

JERSEY / JUDGMENT

F Representation v [2002]

JRC 174 (25 September 2002)

[2002] JRC 174

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judgment

the bailiff: 1. This is a representation brought before the Court on the 20 th September, 2002 by F to whom we shall refer as "the mother", asking the Court to award her custody, care and control of her illegitimate child K. The child was born in France on 28 th June 2001. The child's father is a French national, E, to whom we shall refer as "the father". 2. It appears from the papers before the Court that the father has acknowledged the child as being his child. Unhappily, differences have arisen between the mother and the father and the mother has returned to Jersey - where she was born in 1967 - with the child. 3. Mr Begg has, during the course of his submissions, emphasised the point that the mother seeks only a declaration that she enjoys the custody, care and control of her child. The representation originally contained a request in the prayer seeking an order that the father pay maintenance for the child. That request has now been withdrawn. 4. We do not think that it is appropriate to make the order sought in the remaining part of the prayer to the representation, and that we ought not, therefore, to prolong the process by ordering service of the representation on the father of the child. 5. Our reasons are these: the mother was, as we have said, born in Jersey and has now returned to live in the island; she is domiciled in Jersey; her child has a domicile of dependency and is also domiciled in Jersey. By the rules of private international law it is Jersey law that governs parental responsibility. By the law of Jersey the mother of an illegitimate child is vested with the custody, care and control of that child, subject, of course, to any contrary order which the Court might make. 6. It is naturally open to the father to make an application to this Court for access to the child. He is also entitled to invoke the inherent jurisdiction of the Court by seeking, if that is appropriate, custody, or care and control of the child. But that is a matter for another day. 7. The present legal position is that the mother is entitled to and has custody, care and control of the child. This is not an appropriate matter for a declaratory judgment to that effect. The representation is accordingly dismissed. No Authorities

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