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By email & Recorded delivery

31st March 2011

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our ref
LA/SO/11951/3/AW/AP

your ref

Dear Sir

Re: Emily Newbold-Smith

I write further to your recent correspondence and attach by way of service, transcripts of the Judgement of HHJ Hollis of 17th February 2011 and the note of the discussion following the same. Kindly acknowledge receipt.

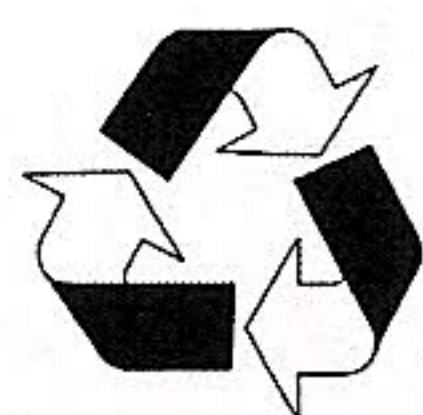
I also refer to your letter regarding the Letter Box contact meeting of 11th May 2011 with your transcript of the same. The transcript is agreed and will be placed on the bundle. I have therefore forwarded a copy to the Court and to solicitor for the children.

I refer to this document as a transcript as it would appear to be such. I remind you that you do not have the consent of the Local Authority to record any meetings with any of their staff and that to do so without such consent, is a criminal offence.

The draft transcript of my notes of the hearing on 1st March 2011 is with Counsel for the Local Authority and the children, for agreement as the Order of HHJ Hollis of 1st March 2011.

Yours faithfully

Andrea Weddell
for Assistant Director
Legal and Democratic Services
Enc



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1 **IN THE HASTINGS COUNTY COURT**

No: HB10C00055

2 The Law Courts
3 Bohemia Road
4 Hastings
5 East Sussex TN34 1QX

6 Thursday, 17th February 2011

7 Before:

8 **HIS HONOUR JUDGE HOLLIS**

9 - - - - -

10 **EAST SUSSEX COUNTY COUNCIL**

Applicant

11 - and -

12 **MARTIN NEWBOLD**

Respondent

13 - - - - -

14 **MR. TREGONING, Counsel** appeared for the Applicant

15 **THE RESPONDENT** appeared in person

16 **MS. WEBBER, Counsel** appeared for the Guardian

17 - - - - -

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25 **DISCUSSION AFTER JUDGMENT**

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1 MR. TREGONING: [Recording starts mid sentence] ... the
2 additional time for this afternoon. It has given us an
3 opportunity to draft some proposed directions for your
4 Honour's view. Those are before you now, your Honour. I have
5 had an opportunity to go through those proposals with
6 Mr. Newbold and I have sat down and discussed them with him in
7 terms of the arrangements for the adjourned final hearing. I
8 am pleased to be able to say that within the context of the
9 decisions that have been made Mr. Newbold does not appear to
10 have any specific disagreements with those proposals.

11 Your Honour, I have of course been also to the listing
12 office in view of your Honour's comments about when the matter
13 should come back for a final hearing.

14 JUDGE HOLLIS: Yes.

15 MR. TREGONING: I have been told that the first two weeks in July
16 are available for your Honour.

17 JUDGE HOLLIS: Shall I put down 11th and 12th July?

18 MR. TREGONING: Yes, your Honour.

19 JUDGE HOLLIS: That is here?

20 MR. TREGONING: It was venue to be confirmed by the listing
21 office. They were not sure whether you would be sitting in
22 Brighton.

23 JUDGE HOLLIS: I will tell them I am here.

24 MR. TREGONING: I am grateful, thank you. Your Honour, the only
25 other issue which I seek to raise at this time is in relation

1 to the slightly delicate matter of disclosure. It is proposed
2 by the local authority that very limited documents are
3 disclosed to the NSPCC to assist them in their counselling of
4 Lauren. I have discussed this with Mr. Newbold and Mr.
5 Newbold has very helpfully said that he does not have any
6 objections. Of course, your Honour, you will be aware that in
7 any event family proceedings rules allow for that disclosure
8 but I thought it best to raise it today as there was no issue
9 about it.

10 Similarly in relation to children services in Newry,
11 documents that they require will also be disclosed, again
12 Mr. Newbold has been very helpful in not opposing that
13 proposal.

14 JUDGE HOLLIS: I will put it in the order.

15 MR. TREGONING: I am grateful.

16 JUDGE HOLLIS: Leave to disclose court file bundle -- everything?

17 MR. TREGONING: I think in relation to the NSPCC it was proposed
18 that it would be a chronology and the report of Dr. Krahenbuhl
19 in relation to the children services in Newry there was not a
20 specific proposed reading list but I would imagine relevant
21 experts reports and social work evidence would probably
22 suffice, your Honour, and reports of the guardian.

23 JUDGE HOLLIS: Social worker's evidence, Dr. Krahenbuhl's, you do
24 not want Dr. Krahenbuhl's report, my judgment ----

25 MR. TREGONING: To the NSPCC it was proposed Dr. Brackenhbull's

1 report but to children services Newry it was proposed that it
2 would be, you know, professional assessments, your Honour,
3 and, of course, your judgment.

4 JUDGE HOLLIS: You will be getting a transcript of today's
5 judgment presumably?

6 MR. TREGONING: Yes, your Honour, we will.

7 JUDGE HOLLIS: So my judgment today and, when was it?

8 MR. TREGONING: 21st July.

9 JUDGE HOLLIS: 21st July. So it is social worker's report, Dr.
10 Krahenbuhl's report, my judgment today and 21st July 2010.

11 MR. TREGONING: Reports to the guardian.

12 JUDGE HOLLIS: I do not think there is anything there that is
13 going to add anything much from their point of view.

14 MR. TREGONING: Yes.

15 JUDGE HOLLIS: I think that is probably as far as it need go. As
16 you say you do not formally need my leave.

17 Now, you ----

18 MR. TREGONING: Your Honour, forgive me for interrupting. Also
19 the chronology.

20 JUDGE HOLLIS: The chronology, of course.

21 Mr. Newbold, you had lodged in anticipation a note
22 asking for permission to appeal.

23 MR. NEWBOLD: Yes.

24 JUDGE HOLLIS: I take it that you are asking for permission to
25 appeal, is that correct?

1 MR. NEWBOLD: Yes, your Honour. I would like to address you, if I
2 could do, before that.

3 JUDGE HOLLIS: Yes.

4 MR. NEWBOLD: I am a little confused because I can't remember what
5 you said about a certain situation, it was on Monday when you
6 referred to the statements that both my mother and myself put
7 into court and I wondered if you could remind me what you
8 actually said.

9 JUDGE HOLLIS: The statements that you made about what you say I
10 had said that ----

11 MR. NEWBOLD: Yes, that is correct. I just wanted clarification
12 because I could not remember ----

13 JUDGE HOLLIS: ---- I listened to the tape and I had not made any
14 such remark.

15 MR. NEWBOLD: So, how do you ... If you ... Is that your statement
16 about it?

17 JUDGE HOLLIS: Well, I was just telling you that you were wrong.
18 Obviously when somebody raises such a serious matter I wanted
19 to make sure that I had not in some way misdirected myself.

20 MR. NEWBOLD: Right.

21 JUDGE HOLLIS: And that I had not said anything that may have been
22 open to misinterpretation.

23 MR. NEWBOLD: OK.

24 JUDGE HOLLIS: So I took the precaution on Monday, before we
25 started, of listening to the tape of what I said at the

1 conclusion of the last hearing and I am afraid your
2 recollection is inaccurate.

3 MR. NEWBOLD: OK. Erm ----

4 JUDGE HOLLIS: I am sorry if you misheard me, but what I was
5 talking about was their plans that I was going to have to
6 approve and I indicated that I would be concerned being asked
7 to approve a plan that was a final plan. I wonder if that is
8 what led you to misunderstand what I said.

9 MR. NEWBOLD: OK. Erm, you suggested that I might have a
10 pedophilic nature and I refer you to all the expert's reports
11 ----

12 JUDGE HOLLIS: No, I have not made any such suggestion ----

13 MR. NEWBOLD: Right, I can ----

14 JUDGE HOLLIS: My only remark about that was quoting from the
15 report of Mr. Zeitlin. I will look at my note and I will tell
16 you what I said because it was the only time I used that term,
17 it is not a term I like to use unless I absolutely have to. I
18 was quoting from Mr. Zeitlin. Mr. Zeitlin, page 196, "...
19 that Lauren's abuse should be viewed more in terms of control,
20 possession and entitlement, than in a deeply entrenched
21 pedophilic attraction to pre-pubescent children". That is
22 what Mr. Zeitlin said.

23 MR. NEWBOLD: I would also like to state that I am the only active
24 biological parent who is involved with the children and to
25 remove me from the children would appear to be draconian and

1 extreme. I go on to ask you, your Honour, may I have
2 permission to appeal? My legal premise for that is that there
3 are legal arguments in reference to your application of the
4 law, human rights ... Shall I start again, sorry?

5 JUDGE HOLLIS: I am listening.

6 MR. NEWBOLD: The legal premise for that is that there are legal
7 arguments in reference to your application of the law, human
8 rights of the children ----

9 JUDGE HOLLIS: You are reading from the document you handed in to
10 me earlier ----

11 MR. NEWBOLD: ---- and myself and case management issues ----

12 JUDGE HOLLIS: ---- yes?

13 MR. NEWBOLD: No, I am not ----- which have allowed evidence to be
14 controlled inappropriately by the local authority. Also, the
15 directions allowing the local authority to drive proceedings
16 instead of the neutral guardian and thus leading to exclusion
17 of crucial evidence. In my appeal I will expand further. I
18 note I have not been allowed to make my summary. You said
19 that you would read that out in court but have not. In doing
20 so I believe you have refused me permission to make my summary
21 argument.

22 I also request a stay of the order pending my appeal
23 because the children should not be exposed to drastic change
24 and further risk of another drastic change again following any
25 successful appeal. It cannot be in the best interests of

1 children to put them at risk on a trial which may go wrong or
2 may be overturned on appeal. They should continue in their
3 current arrangement until a final decision is reached.

4 JUDGE HOLLIS: You had actually handed that in.

5 MR. NEWBOLD: I didn't know I had, sorry.

6 JUDGE HOLLIS: I do not know if you meant to. You have, of
7 course, have added the point about your summary. May I deal
8 with that point first? I am sorry if you again seem to have
9 misheard me. I don't think I ever said that I would actually
10 read it out in court. I said I would rise to read it whilst
11 you and counsel had a chance to read it and then I would ask
12 you if you had anything to add to what you said in your
13 summary. I went and spent ten minutes reading it in chambers.
14 I asked you if you had anything to add and you made a number
15 of points which were helpful and which I hope I have dealt
16 with. I have read it and I bore it in mind and, indeed, I
17 invited counsel to comment on it as well. That is the first
18 point.

19 In respect of your application for permission to appeal
20 I have had to deal with approval of this care plan with the
21 background of a plan that has the unanimous support of the
22 relevant experts who were not able to recommend Emily being
23 placed with you and with the background too of the
24 fact-finding hearing that I conducted last year which, as far
25 as I am concerned, has not been appealed.

1 The case in front of me was, indeed, overwhelming and
2 although I appreciate it is a draconian step that has had to
3 be taken it has been inevitable bearing in mind the
4 circumstances. The court had the support and recommendation
5 of the children's guardian as well. As regards an application
6 for permission to appeal under those circumstances I cannot
7 see that an appeal from me to the Court of Appeal would have
8 any reasonable prospect of success.

9 I would add that in a number of things that you have
10 said and indeed have just said I believe that you have been
11 misrepresenting the position and I caution you against
12 misrepresenting the position in the future.

13 You asked me to suspend the interim care plan subject to
14 appeal. I am not giving you permission to appeal and I am not
15 prepared to suspend the operation of the interim plan. In any
16 event it must be got on with without any further delay. These
17 children have already been in foster care for far too long.
18 Having said that, I am aware from what I have already been
19 told that the local authority's steps are not immediate and
20 you do have a few days' grace, if you are able to persuade the
21 Court of Appeal to take a different view then that would be a
22 matter for you.

23 As far as I am concerned I have dealt with this finally
24 today and that is my order.

25 MR. NEWBOLD: May I just say then, as you have denied a stay

1 order, that the contact that is left between my daughter and
2 myself and the grandmother would be changed to allow both
3 biological members to attend the remaining contact on all the
4 days?

5 MR. TREGONING: Your Honour, that has already been agreed by the
6 local authority that Mrs. Sheila Newbold and Mr. Martin
7 Newbold can attend those direct contacts. I have discussed
8 that with Mr. Newbold outside. The local authority have
9 confirmed that, I made it absolutely clear to Mr. Newbold that
10 that was agreed.

11 JUDGE HOLLIS: I am pleased to hear it. Thank you very much.
12 Thank you your for help.

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