

JERSEY / JUDGMENT

In the matter of SS [2011] JRC 184B (23 September 2011)

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judgment

the bailiff: 1. This is an application by the Minister for an order under Article 22(1) of the Children (Jersey) Law 2002, namely for a secure accommodation order. It relates to SS, who is 13 and will be 14 in December. There is a long history of concern over SS's upbringing and in December 2010 a full care order was made in respect of his younger brother C. 2. In relation to SS, an interim care order was made on 8 th March, 2011. Following the making of that order SS was placed at La Preference Children's Home, and he remained there until th September when he was placed in Greenfields under Article 2 of the Children (Secure Accommodation)(Jersey) Order 2005 which enables the Minister to place a child in secure accommodation for up to 72 hours. That order will expire at midday today; hence this application. 3. We must of course remind ourselves first of the provisions of Article 22(1) because it is only if we are satisfied that the conditions for that paragraph are met that we may make an order. The provision reads as follows:- "22 Use of secure accommodation

- (1) Subject to the following provisions of this Article, a child who is being looked after by the Minister may not be placed, and, if placed, may not be kept, in accommodation provided for the purpose of restricting liberty ("secure accommodation") unless it appears:-
 - (a) that:-
 - (i) the child has a history of absconding and is likely to abscond from any other description of accommodation, and (ii) if the child absconds, he or she is likely to suffer significant harm; or
 - (b) that if the child is kept in any other description of accommodation he or she is likely to injure himself or herself or other persons."
4. The Minister submits that both alternative limbs of this provision are met in this case. We have been provided with considerable material; first of all we have received all the reports which were presented to the Court at the time of the making of the interim care order so that we have seen the history leading up to the making of that order; more significantly for present purposes, we have been provided with a detailed report by Mr Davis the social worker in the Children's Service, recounting events since the making of the interim care order. We have also seen a psychological report

prepared by Dr Williamson. 5. It is not necessary to go into detail on the evidence; suffice it to say that we are quite satisfied from the evidence that SS is completely out of control. As appears from Mr Davis' report he has absconded 53 times in total either from school or from La Preference since the making of the interim care order. Furthermore there is a real likelihood that if he absconds he and others are likely to suffer significant harm. There are numerous examples in the material but we can pick out perhaps just a few which are highlighted in the report. First of all on 16 th June, when SS absconded, there is evidence that he was involved in sexual activity with a vulnerable male aged 17. Secondly on 21 st June he attended upon a nursery at the Highlands campus and said that he was there to collect a child of a teacher from d' Hautree School. This was not so and when he was questioned by the police he apparently commented that he liked the child and she was cute. On 4 th April, when he had absconded from La Preference, he was later arrested for assaulting a police officer, although he was not in fact charged. There have been many incidents of his using aggression towards staff or towards other children at La Preference. Again, just to give three examples; on 9 th June he held a staff member by the throat; on 16 th June he came out of his room at 10 o' clock in the evening stating he was going to kill another young child in the house; and on the third occasion, 30 th June, he told a staff member that if he had a gun he would shoot her children. As we say these are but examples. 6. Similarly there is a risk of self harm. He has attempted suicide on three occasions, the most recent bring the event which gave rise to the 72 hour order. On th September he became involved in an argument with another resident. When staff intervened he became abusive and threatened to hit out at staff. He then left the area, became involved in another altercation with another child in the laundry room, and when staff tried to calm him down he replied "I do not care anymore and I want to hang myself". On the 19 th he barricaded himself inside his room and tied the cord from his X-box around his neck. Staff managed to gain entry and removed the cord from SS. SS returned back to his room and again barricaded the door with his wardrobe and told staff he was trying to hang himself with the cords from his blinds. 7. All in all we are in no doubt that both limbs of the statutory provision are satisfied. There is certainly a history of absconding from La Preference and he would abscond from any accommodation which was not secure. We are also satisfied that if he absconds he is likely to suffer significant harm. Furthermore, if he is kept in any un-secure accommodation, when he absconds and even when not absconding, he is likely to injure himself or other persons. So we are satisfied that the criteria are met. The question then is whether we should make an order and if so, for how long? 8. The Guardian has not been able to be present but he has relayed his views helpfully via Advocate Landick who has been appointed at short notice to represent SS. The Guardian supports the making of the order. The parents do not oppose the making of the order, although they do not wish it to be for three months. Advocate Landick, representing the child, has reported to us the views which SS has expressed to him, although we appreciate that he has not had long to do this but we are most grateful to him. SS does not wish such an order to be made although he has, on another occasion, reported to Mr Davis that he feels calmer in Greenfields than in La Preference because of the absence of other children. There is apparently at the moment

only one other child, a 17 year old, at Greenfields. Mr Davis has asserted to us that he thinks the lack of other children will assist the process of attempting to treat SS because it is the presence of other children which often leads him to feel very angry and for his aggressive instincts to come out. 9. We are satisfied that it is undoubtedly in SS's best interests for the order to be made. He needs to be kept safe from himself and others need to be kept safe from him. A secure accommodation order is, in our judgment, the only method of achieving that at present. The question then is how long should we make the order for? The Minister has applied for the order to be for three months on the basis that that is needed to begin the therapeutic work which can be done much more easily in a secure environment because, as Mr Davis explained, SS cannot walk away from those attempting to help him. The Minister has accepted that he could live with a one month order but it is likely that he would have to seek a renewal for that. The parents have both argued for a one month order and that is supported by Mr Landick on behalf of SS. 10. We have considered carefully whether that would be preferable but we have come to the conclusion that it is preferable to make a three months' order. Our reasons are those put forward by the Minister and by Mr Davis on his behalf. This is a deeply troubled young boy; there is much, much work to be done. Progress, if it is made at all, is likely to be extremely slow. The idea that there would be some dramatic change in one month seems to us unrealistic. We therefore think that the better course is to make an order for three months, thereby allowing time for matters to settle and for the future of this young boy to be reviewed and thought about, because the hearing for a final care order is due to be in January and clearly much work has to be done before then. 11. However, we wish to emphasise to the parents, and of course to the Minister, that the making of an order for three months does not mean that SS must be kept there for three months. The making of a secure accommodation order is a policy of last resort. The Minister has assured us through counsel and Mr Davis that all concerned are fully aware of the desirability of keeping any such order in place for the shortest possible period and of returning a child to a freer life at the earliest opportunity. We are content to act on those assurances. We accept that the Minister and the Children's Service will not keep SS in secure accommodation longer than they believe is necessary for his own best interests. We are comforted in that by the fact that there is the review panel mechanism, as well, which we have been told about; so that it is not just the views of the social worker and the Children's Service, but an independent review panel will be considering the matter. Furthermore there is of course, in any event, the inherent right of all parties to apply to the Court at any stage if they think circumstances have changed. 12. So all in all, we have concluded that SS's best interests would be served by making a three months' order with the emphasis that that does not mean he has to stay there for three months; he will stay there for as long as it is felt that it is in his best interests. 13. We touch finally on the point which has been raised as to whether we should see SS. Advocate Landick raised this. He did so in the context at that stage of a suggestion that we should adjourn the hearing for a week, but as matters have progressed during the hearing he has not proceeded with the application for an adjournment. SS is not here today and in our judgment we need to make a decision today. Therefore there is no question of seeing SS today because we need to resolve this matter.

However, should the matter come before us again, we will at that stage certainly be prepared to consider seeing SS if that is thought to be the right course. So we leave that matter open; we certainly do not rule it out, but we will make a decision on that as and when the time arises. 14. So we make an Order in those terms. We of course understand the disappointment of the parents; they have both taken the trouble to come today and we appreciate that they have come to listen and to be represented by their advocates. We are sure that they love SS but we hope very much that they will work with the Children's Service. SS's best interests will not be served by tension and disagreement between the Children's Service and the parents and we do urge the parents to try and work with the Children's Service because SS is a troubled young boy and he needs all the help he can get. Authorities Children (Jersey) Law 2002. Children's (Secure Accommodation)(Jersey) Order 2005. Page Last Updated: 07 Feb 2017 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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