

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 3

District Court Appeal No 58 of 2023

Between

WQT

... Appellant

And

WQU

... Respondent

GROUND OF DECISION

[Family Law — Custody — Access]

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WQT
v
WQU

[2024] SGHCF 3

General Division of the High Court (Family Division) — District Court of
Appeal No 58 of 2023
Choo Han Teck J
17, 22 January 2024

24 January 2024

Choo Han Teck J:

1 The appellant husband is a salesperson, aged 38. The respondent is also a salesperson, aged 38. They married on 30 October 2011 and were divorced on 22 August 2022.

2 They have a 4-year-old child, a daughter (born on 5 January 2020). The appellant is appealing against the access orders made by the trial judge in *WQT v WQU* [2023] SGFC 30. There is no dispute concerning the order for joint custody, but the dispute over care and control was settled eventually with an order, by consent, with care and control to the respondent.

3 The appellant wanted unsupervised access, but the respondent asked that access be supervised, and that it should be at the matrimonial home so that she

could “monitor” the appellant on close circuit television. The District Judge (“DJ”) made the following orders regarding access:

I ordered for the Husband’s access to the Child to take place over three stages. At the initial stage, I ordered for one round of supervised access sessions at a Divorce Support Specialist Agency (“DSSA”) so that the Husband can be better equipped to be more attuned to the needs of the Child. After the conclusion of those sessions, I granted unsupervised access to the Child for three hours every weekend from 11.00am to 2.00pm, alternating between Saturdays and Sundays each weekend (“Unsupervised Access Order”). Finally, I granted Parties liberty to write in after a year for a review of the access orders. As a broader order, I granted Parties liberty to depart from my access orders if agreed.

4 The appellant has since completed the stage of supervised access (in October 2023). His appeal before me is on a narrow point concerning the length of time for unsupervised access. He was given three hours by the DJ, but he says that the time taken travelling from the matrimonial home and back is between 30 to 60 minutes leaving him only two hours to spend with the child. He is asking that unsupervised access be increased to five hours.

5 The DJ below was entitled to impose supervised access followed by unsupervised access. Supervised access is sometimes necessary when the child has been estranged from the parent seeking access. The idea is to help the parent and child develop a relationship that had once been cold. Supervised access is a necessity and not an order to be made as a precaution when there are no indications that it is needed. In this case the DJ thought that the child was too young for unsupervised access.

6 A young child with an outward going nature and has been living with both parents may not require access to be supervised. In the present case, it has become an academic issue because the period of supervised access has been

spent. The supervised access appears to have gone well. In the circumstances, I accept that travelling time encroaches onto the appellant's access, leaving him with just two hours of bonding time. Bonding can, of course, be a feature of a car or bus ride; but it is not ideal. In any event, the longer the access the better it serves its purpose. Access is not a privilege or luxury to the parent seeking access. It is a matter of beneficent activity, not just for the parents, but for the child. Divorced parents must be encouraged to accept that a growing child with access to both parents will likely develop into a happier, healthier one than a child of a single parent.

7 Had the question of travelling time been the only issue, I would be inclined to allow the appeal, especially when the respondent did not file any case or submission in reply. She, however, appeared in person and objected to the appeal. She alleged that the reason for the breakdown of the marriage was that she found the appellant molesting their daughter when she was only an infant. She said that she saw him touching the child's genitalia when changing her diapers. She once awoke at 3 am and found the appellant leaning and staring at the child. On another occasion she was awakened when he stretched over her body to touch the child.

8 She said that the supervised access took place in the matrimonial home where they had closed circuit television ("cctv") previously installed by the appellant. However, he would take the child into a small guest room and place her on a table in a blind spot from the camera. She managed to see him kissing the child, on the lips, through the reflection from the mirrored door of a cupboard. The appellant denied all the allegations. The DJ also felt that the evidence was insufficient. The DJ seemed to have considered all the affidavits

in this case of the appellant's word against the respondent's, and I agree that looking at the still pictures from the cctv, it is not clear that the appellant was kissing the child (at that time still an infant, but is now 4 years old) on the lips.

9 It is hard to judge the veracity of the appellant and respondent without having a trial in which their evidence is tested. Both parties were represented by counsel before the DJ. Counsel for the appellant produced before me a thumbdrive containing parts of the video recordings referred to in the affidavits filed in the proceedings below. Counsel also said that he obtained a hard drive which contains the complete video recordings from the appellant. This was evidence that was not before the court below. The respondent also produced various new evidence that were not before the trial judge.

10 Given the young age of the child, and the seriousness of the allegation, an allegation that must be established with a greater degree of certainty than what is available at present, this matter must be remitted to the trial judge to receive the new evidence and determine if he needs to revise his decision, and I so ordered. He is at liberty to have the parties testify before him.

11 In the interim, access can be increased to five hours as the appellant requested, but I would order that the access continues to be supervised for another 12 months. Thereafter, the parties may apply to vary the order before the DJ depending on his findings on the new evidence.

12 The order for access is therefore varied from three hours to five hours, but will continue to be supervised for a period of 12 months from this date until the DJ's orders after he has ascertained the new evidence. There is no order as to costs.

WQT v WQU

[2024] SGHCF 3

- Sgd -
Choo Han Teck
Judge of the High Court

Anand George (I.R.B. Law LLP) for the appellant;
Respondent.in person.
