2. Objectives of the Hague Convention

2.1 The Hague Convention was created to provide fast redress when children are moved across state borders without the consent of both parents (or guardians) and to mitigate the damage sustained to a child's relationship with the "left-behind parent" by returning the child home. There, the courts where the child lives and where social welfare, school and medical records are held and witnesses are available, can make decisions about the child's welfare with the best and most recent information. The Hague Convention not only vindicates the rights of children and ensures comity between signatory states but bolsters the rule of law generally, providing an effective, summary remedy against those who seek to take the law into their own hands.

2.2 The Convention requires that signatory states trust other signatories in terms of the operation of the rule of law in their respective nations. This international agreement, to apply the same rules in contracting states, addresses issues arising from the normal incidence of relationship breakdown which, given the relative ease of global travel and employment, can also lead to the resettlement of parents in different countries. It is recognised as an important policy objective for signatory states that parents respect the rights and best interests of the child and the custody rights of the co-parent in deciding to move to another jurisdiction, taking the child from her

habitual residence and, potentially, from social and familial ties in that jurisdiction and from daily contact with the other parent.

2.3 The Convention requires an applicant to prove, on the balance of probabilities, that he has rights of custody, that he was exercising those rights and that the child was habitually resident in the relevant country at the time of removal or retention. If he succeeds in establishing these matters, the burden then shifts to the respondent who must establish a defence and persuade the Court to exercise its discretion not to return, as a result of the defence. Here, the defence is that of grave risk.

3. Grave Risk: The Legal Test

3.1 The Convention provides, at paragraph 13(b), that:

“the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that ...

b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.”

3.2 Ms. Justice Finlay Geoghegan set out the legal test for grave risk in *C.A. v. C.A.* [2010] 2 IR 162, at paragraph 21:

“[T]he evidential burden of establishing that there is a grave risk ... is on the person opposing the order for return ... and is of a high threshold. The type of evidence which must be adduced [must be] ‘clear and compelling evidence’.”

3.3 Case law establishes the kind of risk that has persuaded a court to refuse to return a child; a risk of violence to the child (usually based on evidence of previous violence), a risk of suicide to either the child or to the respondent, or evidence of an event such as famine or war which would render the child's position unsafe, as set out by Fennelly J. in *A.S. v. P.S. (Child Abduction)* [1998] 2 I.R. 244, at paragraph 57.

3.4 In *C.T. v. P.S.* [2021] IECA 132, Collins J. outlined the history of the cases relevant to an understanding of the objectives of the Hague Convention. He concluded:

"...there cannot be any serious doubt that factual disputes about the care and welfare of children are best resolved where the children reside. That is of course a fundamental animating principle of the Hague Convention."

This explains why the burden of establishing such a defence is a heavy one and why a discretion remains for the deciding judge even if a grave risk is identified.

3.5 In *R. v. R.* [2015] IECA 265 Finlay Geoghegan J., noting that the risk in that case was of physical harm to a child, emphasised the trust to be put in the courts of the home state to protect the child even in such an extreme situation.

3.6 Finally, and importantly, the Court must consider the facilities available in the requesting State to assess or mitigate the risk presenting. To paraphrase Fennelly J. in the Supreme Court decision in *P.L. v. E.C.* [2008] IESC 19, [2009] 1 I.R. 1, the real issue for this Court is whether, given that the Northern Irish courts have already embarked

on a welfare hearing, there is evidence to suggest that the Northern Irish courts are unable or unwilling to protect Sarah if she is at grave risk of harm.

4. Background Facts Relevant to the Convention

A. Wrongful Removal

4.1 The Applicant and Respondent lived in Northern Ireland and their only daughter, Sarah, was born over 5 years ago. When they separated, both had custody of Sarah, but the Respondent was the primary carer. In 2021, the courts awarded custody of Sarah to the Applicant. The Respondent has access rights but only when supervised by her brother. During a visit to the child's cousins, the Respondent was permitted to take the child to the shops but, upon taking custody of the child, left the jurisdiction of Northern Ireland and travelled to this State.

4.2 The Respondent accepts that Sarah was habitually resident in the jurisdiction of Northern Ireland prior to her removal on 24th July 2022. The Respondent also accepts that the Applicant has custody rights in respect of Sarah, that he was exercising his custody rights at the time of Sarah's removal, and that he did not consent to the Applicant's removal of Sarah to this State. The application was made promptly, well within one year, and the Applicant has therefore made his case for the prompt return of Sarah, unless the Respondent can establish the defence that the child is at grave risk of harm if she is returned to Northern Ireland.

B. Procedural History in Northern Ireland

4.3 In 2021, in proceedings brought by the relevant health Trust [the Trust], the family court in Northern Ireland made orders in respect of Sarah. That court directed that Sarah reside with the Applicant until she is sixteen (Exhibit GB7). A separate order was made directing that the Respondent not take Sarah out of Northern Ireland without the consent of the Trust (Exhibit GB8).

4.4 In 2017, concerns had been raised in respect of the Respondent in circumstances which are of minimal relevance insofar as Sarah is concerned as the Respondent reassured the relevant social workers and Sarah remained in her custody until 2019. Then, after an incident in April when both parties complained about each other, the authorities became involved again and initially reported that neither parent was engaging with them. In 2020, the Applicant began to work with social workers to reassure them of his intention and ability to be a good father. These matters are set out in various reports including GB19, GB20 and GB21 (The Guardian Ad Litem reports), GB17 a parental capacity report, and GB15 an independent social worker report. After this engagement, the Trust recommended that the Applicant be given custody of Sarah, with access recommended for her mum but this was required to be supervised.

5. Allegations of Grave Risk

5.1 In this instance, the alleged threat of harm comes from the Applicant and there is a related allegation that the Trust has not protected Sarah from him. As set out

above, both parents made complaints, each against the other, after the incident in April of 2019 during which property was damaged and a row took place in Sarah's presence. Both parties swear that the other was responsible and neither complaint was pursued to a conviction, so there is no support to assist the Court in assigning blame insofar as the affidavits are concerned. A Guardian was appointed.

5.2 In a report dated 19th April 2021, the Guardian ad Litem concludes that the Trust needed to remain "centrally and formally involved" in this case. There are two further reports from the Guardian and the relevant exhibits are GB19, GB20 and GB21.

5.3 The risk identified by the Respondent is that Sarah will be exposed to neglect and psychological harm if returned to the care of the Applicant. The Respondent alleges that this risk arises from his inability to act as a full-time parent; she points to what she says was domestic violence in April of 2019 and to his previous conviction for supply of cannabis. She submits that being in the Applicant's care has resulted in Sarah wetting and soiling herself, frequent illness and minor injuries, educational neglect due to significant absences from school, and exposure to domestic violence.

5.4 The Respondent avers that the Trust did not inform her of any concerns about her ability as a parent. She believes (para. 6 of her affidavit) that the Trust developed concerns about her due to a protest the Respondent mounted against them. In her view, this is the core explanation as to why the court in Northern Ireland has granted custody to the Applicant and allowed the Respondent access to her child only when supervised. The implication is that the courts made decisions, not based on what was

good for Sarah, but on the basis of biased reports which preferred the Applicant and, given the contents of her affidavit, she suggests that the basis for this preference is the Trust's motivation i.e. that Sarah was given to the Applicant as a response to the Respondent's protests against the Trust, not because he is the better parent. The Respondent's protests against the Trust originally arose out of events in 2017, which led to a poor relationship between the Respondent and social workers assigned to her.

5.5 The Respondent avers at para 22 of her affidavit that the Irish authorities have no concerns about her ability as a parent. If these averments are correct, she argues, then her removal of Sarah was to defend her against the irrationality of the courts and the bias of the social welfare authorities in Northern Ireland, and the Irish authorities effectively confirm that her actions were reasonable and necessary to protect Sarah.

5.6 Finally, in terms of the Respondent's affidavit, she makes the case that she has not been represented nor was she heard in the context of the final access hearing in September 2021 when her child was effectively given into the Applicant's care despite, she says, the fact that he was not ready to have full time custody of Sarah.

5.7 The timeline is important when considering the reports below: Sarah initially lived with the Respondent, her mother, until 2019 when the Trust became involved after a violent incident in the home. Sarah was cared for by both parents thereafter, the Respondent being the primary carer from Tuesday to Thursday after an April 2021 hearing. On the 1st of September, this time was reduced to supervised access with a

full custody order in favour of the Applicant. Therefore, from the 1st of September 2021 to the 24th of July 2022, this child lived with her Dad, supported by the Trust.

6. Evidence in Support of the Application

A. The Guardian ad Litem and Social Welfare Reports

6.1 GB17, dated 5th April 2021, is a parenting capacity report. This can be characterised as an excellent report on the Applicant, despite his difficulties, which include a criminal conviction for dealing in cannabis. His probation officer gave the author of the report a very good review of the Applicant's engagement with that service, which included attending a parenting course. The report contains details of the Applicant's personal history, which sheds light on his motivation to be a good father, as his own father undoubtedly has been.

6.2 GB15, dated 14th June 2021, is an independent social worker report. The author is not assigned to this family but interviewed those who were, met the Applicant and the Respondent separately while in the company of their daughter Sarah, and spoke to various other sources, including family members, in preparing this report.

6.3 The following matters appear in exhibit GB15 at page 14:

“Over time the Trust has come to consider Ms. F as manipulative and controlling, unpredictable, hostile and threatening towards Social Workers and other professionals, and that this has often occurred in the presence of [Sarah]. They stated that she takes any opportunity to criticise and complain about professionals.

It was apparent that the dynamics of Ms F’s engagement with Social Services and other professionals has resulted in such an undercurrent of fear conflict and tension that it has made it difficult to achieve constructive or meaningful engagement as professionals view Ms. F as more focused on her own agenda.”

6.4 After confirming that the author has read a medical report on the Respondent, naming the author and describing the diagnosis as mild hypomania, the author concludes: *“unless or until Ms. F begins to explore her mental health diagnosis then the prognosis for her being able to develop the necessary insight into professional concerns and engage constructively for the benefit of Sarah ... is very poor.”*

6.5 The report goes on at page 15 to describe the Applicant having undertaken a capacity assessment and committed to engage with a range of services in order to reassure the Trust as to his suitability, which satisfied the Trust that it was in Sarah’s best interests to be placed with him. The author, however, has concerns, and these are directly relevant to this case in that they relate to the Respondent’s opposition to Sarah being placed in her dad’s care, and his inability to give priority to Sarah’s needs in the face of the Respondent’s requests. The Respondent’s emotional disinhibition and dysregulation were referred to. The author points out that the Trust does not have clarity in respect of managing contact between the Respondent and Sarah.

6.6 The author, having noted social workers' experience, also recounted how she had witnessed some of the negative effects of the Respondent's volatility on her daughter. The core of the author's position appears to be outlined at page 18:

"There are already some signs of [Sarah] becoming more aware of her mother's presentation as outlined in the most recent Trust report when she corrected her mother after Ms. F said to the social worker in her presence that Mr. D was giving [Sarah] cough medicine every day to 'cover his negligence'.

As [Sarah] becomes increasingly aware of her mother's unpredictable mood swings, apparent lack of insight into her behaviour, and its impact on others, therein lies the potential for her to become exposed to situations of potential or actual physical or emotional harm."

6.7 The author considers the medical opinion on Ms. F which *"refers to her lack of insight inhabiting her capacity and ability to act on advice and work with professionals."* The conclusion in this respect is that, as Ms. F does not accept this diagnosis: *"this is a significant obstacle to any meaningful progress."* At page 21, the author confirms that this diagnosis raises questions about the Respondent's lack of insight into her volatile and unpredictable presentation towards others and the impact of such behaviour on others, including Sarah, who has *"often been present."* At page 22:

"Ms. F clearly loves [Sarah] ... and places a strong emphasis on her capacity as a parent to understand and meet their needs.

Ms. F can clearly meet many of the child's needs on an individual basis and when she is focused on the child and not distracted by other issues. Early social services concerns at the time of [Sarah's] birth were sufficiently alleviated for the Trust to close the case and there was no social work involvement between July 2017 and April 2019.

However since that time there has been ongoing and increasing professional concern about Ms. F's emotional and mental health and well-being and the implications on her capacity to meet in particular [Sarah's] emotional needs. She does not appear to have

insight into the impact on [Sarah] or being exposed to her mother's emotional instability and unpredictable behaviors and how this affects Ms. F's ability to provide consistent emotional care.

As [Sarah] becomes increasingly aware of her mother's unpredictability and emotional instability therein lies the potential for [Sarah] to be exposed to situations of potential or actual physical and emotional harm."

6.8 At page 24, the author continues:

"Although it appears that many overtures have been made over the years to engage and constructively with Ms. F she has essentially rejected these. There is much to suggest that she only wants to hear from others what fits with her perception of the evidence and facts and currently she is so caught up in her belief that she is right and everyone else is wrong and her sense of grievance against Social Services so pronounced that she has been unable to engage constructively with professionals.

In such circumstances the conflictual dynamic that exists in her relationship with all others involved in this case is likely to continue to exacerbate, and ultimately that will not benefit [Sarah], who shall continue to be caught in the middle until such time as she can determine her own best interests."

6.9 At page 25, the conclusion of the author in respect of the Respondent is that:

"Fundamentally she does not appear able to accept the view of any professional that does not accord with her own and therein lies a significant obstacle to constructive engagement. In many respects Ms. F has a fixed worldview, sees herself as the mother ... and believes that she is capable of parenting [Sarah] ... to a high standard and her overriding aim is for [her] to return to her care. In that sense she is unable to accept alternative views and this then results in her reacting in a very defensive way with those who share a different view to her own.

This is in many respects a very sad case because there can be no doubt that Ms. F loves [Sarah] very much and her identity as a mother is very important to her. That is very apparent."

6.10 Seen against these detailed reports, and even taking into account the claim that Sarah has suffered from various illnesses and that she witnessed a domestic violence incident in 2019, it appears that recent events have overtaken the Respondent's averments regarding that incident. She has no evidence to support allegations that the Applicant has neglected Sarah; on the contrary, the social workers whose reports are exhibited are positive in terms of his efforts, criticising him only for his continuing support for the Respondent which means that he is sometimes inclined to appease her rather than oppose her to keep Sarah safe from volatile or emotional scenes.

6.11 At page 21 of GB17, the conclusion is expressed that: *"reports from current and previous social workers would suggest that [the Applicant] is a loving and caring father to [Sarah] and that they have a close relationship."* There is no doubt that Sarah also has an excellent and loving relationship with her mum. But at least four separate professionals (three social workers and a health visitor), one of whom is the author of GB17, have observed the Applicant at home with his daughter and have expressed no concerns about his parenting or the condition of the home (see page 23, Exhibit GB17). Sarah is clean, appropriately dressed, attends school on time and has age-appropriate toys in a home which is well maintained (page 24). This contradicts the Respondent's affidavit in key respects and supports the Applicant's averments.

6.12 In respect of the Applicant's criminal conviction, this is not in dispute. But there is no correlation between a conviction, even for an offence as serious as drug dealing, and grave risk to a child of that convicted person. In this case, the relevant authorities

acted on the conviction, coupled with the incident in April of 2019, to open this file into Sarah's circumstances. Since then, the reports exhibited here show that the Applicant has worked to prove his parenting ability. There has been no reoffending.

6.13 In respect of the incident of violence, he appears to have understood better than the Respondent that there are no circumstances in which Sarah should be exposed to violence or conflict. The Respondent still does not appear to have insight into how harmful conflict and instability may be for Sarah. Even if the Applicant was responsible for what happened in April of 2019 (and it is not necessary for this Court to make that finding of fact, nor do I have sufficient evidence, tested in cross-examination, in order to do so) the contents of the professional social workers' reports exhibited suggest that there is no current risk and the Respondent has not proved that the Applicant will expose Sarah to any such situation in future.

B. The Right to be Heard

6.14 The Applicant avers that the Respondent has been represented throughout these proceedings or, at least, at all key hearings. The Respondent avers that she has not been heard and exhibits emails from her solicitors. She avers that her present solicitors cannot obtain the file from the former solicitors. However, the former solicitors, who had the relevant files, were on record in 2021 until at least July. Exhibit JF6 shows various emails from the Respondent's present solicitors: emails dated 13th June 2022 detailing how they had not received the file from her former solicitor, 22nd

June 2022 stating that the former solicitor refused to release the file, 27th June 2022 stating that the former solicitor would not release the files in absence of a court order.

6.15 GB24 (in the supplemental affidavit) contains a Northern Irish court order dated 1st September 2021 which was served on the Respondent's former solicitors. Thus, the Respondent was represented at the crucial times, i.e. in April and June of 2021 when the basis for the above-cited reports was laid. The medical diagnosis was made in February of 2021. Again, while she does not accept it, the Respondent is aware of it and she was, or should have been, aware of the contents of the reports exhibited here as a firm of lawyers was representing her throughout the relevant time. This diagnosis and the reports spell out clearly why she lost custody of her daughter.

6.16 While the final order was made in September 2021, and she says she was not heard, her former solicitors appear to have remained on record. If there was no appearance in court on that day, there is no claim that the reports were somehow kept from her. In these circumstances, I find it difficult to accept the mere averment that she has not been represented or heard when the only support for this claim is an email exchange, which took place much later, about obtaining her files. She appears to have been legally represented for most, if not all, of these applications.

6.17 However, and in the context of a hearing on affidavit only, it is useful to comment that my role is to consider if there is a grave risk of harm in the event of a return. While I am not required to review the processes of the courts in another jurisdiction, clearly all courts have a role in preventing an injustice. The Respondent's

claims have been clearly set out in her affidavit and summarised here. Any court dealing with this case in Northern Ireland will have access to this judgment and will be aware of the claim that the Respondent has not been heard. It is not my role to direct how any hearing should be conducted and the courts in Northern Ireland will have their own court files and therefore, will know better than this Court how much truth there is in that averment. I trust the relevant court in Northern Ireland to be mindful of this claim and address it, which will be of assistance to the Respondent.

6.18 In addressing some of the Respondent's arguments about social workers and courts appearing to take the Applicant's side, this Court must be guided by the evidence and much of that is contained in the reports, three of which are from Guardians ad Litem and one was compiled by a social worker unconnected with the case. These reveal that although the Applicant has done things that might suggest he would make a bad parent, when this has been pointed out and explained to him, he has worked hard to improve his own parenting ability. One example is an effort to completely stop taking cannabis, let alone commit any further offences. Another is the parenting course already mentioned and the various exchanges with social workers and health professionals, all of which are reported as positive in that this is a man who wishes to be the best parent he can. It is important to note also that he has excellent support from his father and a close-knit family whom he sees regularly.

6.19 By way of contrast, and no matter how loving and how competent she may be in many ways, the Respondent has not engaged with the social workers or health

professionals to the point of being actively confrontational. In many cases, confrontations have occurred in Sarah's presence and this has been documented (see GB15). In those circumstances, there is no attempt on the Respondent's part to learn how to protect Sarah from her mum's volatility, or indeed how to co-parent with the Applicant, who is fully entitled to see his daughter and is working hard to make sure that Sarah has his support.

6.20 It is notable that a common theme in the reports is that the Applicant has broken agreements about safety and the protection of Sarah but always in one respect only: that he has allowed her to spend time with her mother. The relevant authorities have expressed concern about the Respondent's inability to manage her emotions and negative influence on Sarah particularly when confronting the Applicant. He appears to take the path of least resistance and, being very fair to the Respondent, characterises her as a good mother. As he has recently begun to realise, this is not always the case when a child is exposed to instability and conflict. The Respondent submitted that the guardians had concerns about the Applicant's ability to be the full-time carer for the child but this was in one key respect: they doubted his ability to shield the child from the effects of her mother's volatility.

6.21 Over this period, there have been three Guardian Ad Litem reports. These are reviewed in Exhibit GB15 but are also exhibited in full at Exhibits GB19, 20 and 21. The Respondent relies on these and argues that, in the reports, the guardians queried the level of faith placed by the Trust in the Applicant and in his ability to parent. In

particular, the Respondent points to the emotional harm that may have been suffered by Sarah. However this is to ignore the reason for their hesitation: they report that the Applicant has, on more than one occasion, let the Respondent have unsupervised access to her daughter despite a safety plan which limits her access to particular times and with supervision from a brother. While it speaks highly of his loyalty to the Respondent, it is contrary to the safety plan for Sarah and is due to observed conduct on the Respondent's part, not to a vendetta or conspiracy against her.

6.22 While it is not this Court's function to review the decisions taken by the courts in Northern Ireland, I have revised all of the exhibits and quoted a selection of passages which support the conclusions the courts have reached in this case. The materials presented to this Court fully support the Applicant's case that he has been awarded custody and that, despite his having taken her side on many occasions and having defended the Respondent's position as a mother, he is now willing and able to care for Sarah and appears to recognise the danger for Sarah in allowing her unsupervised access with her mum. There is insufficient evidence to establish that Sarah is at risk while in his care generally, let alone grave risk.

6.23 It would be far better for Sarah to have meaningful contact with both parents. That appears to be unlikely as long as the Respondent ignores the reasonable requests of the social workers and court appointed professionals to contact them and let them do their jobs: protecting Sarah from emotional abuse. This term includes being

present at the kind of conflict that occurs when the Respondent is in a heightened emotional state, as when she confronts social workers. This is damaging for Sarah.

6.24 There is a long and confrontational history between the Respondent and the childcare authorities in Northern Ireland, much of which pre-dates Sarah's birth. But if, for the sake of argument, it was true that a social worker had taken an unfair view or even was agitating against the Respondent, it is a matter for the courts of Northern Ireland, not for this Court, and should be raised at the first opportunity in those courts.

C. Welfare in Ireland

6.25 The Respondent submits that the child is getting on well in Ireland and exhibits a letter, exhibit JF7, from a teacher to this effect. The letter is handwritten, dated 12th October and with no heading from the school. The teacher's name is given but no contact details. The letter is addressed "To whom it may concern". Even if the letter is genuine and there was no debate about it at the hearing, it speaks only of one teacher's experience of this child in a short period of months.

6.26 The Respondent is not currently in contact with those in the Trust, or indeed with the Applicant, whom she was in conflict with over childcare issues. While this may result in an easier situation for the child in the context of her mother's mood and stability, it has been achieved by removing her from the Applicant's care which was the world she knew from September 2021 i.e. for nearly a year and for a substantial

portion of her young life. Before then, she had experienced the shared custody of both parents. This was a serious rupture in the child's life.

6.27 The child's attending at school here has been achieved by taking her out of the care of and away from contact with her father. The weight to be attached to this letter is minimal in circumstances where the best interests of Sarah must include returning her home and allowing her to maintain a relationship with both parents.

6.28 When one considers the requirements of the Convention which overwhelmingly favour a return of this child, a letter saying the child is happy at school is of very little weight in determining what is best for her. This is not a welfare hearing but a consideration of the objectives of the law when implementing an international convention to prevent child abduction and this Court must prioritise the urgent return of a child to her home unless a grave risk to her is clearly established on the evidence. There is minimal such evidence here, even considering other averments of the Respondent, and none that cannot be more appropriately addressed by the courts in Northern Ireland.

7. Conclusions

7.1 This application is to return a child to her home. Sarah is very young and is already under the supervision of the social welfare authorities in Northern Ireland.

7.2 The Respondent has received a medical diagnosis which she does not accept. Her love for her daughter is well documented in the papers exhibited by the

Applicant, but so too are her shortcomings relating to that diagnosis which create a volatile atmosphere for her child. The overwhelming thrust of the exhibited reports is that, since his criminal conviction, the Applicant has made huge efforts to improve his parenting skills such as to impress all the professionals involved in Sarah's case.

7.3 Meanwhile, the Respondent has shown herself to be unwilling to work with the relevant social workers and there have been a number of incidents, witnessed by social workers, in which there has been conflict between the Respondent and others (not just the Applicant) when Sarah is present.

7.4 The independent report of April 2021 notes that Sarah has become more aware of her mother's emotional instability and predicts that there is potential for Sarah to be exposed to physical or emotional harm if left in her mum's care.

7.5 Finally and significantly, the courts in Northern Ireland must be trusted to continue to protect Sarah and put her best interests first. The extensive quotations from the exhibits, particularly the 2021 independent report, are set out here to explain clearly why the Court must make the order to return this child, given the strong evidence of continuing and comprehensive support for Sarah. The evidence establishes that, on the balance of probabilities, the courts in Northern Ireland are both willing and able to support and protect Sarah.

7.6 There is no support for the averments that the Applicant has been negligent. Despite a conviction for a serious offence, this Applicant has worked hard to become

a better father and has also supported the Respondent's right to see her child, perhaps too generously. In the circumstances, this Court must order the return of the child as a matter of urgency.

The return having been ordered, a stay was placed on the order until Friday the 13th of January, to facilitate any appeal being lodged. The Court directed that the *in camera* order be lifted insofar as this was necessary to release the relevant papers, the judgment itself and the relevant orders to the Child and Family Agency and to release the same documents to the relevant social workers, legal teams and courts in Northern Ireland.