

Re S 2020 Case Summary

Y1KBW Newsletter | 05.05.2020 | [Victoria Halsall](#)

Re S (Parental Alienation Cult)

Case number: [2020] EWCA Civ 568

- The father's appeal from refusal of his application for a previous Child Arrangements Order to be varied to provide that his 9 year old daughter Lara to live with him, as opposed to under a shared care regime.
- Appeal hearing using communication technology

Facts:

- F and M separated when Lara was one. After separation there were communication difficulties and some LA involvement, including F raising concerns about M's involvement in Universal Medicine, a 'healthcare organisation' [20]
- Original order made in June 2017 - shared care regime and by agreement PSO barring the mother from taking Lara to any Universal Medicine workshops, imposing the doctrines upon Lara, discussing it with Lara, or taking her to premises of any events [24]
- There was a further LA assessment in August 2018 [26] which did not identify any risks but noted the ongoing disagreements between the parents
- In July 2018 F wrote to M indicated it was clear she had breached the PSO by taking Lara to 'the Lighthouse' (the organisation's European base) [28]
- In October 2018 a four person jury in New South Wales, Australia found that the Universal Medicine was a socially harmful cult and its leader Benhayon to be a sexually predatory charlatan who had assaulted female students including Ms Rockett, and had an indecent interest in children as young as ten [30]
- F made his application in January 2019 seeking variation of the order due to M's continued involvement in Universal Medicine [31]
- Cafcass officer Ms Ware found that M did not understand the concerns about Universal Medicine, and stated Universal Medicine was a cult and the involvement was harmful for Lara in terms of restricted diet, behaviour and beliefs [41]
- Ms Ware stated she doubted M would extricate herself from the cult given her heavy

involvement and her continued support for it [41] without significant therapeutic support and a true commitment to do so, and that a result there was a risk of M alienating Lara from F [42].

- At the final hearing in November 2019 the trial judge found that continued exposure to Universal Medicine was harmful to Lara [54] and that:
 - Universal Medicine was a cult [55] with some potentially harmful and sinister elements;
 - The mother had exposed Lara to these beliefs and influenced her way of thinking [55] giving rise to risks;
 - Alienation of Lara from her father had started to occur [55]
- However the judge left in place the order of 2017 on the basis that a change would be unsettling and distressing and should not be done unless it was outweighed by harm of Universal Medicine to Lara [55].

Appeal

- F filed the Appellant's Notice on 13 February and permission was granted on 14 February [70] on three grounds:
 - There had been a flawed assessment of the risks flowing from his findings and that undertakings were sufficient protection
 - There had been an inadequate response to the finding of alienation;
 - It was wrong not to particularise the detail of the undertakings the judge required the mother to make before making the order.
- Despite not having applied, in her respondent's notice the mother set out reasons for cross appeal which she confirmed she was seeking permission for at the oral hearing [78]. Permission was refused on all grounds [87].
- The judge set out the law regarding freedom of belief [4-6] and parental alienation [7-13].
- The court found that the measures taken by the trial judge to minimise the risk to Lara were highly unlikely to be effective [90] and it was difficult to know what led the judge to believe the mother would change her beliefs. Neither therapeutic support nor a true commitment to change had been met and no reasonable basis for the judge to expect

them to be met in the foreseeable future.

- The mother had disregarded (as no reasonable parent would) the Australian court judgment [91].
- From beginning to end there had been no sign that the mother actually wanted to distance herself and Lara from Universal Medicine. [92]
- The dismissal of the father's application at a point where the mother was yet to give any undertakings at all represented a clear failure to get to grips with the rooted problem that the judge had identified [93]
- The inability of the court to identify undertakings that were both voluntary and sufficient should have alerted the judge to the intractable nature of the problem. In the situation that then existed, the harm arising from Universal Medicine (both from its teachings and its divisive effect) was set to continue [93]
- Having found that a process of alienation had started to occur, the judge did not take effective steps to counter it [94]
- The orders made following the dismissal of the father's application were not made in any recognisable proceedings and disclose no identifiable strategy for addressing the damage that was being caused to Lara's relationship with her father. There was no incentive for the mother to change her approach of laying all problems at the father's door, with time passing all the while. [94]
- The judge would have done well to have addressed the insinuation of sexual impropriety that was a feature of the mother's presentation. She had been bringing the matter up on and off since May 2015.
- It was particularly striking that she should promote suspicions about the father, despite the lack of any evidence, when she is at the same time impervious to proven allegations against Benhayon. This state of affairs was capable of providing support for the father's case in relation to alienation, but it did not receive any attention in the judge's overall evaluation [95]
- The third respect in which the judge erred is in relation to the nature of the different sorts of harm that he was balancing. He correctly reminded himself that he was concerned with Lara's medium to long term welfare, it was not felt he brought that objective sufficiently into account when reaching his conclusion [96]

- The Court of Appeal inferred that he found that the harm arising from a move to the father's care would outweigh all other forms of harm which minimised the continuing and untreated harm to Lara from Universal Medicine and from the developing parental alienation while at the same time it gave inordinate weight to the disadvantages of change designed to address the deep-seated problems within the family. [97]
- As a result the appeal was allowed [98].
- Consideration of whether the court should make a final order [99-103] and in the end a decision was made to remit for a further final hearing to the President of the Family Division to give the mother one last chance to leave Universal Medicine and start intensive therapy.
- Although normally no preconceptions would be given about the outcome of a remitted hearing, the court indicated that the factual findings of the trial judge would stand and the evaluations of the harm caused to Lara by Universal Medicine and by alienation from her father were left undisturbed by the appeal.
- *“Above all, and so that the parties are left in no doubt, we warn that we foresee that without a wholesale transformation in the mother's position the court at the further hearing is likely to find it necessary to transfer Lara's care to her father” [104]*



By Victoria Halsall - [click here to view profile](#)