

***Eddon and Eddon* [2012] FCWA 104 (6 November 2012) – Family Court of Western Australia**

‘Emotional and psychological abuse’ – ‘Parenting orders and impact on children’ – ‘Relocation orders’

Proceedings: Relocation and parenting orders.

Facts: The mother was born in England and the father was born in Australia. They had one child together. The mother sought orders to have sole parental responsibility for the child and permission to relocate the child to the UK. Her case revolved around the claim that the father’s sustained emotional abuse towards her transformed her from a strong, independent woman into a nervous wreck who needed the support of her family in the UK (see evidence [31]-[80]). The father sought equal shared parental responsibility and that the child live with the mother in Australia.

Issue/s: What parenting and relocation orders were appropriate in the circumstances?

Reasoning/Decision: First, in relation to the issue of allocating parental responsibility, Thackray CJ noted that the presumption in favour of shared parental responsibility did not apply because of the father’s violence. In the circumstances, it was appropriate for the mother to have sole parental responsibility for the child. His Honour was satisfied that the mother would seek to involve the father in any important decisions about the child and that she would make the right choices for the child (see [157]-[160]).

Second, Thackray CJ turned to the issue of the planned relocation. His Honour noted that this case involved choosing the least bad alternative, as neither of the proposed outcomes was in any way satisfactory. If the mother relocated, the child would effectively be denied a meaningful relationship with his father, at least for some years until the father could afford to see him more regularly. If the mother was not permitted to relocate, there was a serious risk that she would fall into a state of depression, leading to the likelihood of a damaged attachment with her child. This would be extremely damaging to the child in the long term. In His Honour’s view, this factor was of far greater importance than the ‘significant, but not severe grief’, the child would face if not permitted to see his father regularly. The mother was therefore permitted to relocate to the UK to obtain support from her family to recover from the abuse she suffered.

His Honour concluded at [166]-[167]:

Although not a factor I need to take into account, there is potential for the outcome of cases such as the present to have a salutary impact on the behaviour of other parents. Unless the best interests of the child demand otherwise, it cannot reasonably be expected that one party to a relationship can behave in an abominable fashion, cause severe emotional harm to the other party, and then insist that they continue to live nearby so that they can continue to have a close relationship with their child. The strong emphasis given by our law to the importance of protection from violence would be undermined if any different message were conveyed.

Notwithstanding his past conduct, it is impossible not to feel some sympathy for the father who I consider not only has gained some appreciation of the consequences of his behaviour, but wants to do the best he can for his son. His behaviour has been much improved, and he should be commended for that. But, unfortunately, as was put to him in cross-examination, it is a case of “too little, too late”. The damage has been done. All the father can do now, which I am satisfied he wants to do, is to make amends. It is not too late for him to be a good father, but he will have to achieve that by allowing the mother time to recover, which I am persuaded she can only do if she is permitted to go home’.