



IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Case No: FD13P00554

[2014] EWHC 4307

19 December 2014

Before :

THE HONOURABLE MR JUSTICE PETER JACKSON

Sitting at the Royal Courts of Justice

Between :

Rachael Elizabeth Neustadt

Applicant

-and-

Ilya Neustadt

1st Respondent

-and-

Irna Mogilevsky

2nd Respondent

-and-

**Daniel Jakob Neustadt, Jonathan Neustadt and Meir
Neustadt**

3rd Respondent

(by their Children's Guardian, Ms Clare Brooks)

Edward Devereux (instructed by Dawson Cornwell) for Rachel Neustadt

Ilya Neustadt acted in person

Melanie Carew (of Cafcass Legal) for the Children's Guardian on 28 October

Hearing dates: 27 & 28 October 2014

Judgment dates: 26 November & 19 December 2014

JUDGMENT

Neustadt v Neustadt (Child Abduction)

Mr Justice Peter Jackson:

Introduction

1. This is a fact-finding hearing following the abduction of two boys, Daniel Jakob (8) and Jonathan (6). They were taken to Russia by their father, Ilya Neustadt, on Christmas Day 2012 and were only returned to the care of their mother, Rachael Neustadt, on 26 June 2014 after strenuous efforts by the authorities in England and in Russia. The father now seeks to resume contact with the boys and their younger brother Meir (2). The purpose of this hearing has been to establish the facts and to assess whether the father's expressions of regret are genuine.
2. In R v Kayami; R v Solliman [2011] EWCA Crim 2871 at paragraph 54, the Court of Appeal (Lord Judge LCJ, McFarlane LJ and Royce J) said this:

"The abduction of children from a loving parent is an offence of unspeakable cruelty to the loving parent and to the child or children... depriving the other parent of the joy of his or her children and depriving the children from contact with a loving parent..."

At paragraph 2, the Court observed:

"Child abduction, like every other offence, can take many forms. It may include the abduction of a child for a few days, or even a week or two, followed by the child's return, effectively undamaged, and, more important, although the parent from whom the separation was effected has suffered distress and anxiety in the meantime, with the loving relationship between parent and child quite unharmed. At the other extreme there are offences of forced marriage which ultimately culminate in what in reality is rape, or cases like the present, where the child is deliberately taken abroad and separated from one of its parents for many years, and the ordinary loving relationship which each should enjoy with the other is irremediably severed."

3. This case was a planned abduction, separating the two boys from their mother and baby brother for 18 months. Had the effective operation of an international treaty (the 1996 Hague Convention) by a new signatory (the Russian Federation), not led to the boys being returned to England, the separation would in all probability have continued indefinitely.
4. This is the first example of the recognition of an English order by the courts of the Russian Federation. It is an outstanding example of the value of international cooperation in protecting individual children and deterring potential abductors. The legal process has in the end defeated a determined abductor with no respect for court orders in either jurisdiction. This court expresses its profound appreciation for the steps taken by the Russian courts

and civil authorities in eventually securing the safe return of the children to their mother's care.

5. The case also demonstrates the importance of the skills and experience of the specialist lawyers who practise in the field of international family law. The mother's legal teams in London and Moscow have been instrumental in achieving the children's return. As part of the process, the English lawyers pursued a painstaking process of disclosure, piecing together information known at the time only to the father, but now exposed with clarity. The documents presented at this hearing lay bare the anatomy of an abduction. In this judgment I shall describe some of that material; it allows for little if any doubt, but where it is necessary to make contested findings of fact, I do so on the balance of probabilities.

The family background

6. The three boys were born into a Jewish family with roots in Europe and America. Their parents possess high ability and intelligence. The father is 38 years old. He was born in Moscow and lived in Russia until the age of 17. He is a Russian and German national. He was a university lecturer in England in 2011/2012 and now works in a financial position in Moscow. The mother is 37 years old. She was born in the United States and is an American national. She worked as a teacher in Zurich in 2009/2010. She now has a residence permit entitling her to live in this country.
7. The children's paternal grandmother is Irina Mogilevsky, aged 78. She is a party to these proceedings, but has played no part in this hearing. The paternal grandfather is Vadim Mogilevsky. The grandparents live in Berlin.
8. The parents met while the mother was doing a masters degree in Moscow. They married in Berlin in December 2004 at a time when they were living in Vienna. In December 2005 they moved to Zürich and the two older boys were born there in March 2006 and May 2008. Daniel Jakob has American and Russian citizenship. Jonathan has American, Russian and German citizenship.
9. In April 2010, and again in December 2010, the mother attended a hospital in Zürich, complaining of assaults by the father. On the first occasion she had a bruise on her face and on the second a bruised arm.
10. In January 2011 the family moved to London.

The parents' separation

11. In March 2011, the mother moved into a women's refuge with the children and applied to the County Court for protective orders and orders relating to children. She alleged that she was a victim of longstanding domestic violence.

The court granted her applications at a hearing of which the father had no notice.

12. In April 2011, at another without notice hearing, the father was granted a prohibited steps order preventing the mother from removing the children from England and Wales. Later that month, both parties appeared before the court and it was ordered that the father should have contact once a week in the mother's presence. He agreed to investigate anger management courses.
13. In May 2011, both parents attended a series of counselling sessions. During these, the father accepted that he had been violent and abusive towards the mother during their relationship.
14. In July 2011, a consent order was made preventing either parent from removing the children from England and Wales without agreement or court order.
15. In December 2011, Meir was born. He is an American and German national.
16. The father's contact was further regulated by orders in July and September 2012. He had by then been having unsupervised contact with the two older boys for over a year. This included a successful two-week summer holiday in England with the paternal grandparents. The mother agreed that there should be unsupervised overnight contact with the father alone once he had attended a parenting course. The Christmas holidays were to be divided equally. The matter was to return to court in January with the benefit of a further Cafcass report.

Events in late 2012

17. Between October and December, the father attended five sessions of a parenting course and was reported to be an engaged and committed parent.
18. Also in the closing months of 2012, the father started to pay child maintenance. He made payments in November and December, the last being on 20 December. He also paid for the mother to take a holiday in Switzerland over the Christmas period, returning on 6 January.
19. The mother, encouraged by these indications of a more cooperative relationship, agreed to the father's request to be able to take the older boys to Russia for Christmas. The father provided her with an itinerary and full details of where the children would be staying (at his brother Pavel's estate outside Moscow). The children were to return to London on the evening of 7 January 2013.

20. The document containing this information was created by the father and signed by the mother so the father had evidence that she consented to the trip. The father was not asked to sign anything.
21. Before the children left for Moscow, a number of things occurred of which the mother was unaware at the time:
 - On 25 November and 16 December, the father made two weekend trips to Berlin, where his parents live.
 - On 19 December, he ordered 15 packing boxes, which were delivered to his home the following day. In evidence, he says that this was because he was thinking about moving to a smaller property in London. There is no objective evidence for this and I do not accept it.
 - On 21 December the father and grandmother exchanged e-mails in which the grandmother spoke about her own departure for Moscow and arrangements that she had made for a Russian Sim card for the father's mobile phone to be delivered to him by the driver meeting him at the airport. The mother was not given this telephone number.
 - The father had accumulated a number of unpaid debts in England. He says that these now total about £50,000.

The children's departure to Russia

22. On Christmas Day 2012, the father and children left London for Moscow. It was the boys' first visit to Russia. The mother had packed a suitcase containing their best clothing for what she describes as a special trip to meet the paternal family.
23. Having arrived in Moscow, the father and children went to his brother Pavel's estate, which is about 100 km outside the city. The grandmother was already there.
24. After the children arrived in Moscow, a number of things occurred of which the mother was again unaware at the time:
 - On 26 December, the father wrote to his brother for the purpose of getting professional advice. He stated that in the British proceedings there was direct evidence for violation of his rights by reason of his being a citizen of Russia; further, that as a result of a British divorce "*children who are Russian citizens will be transported to the USA, where they will be at risk of physical violence and psychological abuse, and will not be allowed to have contact with their father.*" He asked whether it was possible to pursue a divorce in the Russian courts on a tight timetable and concluded with the question: "*Is it possible to legally formalise the status*

of children living with their father at the place of his registration in the Russian Federation?" In his summary of the family's circumstances he made no mention of Meir.

- On New Year's Day, the father flew back to London, leaving the boys in Russia with his mother. He returned to his flat and spent the next two days packing 250 kg of possessions into 10 boxes that were sent to his parents' address in Germany on 2 and 3 January. The flat was left in disarray.
 - The father arranged with Royal Mail for his post to be rerouted to a Moscow PO box. He says that this was not done until the end of January. In the absence of corroboration, I do not believe him. As a methodical man, he would probably have arranged for the redelivery of this post at the same time as he shipped his goods.
 - Late at night on 3 January, the father flew back to Moscow.
 - On 3 or 4 January, the father cancelled the child maintenance direct debit in the mother's favour. The mother received notification of this on 9 January.
 - On 4 January, the father sent an e-mail to his landlady terminating the tenancy of his property, first occupied by the family in January 2011.
 - Also on 4 January, the father wrote a letter resigning from his university employment. Although obliged to give three months' notice, he had no intention of working it. Instead, on 14 January, he told his Head of Department that he had to request leave because *"The immigration issues I have mentioned earlier could not be resolved so far, and the recent legal advice is that, currently, a return to the UK is not possible."* In subsequent correspondence with this colleague stretching into mid-February, he professed to apologise, stating that all the problems were at the British end, that he was awaiting an official reply from the UK Border Agency, and they were refusing to provide one. All this was untrue, but his employer was successfully misled.
25. The father states that he wrote to the UKBA on 4 January *"for clarification as to the position in the light of the change in my employment situation"*. As the father has not produced any correspondence to or from UKBA, I do not accept this. Even if he had written, it would only have been to manufacture a difficulty that did not exist.
26. Likewise, the father gave evidence that he had come to England to attend a job interview on 3 January with an employer whose identity he was not willing to disclose. He claims that the interview had been set up in around late November. There is no other evidence to support this, nor any explanation for

why he would make an arrangement that clashed with his holiday with the children. In all probability there was no job interview. The father came back to pack up his flat and leave England for good, secure in the knowledge that the mother was safely out of the way in Switzerland.

27. Having made his preparations, the father turned his attention to the mother.
28. On the afternoon of 5 January, he sent an e-mail to her in Switzerland entitled "*Relevant information regarding your immigration status*". In it, he said that he had resigned from his employment and that this was likely to impact on her immigration status as he was no longer exercising his right as a German citizen to be in the United Kingdom. He suggested that she mention this to the immigration officer on her return from holiday the following day "*to avoid any doubts or possible fraud issues*".
29. The mother immediately replied: "*Wow, Ilya, this really took me by surprise. When is your last day? What you intend to do for work?*" She followed it up with a message saying that she had made passport appointments at the American Embassy on 24 January for two of the children.
30. The father's next communication was not sent for a full two days.
31. Meantime, on the night of 6 January, he booked a suite in a Moscow hotel for a week from 7 January.
32. On 7 January at 2 p.m. (around the time he and the children should have been preparing to leave for the airport) the father sent this message to the mother:

"Dear Rachael,

As you correctly anticipate, that there is a need for a new visa for Daniel Jakob. Since I resigned from my position and decided to leave the UK and asked to no longer exercise the Treaty rights, both your entry permit and the recently received residence card for Daniel are very likely to be invalid. Indeed, this clause is clearly mentioned on the letter accompanying Daniel's residence card. I have sent an enquiry into the UKBA but there has been no reply yet. In this situation, according to a telephone enquiry from British Airways, an entry visa for Daniel will be necessary in order to be able to re-enter the UK and not violate the immigration law. Under these circumstances, unfortunately we need to postpone our return until all the required documents are available.

In the meantime, I assure you that the kids and I will be staying in a very safe place in Moscow and Skype and phone contact will be regular.

Best regards,

Ilya"

33. At about the same time, the father telephoned the mother to say that he and the children were in a hotel near the British Embassy and would be in touch when the immigration issue was resolved. He said that he intended to work with the Embassy to get an answer from the UKBA. He refused to give details of the hotel or how he could be contacted.

Events after the abduction

34. The mother was greatly alarmed. Throughout the following week, she contacted the Embassy in Moscow on a daily basis. She was told that the father had not contacted them.
35. On 8 January, the mother contacted the Metropolitan Police, who informed her that they could take no action until at least 28 days had passed from the date when the children should have returned.
36. On 9 January and over the days following, the grandmother sent a series of messages to the father discussing their search for a rented apartment that accepted children. On 12 January, she also suggested he consult some Moscow divorce lawyers who had been recommended to her; the father consulted a Russian lawyer in the second week of January.
37. On 10 January, the mother's English solicitors wrote an urgent letter to the father's solicitors asking for the children's immediate return. They stated that there were no immigration problems and that the mother would meet the children at Heathrow. They asked for information about where the children were.
38. On 11 January, the father's English solicitors forwarded this letter to the father, saying:

"The situation seems to have calmed down BUT, please do not return before you have spoken to us. We need to be sure you have a safe return and will not be arrested. Please let me know what you are proposing and I will just ensure the matter has not been reported to the police. This is not to say that you should stay in Russia but we just need to protect you as much as we can. As I say, we are very experienced in the tactics in these cases.

All may seem okay on the surface but we MUST know if she has contacted the police. Her 'reasonable' attitude may be to get the children back and then she will strike."

This advice, disclosed by the father at this hearing, is predictably produced by him to show that he had been advised that he should not return to the UK due to a risk of arrest.

39. The father's solicitors wrote to the mother's solicitors on 14 January stating that the father was *"doing his very best to sort this out so they can all return here as quickly as possible. We understand our client has made continued attempts to contact the UKBA via e-mail and telephone and he has stressed the highest urgency of this situation."* This misleading presentation, presumably based on the father's instructions, briefly reassured the mother's solicitors, but they soon became concerned at the lack of information. It was only on 18 January that the mother was told the name of the hotel where the children were staying. In the meantime, the father was allowing sporadic Skype calls.
40. During this period, the mother sent a series of placatory messages to the father, an example being a message on 11 January that began: *"Thank you SOOOOO much for speaking with me on the phone to let me know what is going on."*
41. On 11 January, the father registered Daniel Jakob in school in Moscow without reference to the mother. He registered Jonathan at a kindergarten a week later.
42. The mother went to great lengths to show the father that there was no difficulty in the father and children re-entering the United Kingdom. This consisted of four communications that she sent as *"fantastic news"*:
 - A letter dated 15 January 2013 from a specialist London immigration solicitor setting out the circumstances and concluding *"there is no bar to them entering the UK."*
 - A letter dated 15 January from a specialist UK immigration consultant, concluding *"we see no reason whatsoever why Mr Neustadt should not be able to re-enter the United Kingdom together with his two sons with ease ..."*
 - An e-mail dated 16 January from an officer at the British Embassy in Moscow, stating that the father could return to England on his German passport and that the children would have no problem travelling with him.
 - An e-mail dated 16 January from the UK Border Agency, to the same effect.
43. On 16 January, the father replied:

"Thank you for sending me the several documents in your emails. Whilst the immigration advices quoted by you give some valuable general information, they are unlikely to be directly applicable in my case as they fail to take into account several relevant circumstances that cannot be neglected."

44. The father's account, which I reject, is that he only made the decision to keep the children in Russia on 14 January. As can be seen, he did not tell the mother that this was his intention.
45. Over the following days, the mother sent a number of e-mails to the father, pleading with him to return the children. In so far as the father replied in writing, this is an excerpt (21 January):

"I can understand your position and I feel with you. I don't have an opportunity right now to address all the remaining concerns regarding the immigration issues but I will do so in due course."

46. On 22 January, the father e-mailed a poem by Nietzsche to the mother. It is entitled "Vereinsampt" ["Alone"]. The mother correctly interpreted this as the father crowing. They spoke on the telephone on a few occasions. The mother describes the father as being belligerent and cruel, suggesting that she should seek psychological help and saying that as he held all the cards, she should start grovelling or face the consequences. I accept her evidence.
47. On 22 January, the mother sent an e-mail to the grandmother asking for news, and received this reply the following day:

"There is no news that now, we need to wait. Don't worry about the children, Ilya is taking good care of them, they eat well. The children like to have snowball fights and go skiing."

48. The mother replied, expressing her distress and asking for help. She did not receive a reply. Instead, on four dates in mid-January the grandmother, who was then in Berlin, signed for delivery of the father's boxes from London.
49. On 22 January, the father's English solicitors ceased to represent him as he was not communicating with them or paying their bills.
50. On 27 January, the mother appealed to the father's brother. The following day, Pavel replied, saying that he did not want to intervene and that the father had never talked to him about these problems.
51. On 29 January, the father had this Facebook exchange with a friend:

"[Friend]: You have decided to return to Moscow after all? Are you here for long?"

[Father]: Yes, I made the final decision last summer to relocate back to Moscow so I'll be here a long time!"

52. On 31 January, the father applied to the Russian Federal Security Service for a border stop to be put in place to prevent children from leaving Russia, and these were granted with effect from 5 February. The mother was not aware of this at the time: the father's actions show that, far from removing obstacles to the children's return, he was erecting them.
53. At the end of January, the father and grandmother moved with the children to a rented flat.
54. On 5 February, the mother wrote to the grandmother again:

"Please talk to Ilya. He has to understand that it is not his interest to delay the return of the children to me. I know that you really love your son and your grandsons. Please, help Ilya, explain to him that it will be best for all if he thinks better of it and returns the children to me. Otherwise, this will have a negative impact on the children and their relationship with their father in the long term."

She received no reply to these prophetic words.

55. On 7 February, the mother travelled to Moscow for a five-day period. The parents met at the office of the Chief Rabbi of Russia to discuss their divorce, but the children's return was not on the agenda. During this visit, the father only allowed her to see the children once (on 11 February) under close supervision by the grandmother and himself a security guard from the office of the Chief Rabbi.
56. In mid-February, the mother made a formal complaint to the Metropolitan police.
57. On 6 March, the parties were divorced by civil procedure and on 19 March by religious procedure.
58. On 7 March, the father ordered a book online that was delivered to the mother a few days later. This was "*Glory*" by Nabokov, which describes a Russian émigré who re-enters Russia secretly and succeeds in keeping his whereabouts unknown from family and friends.
59. On 14 March, the father (who had previously gone there to attend an interview) was offered a university post in Kazakhstan. He accepted the job, which had a start date in August, but he did not ultimately take it up. He told the mother nothing about this. It is relevant to the mother's evidence, which I

accept, that in June 2013 he threatened that if she was not careful he would disappear with the children so that she would never find them again.

60. The children's Skype contact with their mother was strictly controlled by the father and grandmother. From March 2013 onwards, Jonathan began to call his mother "*Babushka*" – "grandmother" in Russian.
61. On 15 March, the mother began wardship proceedings in this country and the first of eight High Court orders requiring the father to return the children was made. He ignored them all.
62. On 1 June 2013, the Russian Federation ratified the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children*, known as the Hague Convention 1996.
63. On 5 June, the mother applied to the Moscow City Court for the recognition and enforcement of the English orders under the Convention.
64. Between June and August, the children spent the summer on their uncle's estate, a very large property that is secured and inaccessible to outsiders.
65. In July 2013, the father began his current job in Moscow, which he can apparently perform without having to attend an office.
66. Between 13 and 19 June, the mother travelled to Moscow for a second time in an attempt to see the children and to engage in a legal mediation process with the father. During legal meetings, the father said to the mother "*I am their mother now. I am mother and I am father.*" and called her "*The American enemy.*"
67. On this occasion, the mother was allowed three short supervised visits, the father bringing the children into Moscow for the purpose. On the second occasion, the grandmother complained, saying "*When is she going to leave? Will this ever end?*" and on the third occasion she told the mother "*You should just stay away! They don't need you anymore -- they have me!*"
68. Between 10 and 14 July, the mother travelled to Moscow for a third time to see the children. The father refused to bring the children into Moscow or to allow her to come to the brother's estate: he told me that he could not invite her there as "*It is the estate of a different person.*" The mother returned to London having had only one phone call with the children, during which Daniel Jacob replied to her expression of hope that they could get together with the words "*It is forbidden.*"
69. From this period, the children's Skype contact with their mother, which had been happening up to three times a week, although subject to interferences

and interruptions, was reduced by the father to once a week and in August it did not happen at all for a period of 17 days.

The ruling of the Russian court

70. On 11 September, the Moscow City Court, in a landmark ruling, recognised the English High Court order of 3 June requiring the children's return. The father appealed.
71. On the following day, 12 September, the father allowed the children to see their mother for two hours in a cafe. This was the last time they saw each other for over nine months.
72. At this time, the father and his family began a crude media campaign in the Russian press. In September and October the children were featured in news broadcasts on national television. They were recorded saying that they did not like London. They were filmed being taken into their classroom by their grandmother, with a commentary that they prefer her because *"she gives them all her time and attention"*. The children are seen on another occasion with the father and grandmother, while Daniel Jacob says *"Our mother doesn't love us."* In December, the paternal grandfather was interviewed by a Berlin journal and stated: *"They are well, they love their Babushka, they don't want their mother back."*
73. The father's appeal hearing was listed in the Moscow Court of Appeal on 24 October and adjourned until 20 November.
74. On 6 November, the children had their last Skype call with their mother.
75. On 15 November, the children attended school for the last time.
76. On 20 November, the Moscow Court of Appeal upheld the decision made by the Moscow City Court that the English High Court order should be recognised and enforced.
77. At the court building, minutes before that hearing began, the father handed the mother a letter dated 15 November offering that the children should be permanently resident with her, provided she moved to Moscow. The mother immediately recognised that this was a letter written for the court's consumption.

The children disappear

78. What neither the mother nor the Russian authorities knew was that on 18 November, two days before the hearing, the father and grandmother had abandoned their flat in Moscow and gone into hiding, taking the children with

them. It subsequently transpired that their hiding place for the next four months was at Pavel's estate.

79. On 21 November, the mother asked to see the children. The father refused, but agreed that she could come to the flat to see them on 23 November. On arrival, she found the apartment empty except for a few packing boxes. The mother can only be right when she says that it gave him satisfaction to show that he yet again had the upper hand.
80. On 23 November, the mother made a formal request to the Moscow Police to search for the children.
81. A few days later the father let the mother speak on the telephone with Daniel Jacob, who said he was at a café. Jonathan was not there. This was the last contact of any kind for seven months.
82. From that point onwards, and until they were discovered by the Russian authorities in June 2014, the mother had no idea where the children were. Meanwhile, the father moved the children twice more. In March 2014, they moved to a Moscow flat for three weeks before moving to their final address on 20 April. The father ignored all attempts to communicate with him via e-mail over this period. The children's birthdays passed with no contact from their mother.
83. The father's explanation for this abduction-within-an-abduction is that he was informed (or threatened) by someone he will not name that he and the children were at risk of violence from an unspecified group of people with criminal connections.
84. The children lived in these bizarre and unlawful circumstances between November 2013 and June 2014. The only reliable source of information about how they were treated comes from their later accounts to their mother. They have told her that there were many rules of life. They were told that they were being hunted by violent "*bandits*" who were trying to kidnap them and that she was in the gang. They could only go outdoors one at a time so that no one would see both boys together. They were not allowed to go out on the same day. They were not allowed to look out of windows. On one occasion they had to crouch down in a car. They were given different names. They could not go to school. They were coached to say why they did not want to live with their mother.
85. On 5 December 2013, the father filed an appeal against the decision of the Moscow Court of Appeal with the Presidium of the Moscow County Court. This was rejected on 24 December. He then filed an appeal with the Supreme Court of Russia, which was rejected on 10 June 2014.

86. On 20 May 2014, the father filed an appeal with the European Court of Human Rights against the ruling of the Moscow City Court of 11 September.
87. The father said in evidence that at around this time he had offered, via an intermediary, to bring the children back. I accept the mother's evidence that she never received any such approach and I doubt that the father made any such initiative.

The children are recovered

88. Ultimately, the Russian authorities discovered the children's whereabouts. The mother was informed and travelled to Moscow. There followed a culminating event in which the children were recovered from the flat by the Russian civil authorities in the father's absence.
89. In accordance with the order of the Koptevo District Court, the following persons were present at the recovery:
 - The enforcement bailiff
 - Local police officers
 - A guardianship agency official
 - A child psychologist
 - Witnesses from the court, one of whom video-recorded the event
 - Officers from the Ministry of Internal Affairs
 - A legal representative of the children
 - The mother and her lawyer
90. The mother says that the protracted collection was "*horrific*", despite what she describes as the very professional approach of the authorities. The father was out and the grandmother, who had stayed with the children, did everything she could to obstruct the process. Her behaviour included:
 - Refusing to open the door until the bailiff started to drill off the locks.
 - Grabbing the children and inciting them to panic by shouting phrases that the children repeated in a monotonous drone: "*No, no, no! Mummy is bad!*" "*They don't want to go to England, they want to stay in Russia!*" The children later told their mother that they were doing what they had practised.
 - Refusing to release the children and smacking the mother's hand when she tried to touch and reassure them.
 - Insisting on travelling to the police station with the children when she was eventually persuaded to leave the flat.
 - Refusing to hand over the children's passports.
91. The father arrived in the middle of this scene and was not allowed into the building. When asked at this hearing about his mother's behaviour, which

appears on the video-recording, he said that he was not there and that he is not his mother's legal representative.

92. At the police station the mother and children were reunited and were soon hugging each other unreservedly.
93. The following day, 27 June, the father applied to the Federal Security Service for a further order stopping the children leaving Russia, and this was put in place on about 1 July. He also filed a complaint against the court and the bailiff in respect of the enforcement action. He refused to hand over the children's passports to the authorities.
94. On 4 July, the father wrote an article in a Russian online newspaper, describing the children's "forcible seizure" and saying that:

"There are about 15 people in plainclothes who took part in the taking away of the children, among them were foreigners dressed as members of a US-centric religious organisation, as well as a bailiff brought by them, who refused to produce any documents for the removal of children, but explained that he was contacted by the USA Embassy and ordered to use force. ... The persons who broke into the flat used force towards the children and dragged them away by force, parting them from their father and grandmother against the children's will. The children resisted in every possible way, cried, screamed that they wanted to live in Russia with their father and would never agree to leave for the USA or England. The children, who think of Russia as their Motherland, were irremediably traumatised by such fascist punitive squad's methods.

The children are Russian citizens; they are fully integrated in Russia, their only native language is Russian ... My children and I are Russian citizens, who legally returned to Russia in 2012. ... There were numerous offers of amicable settlement suggested to the foreign party, but they were fully ignored under the pressure of Russophobia milieu of the children's mother. The father is the only legal representative of the children in Russia, and children love Russia and the Russian culture very much.

I am requesting that all mass media, Russian authorities and human rights activists should assist in the immediate search for and discovery of children's whereabouts ... in prevention of children's isolation from their father and their removal to the USA via England. In case of such removal and full isolation from their father in the foreign-speaking environment, the children will suffer another psychological trauma which will haunt them their entire life."

The father signed this, using his title of Doctor of Economics and giving telephone numbers for himself, his lawyers, Daniel Jacob's headteacher and certain officials.

The children return to England

95. Due to the Russian port stop and the fact that the father had the children's passports, it was not until 7 July that the mother and children were able to return to London.

96. On 9 July, the father wrote this on his Facebook page:

"From the moment of the break-in into the flat and forcible removal of the children in defiance of their will on 26 June in Moscow nothing is known about the children whereabouts, their life or health. PLEASE SHARE THIS LINK!!"

97. On 10 July, the father's English solicitors recommenced correspondence with the mother's English solicitors. They stated that the father had very serious and genuine concerns about the children's well-being in the light of the distress they suffered due to their forcible removal by the bailiff. However, he offered his full co-operation in their return to England and asked for contact with them.

98. However, on the same day, the father filed an appeal against the bailiff order of the Koptevo District Court. He describes this appeal as concerning "*procedural irregularities*", namely that court's authorisation of forcible entry into the property that did not belong to him.

99. On 13 July, the father sent a text message to the mother, including: "*We need to terminate the conflicts and concentrate on the best boys in the world.*"

100. On 4 August, the father withdrew his appeal against the order of the Koptevo District Court and took steps to withdraw his appeal to the European Court.

101. The cost to the mother of the Russian legal proceedings has been about £30,000.

102. The father remains in Moscow. With great reluctance, he disclosed that the flat he occupies is owned by his brother.

These proceedings

103. On 15 July, the matter was restored before this court and protective orders were made by Mrs Justice Hogg. Subsequent hearings took place before me on 21 July and 11 September. The father was represented by his former solicitors and by counsel at the hearing on 11 September, but represented himself at this hearing.

104. On 11 August, the father issued an application in this court for a Child Arrangements Order providing for him to be allowed to spend time with the children. He supported it with a detailed statement, setting out his account of events and challenging many of the mother's assertions. He stated that when he brought the boys to Moscow he had no intention of keeping them. He denied that there was a risk of him attempting to abduct the children in future. He acknowledged the exclusive jurisdiction of the courts of England and Wales, stating *"My previously erroneous understanding of the jurisdiction issue was due to having been badly advised on this matter by solicitors in Moscow."* He said that he was fully supportive of the boys living with their mother *"particularly whilst Meir is still so young"*. He predicted that he would return to England in around December and asked for indirect and direct contact. He ended:

"I can now fully appreciate that my lack of engagement and compliance in these proceedings to date was misguided and apologise wholeheartedly to the Court for my past actions. I fully intend to engage responsibly in these proceedings going forwards and we respectfully ask that the Court approve my suggested contact regime with the children."

105. In a further statement made on 27 October, the father stated:

"Following my difficult decision to remain in Moscow with the boys after 7 January 2013, I found Rachael's approach to progressing matters to be highly inflexible."

By this he can only mean that she did not give in to him.

106. On 24 September, the father applied for permission to attend this hearing by video link from Moscow. He argued that he would be at risk of arrest if he came to England, and might as a result not be able to take part in the hearing. The application was opposed by the mother, essentially on the basis that the father's absence from the courtroom would make the assessment of his credibility more difficult. Having considered the application on paper, I granted it on the basis that the father bore the full cost of the video link. I made it clear that the order was permissive and that the father could choose to attend the hearing in person. He chose not to do so.
107. There is no arrest warrant in respect of the father in England. The matter is under consideration by the Crown Prosecution Service. The likelihood is that if the father came to this country, he would be arrested and questioned by the police, but it is likely that he would soon be released while any question of criminal charges was considered.

108. On 2 October, the Children's Guardian met the children. Daniel Jakob confirmed what the boys have told their mother about their time in Russia.

This hearing

109. The hearing took place on 27 and 28 October, during which the father and mother gave evidence. The cross-examination by video link of the mother by the father was the first time they had spoken for almost a year.

110. During his evidence, the father expressed regret for his actions, attributing them in part to incorrect advice from his Russian lawyers. He said that he had learned a very serious lesson and he offered an apology to the court and, for the first time, to the mother.

111. I asked the mother for her reaction to the father's actions and to his expression of apology. In a single uninterrupted answer, given without bitterness, she replied:

"I believe the abduction of the children was masterminded by Mr Neustadt in order to demonstrate power and ego, and to torment, punish and hurt me. It was about control and his perception of winning, and not about anything else, including about the children.

If we backtrack two years ago, we were at a pretty good place: divorcing, working through things, organising finances, sharing time with the children. I was interested in promoting a most fulfilling childhood for them. Mr Neustadt did not share these motives. Instead of a lovely family vacation, the children and I have had a horrible, traumatising experience and the children will be affected for the rest of their lives. Mr Neustadt tends to blame others rather than to take responsibility. He may be remorseful for the negative ramifications of his actions, not for the actions themselves. I believe he is not capable of putting the children's interests above his own. I believe he is perhaps unstable. This has been a very unfortunate experience for everyone involved."

112. In his final submissions, Mr Devereux plotted the father's actions. He described this as the clearest possible case of premeditated abduction, deserving the greatest condemnation.

113. In his submissions, the father accepted that the way he conducted himself in 2013/14 was wrong. He promised that he would not take unilateral action in future. It had not been his intention to separate the children from their mother and brother. He had believed it would be best for the family to live in Moscow, but the way he went about it was totally incorrect and ultimately not in the best interests of the children. He had not seriously considered the

adverse effect on their mother. When I asked him when he had come to this realisation, his answer was "*When I felt it myself the same*".

My findings

114. These three children have been habitually resident in England and Wales since January 2011. After their parents' separation, the arrangements for them to live with their mother and spend time with their father were carefully negotiated by the parents and approved by the court.
115. The father's removal of the children was an abduction, not a retention. I reject his evidence that he only decided to keep them after they arrived in Russia. When he took the children from London, he had no intention of returning them. He had planned it for months, lulling the mother into a false sense of security so that she would agree to the holiday he proposed.
116. The father's characterisation of Daniel Jakob and Jonathan as Russian children is a self-indulgent delusion. Of course they have a Russian parent, albeit he himself has lived most of his adult life elsewhere. But until December 2012, when they were aged 6½ and 4½, the boys had always lived in Switzerland and England. They had never even visited Russia. Their Russian heritage is important, but it has been played upon by the father because it is the one thing that he can offer that the mother cannot.
117. Having successfully got hold of the children, the father set about strengthening his position by engaging in a series of cynical manoeuvres, delaying tactics and deceptions that he knew the mother would be powerless to oppose. He was only willing to accommodate her in the children's lives if she came to live in Russia, where she would be under his control. When she would not agree, her access to the children was strictly limited, and then stopped altogether. In doing this, the father counted on his legal position in Russia being secure. I find that he intended to keep the children indefinitely, and was only frustrated by the determined actions of the Russian authorities.
118. The father claims that his actions were influenced by Russian legal advice. I do not accept that he ever genuinely considered his position to be legitimate. He is a man who relies on advice that suits him and ignores advice that does not. He flouted every order of this court and when faced with orders of the Russian courts, he went underground. His excuse for this (danger from unidentified persons) is a bogus invention, but the children were not to know that. They were brainwashed into believing that they were being pursued by dangerous bandits, including their mother. The seriousness of this is not only measured by the length of the separation created by the father, but also by his willingness to root the mother out of the children's lives. This was not just child abduction, it was child abuse.

119. One of the father's strategies has been to politicise the children's situation for his own ends. He took to the Russian media in an attempt to whip up domestic political sentiment by means of deliberate lies, and he delayed the children's return by obtaining a travel ban. He pursued his goal of keeping control of the children in every legal and illegal way he could devise.
120. The children and their mother have been profoundly affected by these events. For a year and a half, their lives were turned upside down. The boys were separated from their mother and brother. They were forced to live a bizarre clandestine life, surrounded by lies and cut off from normal existence. It will take a long time for them to come to terms with these experiences.
121. At this hearing, the father had the opportunity to show regret and insight. Unfortunately, by his written and oral evidence, his questioning of the mother, his submissions, and his decision not to attend the hearing in person, he showed that he has little appreciation of the impact of his actions on anyone else, including the children. The only person he seemed to be really sorry for was his mother. Throughout his evidence he was pedantic, unreliable and untruthful. When confronted methodically with the clearest evidence, his reaction was to misrepresent, prevaricate, minimise, extenuate and contest. There was no sign of any real remorse. So far, his apologies are no more than a means to an end, motivated by disadvantage and the failure of his grand plan. The mother's perception of him, recorded above at paragraph 112, is in my view justified.
122. Anyone meeting these parents without knowing the family history is liable to be misled – misled into underestimating past events by the mother's extraordinary serenity and dignity, and misled into underestimating future risks by the father's outward appearance of intelligence and courtesy. Given the sustained ruthlessness of his conduct, the risk of further alienation or abduction is high.
123. The collusion by the father's family increases those risks. The children's uncle could have used his influence for good, but instead has chosen to support the father throughout. The grandmother's conduct can only be described as unworthy of a grandparent.
124. The next stage of these proceedings concerns the children's future welfare. However harmful their father's behaviour has been, he is an important figure for them. Unfortunately, he set about teaching them that they do not need two parents. It will take them time to unlearn that lesson.
125. I invite submissions from the parties as to the next steps in these proceedings.

Postscript (16 December after further written submissions) – Publication

126. The above judgment was handed down to the parties on 26 November, with a request for submissions on the question of publication. The response of the mother and the Children's Guardian, represented by CAFCASS Legal, is to support publication in un-anonymised form. The father does not oppose publication in all circumstances, but suggests that the issue should be deferred until welfare decisions about the children have been made. He argues that there is a high likelihood of an adverse impact of publication on the fairness of the proceedings and on the children's welfare and that the issue would be easier to judge at the end of the proceedings.
127. I agree with the submission for the mother and the Guardian that there is a public interest in the true circumstances of this case being known, for these reasons:
- (i) The parties' accounts of events have already been widely published in England and in Russia. The true facts should be known, particularly where misinformation has been published by one party.
 - (ii) This is apparently the first case under the 1996 Hague Convention. It shows the importance of the Convention, the willingness and ability of the courts of the Russian Federation to apply it, and the results that can be achieved when lawyers work together across jurisdictions.
 - (iii) Knowledge of the outcome in this case may encourage the adult victims of other child abductions and deter potential child abductors, especially if the latter know that they might be publicly named.
128. Like the Children's Guardian, I do not consider that any serious or lasting disadvantage will come to the children from further publication. The existing publicity does not seem to have had any adverse effect on them.
129. It is clear that an anonymised judgment cannot be published as the identity of the family would immediately be obvious.
130. The only remaining question is whether publication should be delayed, as the father suggests. I understand the general argument that in some situations publicity could put pressure on professional assessors, or even on the court, but I do not accept it on the facts of this case. The welfare assessment that will now take place will be carried out by experienced professionals. The court's welfare decision will not be influenced by publicity. The British media has reported the case responsibly and in my view nothing is to be gained from postponement. On the contrary it is in the interests of the family that its time in the public eye begins, and thus ends, as soon as possible.
131. Accordingly, this judgment can be published as it stands.