

**NOTE: PURSUANT TO S 139 OF THE CARE OF CHILDREN ACT 2004,
ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B TO
11D OF THE FAMILY COURTS ACT 1980. FOR FURTHER
INFORMATION, PLEASE SEE
[HTTP://WWW.JUSTICE.GOVT.NZ/COURTS/FAMILY-
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**IN THE FAMILY COURT
AT NELSON**

**FAM-2015-042-000094
[2016] NZFC 2673**

IN THE MATTER OF THE CARE OF CHILDREN ACT 2004

BETWEEN DANIELLA HUGHES
 Applicant

AND TUCK WATERMAN
 Respondent

Hearing: 31 March 2016

Appearances: A N Gulbransen for the Applicant
 S J Heney and A B Munting-Kilworth for the Respondent
 M J Duggan as Lawyer for the Children

Judgment: 31 March 2016

ORAL JUDGMENT OF JUDGE R J RUSSELL

[1] These are proceedings under the Care of Children Act 2004 for Star, Austin and Timo Waterman. It is a directions conference.

[2] The children's mother, Ms Hughes, is here with her counsel, Ms Gulbransen. The children's father, Mr Waterman, lives in the United States. His interests are represented today by his counsel, Ms Heney and Ms Munting-Kilworth. Ms Duggan appears as Court-appointed counsel for the three children.

[3] The position here is Ms Hughes and the children have relocated from the United States to live in New Zealand. The permission for this relocation was sought and obtained in the United States jurisdiction so there are no Hague Convention issues in this case.

[4] On her arrival in New Zealand Ms Hughes obtained a parenting order placing the three children in her primary day-to-day care. There was an order that Mr Waterman was to have no contact with the children until further order of the Court. This order was made on 1 April 2015.

[5] At the same time Ms Hughes sought and obtained a temporary protection order against Mr Waterman. This included the three children as protected persons under the order. It became a final order, without opposition from Mr Waterman, on 1 July 2015.

[6] The Care of Children Act proceedings were considered by Judge Grace on 14 January, and he addressed two issues:

- (a) The appointment of a lawyer to represent the three children. Ms Duggan has been appointed in that role.
- (b) Judge Grace also addressed whether a psychologist's report should be obtained under s 133 of the Act. Ms Duggan was tasked with preparing a brief for the psychologist.

The case was adjourned to today for review.

[7] Mr Waterman's position is he would like to have contact with the children at such times as he may visit New Zealand. He would also like to have, in due course, the children return to visit him in the United States.

[8] Ms Hughes's position is she opposes all forms of contact because of findings which were made about one or more of the children being molested in the United States. These issues have, I am told, been already dealt with in the US jurisdiction. I am told the decision there may possibly be an appeal pending, although I do not have any further information about this. It is because of the findings in the US Courts that Ms Hughes opposes Mr Waterman having any form of contact with the children.

[9] Ms Heney has said Mr Waterman would agree to supervised contact, at least in the initial stages of his visits with the children in New Zealand, and he is prepared to contribute towards the costs of that. Ms Heney said she is preparing, and will shortly file, an application to further define the actual times and terms of the contact sought.

[10] In her second report, Ms Duggan said she has met with the children and ascertained their views. Two of them want to have contact with their father, and the other was not sure how she felt about that issue. Ms Duggan explained she is struggling to see how a New Zealand Court-appointed psychologist could complete a proper report for this Court to consider these issues without having access to the information which has been presented to the US Courts. All counsel agree with this view.

[11] Ms Heney asked for directions for the obtaining of the information from the United States Court system relating to these children. All counsel agree that until this information is to hand, the completion of the s 133 psychological report directed by Judge Grace should be deferred. All counsel agree this case should be classified as a complex track case in the New Zealand Family Court jurisdiction. I agree with their submissions.

[12] I am going to authorise the release of this decision for counsel to forward on to the appropriate US Court authorities for decision about the release of information

they hold. For the benefit of the US decision-maker, if the reports and other information on the US file is able to be sent to me in the first instance, I am able to review it and determine who and how persons gain access to that information. Obviously the New Zealand-based psychologist preparing the Court ordered report would need to see it. The parties' lawyers should also be able to see it, including Ms Duggan representing the children. I would be inclined, however, not to authorise any further copying or release of the information beyond that to protect the children's interests, given what appears to have occurred in this case.

[13] I consider the information held by the US Family Court system which would be of assistance in determining what are the appropriate care and contact arrangements for the children would be any professional and medical reports prepared and filed in the US jurisdiction, copies of pleadings which have been filed, and transcripts of evidence taken and a copy of any decision which has been made by a US Family Court Judge or Judges.

[14] Against this background, I make the following orders and directions:

- (a) I classify this case as a complex track case. The proceedings are to be adjourned to a further case management conference in six weeks from today, at a time to be advised by the registrar.
- (b) I direct the commissioning of a s 133 psychological report be put on hold pending that case management conference and an assessment of counsel's ability to obtain the information I have referred to in this Minute sought from the US jurisdiction.
- (c) These proceedings are adjourned to a date and time to be advised by the registrar.

R J Russell
Family Court Judge