

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2023] SGHCF 45

District Court Appeal No 46 of 2023

Between

VMG

... Appellant

And

VMH

... Respondent

GROUND OF DECISION

[Family Law — Custody — Access — Increase in the access time for the father]

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VMG

v

VMH

[2023] SGHCF 45

General Division of the High Court (Family Division) — District Court
Appeal No 46 of 2023
Choo Han Teck J
20 October 2023

25 October 2023.

Choo Han Teck J:

1 This is an appeal against the District Judge's ("DJ's") decision dismissing the appellant's (the "Father") application to vary the access arrangements. Although both parents have joint custody of their son (the "Child"), the respondent (the "Mother") has care and control of the Child. The Father is given access of 10 hours every week, on Tuesday and Thursday evenings, and four hours on Saturdays and Sundays. In addition to the weekly access, the Father has access for six hours on public holidays, and four hours on the Father's birthday, and the Tamil New Year (the "present access arrangement"). The access arrangements were first made in 2021.

2 The Father applied to the court below to vary the access orders. He has since made several applications to vary the access orders. He was partially successful in some of his applications and unsuccessful in others. His most

recent application was made under FC/SUM 306/2023 on 28 January 2023 and that was dismissed on 9 May 2023 with costs of \$1,200 to the Mother. It was against the dismissal of this last application that the Father now appeals to this court. In this appeal, the Father is asking to be given:

- (a) Overnight access on the weekends from Saturday 11am to Sunday 9pm;
- (b) school holiday access on a weekly basis from Wednesday evening 5pm to Sunday night 9pm;
- (c) non-school going days 5pm to 9pm access;
- (d) eve of all public holidays 5pm to 9pm access; and
- (e) access on the Hindu Pongal Harvest (on 14 January to 15 January) for all the years from 3pm to 9pm.

The Father is also applying for leave to adduce further evidence of a recent psychological report of the Child (HCF/SUM 193/2023).

3 The Father wants to spend more time with the Child. He says that there is insufficient time for him to bring the Child out for outings such as to the Zoo, Bird Park, Discovery Centre, Science Centre and Snow City, under the current access arrangements. He feels that such activities will strengthen the bond between the Child and him. He stays a long distance away from the Mother and too much of the access time is taken up by the time needed to travel from his home to the Child's. He urges the court to grant additional school holiday access so that he has more time with the Child when school is not in session.

4 Counsel for the Mother, Mr Darren Chan ("Mr Chan") objects to increasing the access time because of the Child's special needs condition. The

Child had in the past been diagnosed with Global Developmental Delay and was subsequently formally diagnosed with Autism Spectrum Disorder (“ASD”) early this year. Mr Chan argues that because of the Child’s conditions, it is important for the Child to have “structure and predictability”. Therefore, the Father’s access should not be increased. Additionally, Mr Chan argues that the Father does not understand the Child’s needs (in relation to the Child’s condition) and that the Father is pushing the Child too hard. Mr Chan submits that the Father’s refusal to acknowledge the Child’s condition is detrimental to the Child.

5 The Father disagrees with Mr Chan. He says that he knows that the Child is a slow learner, but it is counter-productive to regard the Child as a special needs child, when he is just a slow learner. He emphasises that in the past, he too, had failed in school examinations. He failed in “primary 3”, but he persevered, and eventually, obtained a master’s degree from the National University of Singapore (“NUS”). He had since taught at the Institute of Technical Education (“ITE”) for two years as a contract teacher. The Father feels that it is important to continue with patient encouragement so that the Child will develop normally.

6 At the heart of this present tussle over increasing access time is the disagreement over what is best for the Child’s development. This is usually a matter for the parents having custody to decide, but the court may have to intervene when the circumstances call for it. In this case, since the conflict is between what each parent thinks is best for the Child regarding the Father’s access to the Child, the court will determine the question, as a supervening surrogate.

7 In the present case, I am of the view that the Father's request for greater access to the Child is not detrimental to the Child, and on the contrary, may have strong benefits to him. First, in the last two years, the Father has access without any detriment. It is evident to me that the Father's desire to bring his Child out for longer outings (i.e. to the Zoo or the Discovery Centre) is reasonable and beneficial for the Child. This is not possible under the current access arrangements. It will also be in the Child's interests to deepen his bond with his father, who, from his own personal experience, appears to me, wiser and more sensitive to a child in his son's situation. I can see the benefits through the plans the Father has, and the genuine determination to carry them out. Far from being a detriment, I think that it will be beneficial to the Child to spend more time with his father during the school holidays. As such, I make the following orders, which are to last till 1 June 2024, when I will review the orders:

- (a) Access on Saturdays to increase from four hours to seven hours;
- (b) Access on Sundays to increase from four hours to five hours;
- (c) Access for the Child's December holidays to be on Tuesdays, from 1pm to 8pm.

8 I should add that the above orders are not at the expense of the Mother's time with the Child. They are increased because I am of the view that the Child, now six years old, can and should spend more time with the Father. Lawyers always talk in terms of access for the Father, but more often than not, when we are contemplating the best interests of the child, we ought to be thinking about the child's access to his parents.

9 As for the Father's application to adduce further evidence of a recent psychological report of the Child, I allow it, only because the Father and Mr Chan have both made submissions in relation to it, but I am of the view that

the report is not crucial. It is admitted for completeness. Even if Mr Chan's interpretation is correct, that it confirms that the Child has autism, the evidence from the past two years of access (from when the Child was only four years old) shows that he gets along well with the Father. Extending the hours as I now do, may benefit not just the Child, but also the parents.

10 I saw the Child on 23 October 2023, and will see him again in six months. Counsel will have to prevail on their clients (though in this case, the Father is unrepresented) to understand that a young child, especially one with special needs, will need both parents to secure a stable future.

11 No order as to costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Appellant in-person;
Darren Chan Eng Jin, Victor Lim See Wai and Joanne Ho (Legal Aid
Bureau) for the respondent.
