FAMILY LAW ACT 1975

IN THE FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2)

AT PARRAMATTA

No. (P)BRC15458/2019

BETWEEN

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NATHAN CRAIG GRIGGS
(Applicant)

AND

ROCHELLE ANNE HALL
(Respondent)

ORDER 27/4/2023

FAMILY LAW ACT 1975

IN THE FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2) **FILE NO: (P)BRC15458/2019**

BETWEEN:

NATHAN CRAIG GRIGGS **(Applicant)**

AND:

ROCHELLE ANNE HALL **(Respondent)**

BEFORE: JUDICIAL REGISTRAR RAMSAY

DATE: 27 April 2023

MADE AT: PARRAMATTA

UPON APPLICATION MADE TO THE COURT by Mr Griggs as the Applicant Father and Ms Ashby for and with the Respondent Mother.

BY WAY OF FINAL ORDERS, THE COURT ORDERS BY CONSENT:

1. All previous parenting Orders are dismissed.

2. The Mother have sole parental responsibility for the child **TANNER ARLO GRIGGS-HALL** ('the child') born 15 June 2017.

3. The child shall live with the Mother.

4. The child shall spend professionally supervised time with the Father no less than four (4) times per year at places and times as can be arranged by the Interrelate Contact Centre Taree (or additional times as can be provided by Interrelate).

5. The Father shall complete the Men's Behavioural Change Program through Uniting and he shall provide a certificate of completion to the Mother.

6. The Father shall undergo hair strand drug testing to test for the presence of illegal or illicit drugs with an accredited pathology laboratory and for this purpose:

   (a) The Father is restrained from taking any steps to interfere with the provision of hair samples to interfere with his test results;

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(b) Ensure his hair is sufficient length to be in a position to provide a sample for the hair testing to be undertaken in accordance with these orders;

(c) Direct and authorise the pathology lab where the hair testing is being undertaken to send the Mother copies of all test results forthwith upon those results becoming available; and

(d) For the Father to meet the costs of such hair testing.

7. That following the Father's completion of Orders 5 and 6 above; the Father shall be at liberty to spend additional professionally supervised time with the child with such time to be supervised by a service such as Rekonnect (or like service as agreed by the Mother) as often as can be arranged but no more than once per month with the Father to pay all costs associated with such time.

8. The Father is at liberty to provide the child with gifts, cards and letters during his visits with the child in accordance with the Supervision providers regulations.

9. The Father is at liberty to bring his other (minor) children to attend such supervised visits in accordance with the Supervision providers regulations commencing 2024.

10. The parties are to communicate with one another via a parenting APP such as 'Our Family Wizard' and for this purpose, the Mother shall select the App to be used and shall arrange for the Father to receive an email link for him to join up within 14 days of the date of these Orders with parties to share equally in the payment of any such costs.

11. The Father shall be at liberty to communicate with the child via telephone or other such electronic methods by telephoning the child on a number to be provided by the Mother within 14 days of the date of these Orders and with such communication taking place each Wednesday between 7.00pm and 7.30pm.

12. That within 28 days of the date of these Orders, the Mother shall do all acts and things to ensure that the Father is authorised to receive information about the child's school via the SEESAW Parenting App.

13. Each party is restrained from denigrating the other party or members of the other party's family to the child or in the presence or hearing of the child, and from permitting other persons so do so, and each party shall forthwith remove the child from the vicinity of any persons so denigrating.

14. That the Father be restrained by injunction under section 68B of the Family Law Act 1975 from:

(a) Approaching the Mother or the child (other than as per these Orders);

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(b) Approaching within 100 meters of the Mother's home;

(c) Removing or causing the child to be removed from the care of the Mother, including the child's school, home or third parties into whose care Tanner is placed.

15. Each party is restrained from administering corporal punishment upon the child and from permitting any other person to do so.

16. That the Mother is at liberty to apply for an Australian Passport for Tanner Arlo Griggs-Hall born 15 June 2017 and travel internationally for holidays without the consent of the Father.

17. The Father is at liberty to send the child gifts, cards and letters to a postal address to be provided by the Mother (either a PO Box or another postal address as nominated by the Mother) within 28 days.

THE COURT NOTES BY CONSENT:

A. Parties agree that they will participate in further Family Dispute Resolution prior to the child's 8th birthday in June 2025 with a view to progressing the Father's supervised time to unsupervised time.

B. In the event that no agreement is able to be reached at the Family Dispute Resolution as per Notation A above; the parties both agree that there will not be a Rice and Asplund issue if a further Court Application is filed.

THE COURT FURTHER ORDERS THAT:

18. The Final Hearing listed on 6 and 7 November 2023 before Judge Kearney is vacated.

19. The Matter is marked as finalised and removed from the list of cases awaiting determination.

THE COURT NOTES THAT:

C. The parties attended upon Dispute Resolution Conference – Parenting before Judicial Registrar Ramsay on 27 April 2023.

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D. The parties reached final agreement with respect to the parenting matters and provided to the Court a Minute of order signed by the parties. The Registrar has considered such terms and made Orders as above. The Signed Minute of Order have been placed on the Court file.

By the Court



Registrar

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Parenting orders – obligations, consequences and who can help

This information is for parents and other people, such as grandparents, who are subject to a parenting order. It includes information, pursuant to section 65DA(2) of the *Family Law Act 1975*, about the legal obligations created by a parenting order and the consequences that may follow if it is contravened (breached).

This document also includes information, pursuant to sections 62B and 65DA(3) of the Family Law Act, about:
- courses, programs and services in the community that can help people understand their responsibilities and adjust to a parenting order, and
- the options available to ensure that people comply with (follow) a parenting order.

It is important that you read this information
You have been given this document because a court has made a parenting order which requires you to take certain steps.

Note – If this document is attached to a parenting order, the information provided pursuant to section 65DA(2) of the Family Law Act forms part of the order.

It is important that you understand the terms of the order and the obligations it creates. If you are unsure about any of the terms or obligations, ask your lawyer if you have one. You can also seek legal advice about a parenting order if you were not represented at court.

Community courses, programs and services
There are courses, programs and services in the community that can help you:
- reach an agreement with the other party
- understand your parental responsibilities, and
- adjust to and follow court orders.

For more information about these options, go to **www.familyrelationships.gov.au**, call **1800 050 321** or visit a Family Relationship Centre near you.

A court may order you to attend a post-separation parenting program. You must attend. If you fail to go to a program as ordered, without reasonable excuse, you may be in breach of the parenting order and be penalised.

What is a parenting order?
A parenting order is a set of orders made by a court about parenting arrangements for a child. A court can make a parenting order based on an agreement between the parties (consent orders) or after a court hearing or trial. When a parenting order is made, each person affected by the order must follow it.

A parenting order may deal with one or more of the following:
- who the child will live with
- how much time the child will spend with each parent and with other people, such as grandparents
- the allocation of parental responsibility
- how the child will communicate with a parent they do not live with, or other people
- any other aspect of the care, welfare or development of the child.

A parenting order can require the parties to follow certain steps before applying to a court to change an order. It can also state the process for resolving disputes that arise from the order.

If the parenting order provides that two or more people have equal shared parental responsibility, any decision about a major long-term issue in relation to a child must be made jointly. This requires each person to consult with the other person and make a genuine effort to reach a joint decision.

Note – The status of a parenting order may be altered if a parenting plan is developed by both parties in the future. For more information about parenting plans, go to **www.familyrelationships.gov.au**, call **1800 050 321** or visit a Family Relationship Centre near you.

Your legal obligations
- You must do everything a parenting order says. In doing so, you cannot be merely passive but must take positive action and this positive obligation includes taking all reasonable steps to ensure that the order is put into effect. You must also positively encourage your children to comply with the orders. For example where the order states your children are to spend time with another party, you must not only ensure that the children are available but

must also positively encourage them to go and do so. There are agencies in the community that can help you and your family adjust to and comply with the order (see details above).
- The order remains in force until a new parenting order or parenting plan changes it in some way.
- Even if the needs or circumstances of you, the child or the other party change, the court order applies until it is formally changed by a court or, in some situations, you enter into a parenting plan with the other party.
- Sometimes people talk to each other about changing arrangements set out in a parenting order. These talks do not change the order.

If you and the other party agree to change the arrangements, you may enter into a parenting plan or apply for consent orders that vary the existing orders. For more information about consent orders, go to **www.fcfcoa.gov.au**, call **1300 352 000** or visit a family law registry near you.

If you want to change a parenting order and the other party does not agree, family dispute resolution can help you and the other party work through your disagreement. Resolving issues this way is less formal than going to court and should cost less in money, time and emotion. If an agreement cannot be reached, you may consider applying to a court for orders.

Legal advice

You should seek legal advice before deciding what to do. A lawyer can help you understand your legal rights and responsibilities, and explain how the law applies to your case. A lawyer can also help you reach an agreement without going to court. You can seek legal advice from a legal aid office, community legal centre or private law firm. Court staff can help you with questions about court forms and the court process, but cannot give you legal advice.

Penalties for failing to comply with a parenting order

A court can only penalise someone for failing to comply with a parenting order, which has not been altered by a parenting plan, if another person files an application alleging the person did not comply with the order. After considering all the facts of the case and applying the law, a court may decide that:
1. the alleged contravention was not established
2. the contravention was established but there was a reasonable excuse
3. there was a less serious contravention without reasonable excuse, or
4. there was a more serious contravention without reasonable excuse.

If a court finds that you have failed to comply with a parenting order without reasonable excuse, it may impose a penalty. Depending on the situation and the type and seriousness of the contravention, a court may:
- vary the primary order
- order you to attend a post separation parenting program
- compensate for time lost with a child as a result of the contravention
- require you to enter into a bond
- order you to pay all or some of the legal costs of the other party or parties
- order you to pay compensation for reasonable expenses lost as a result of the contravention
- require you to participate in community service
- order you to pay a fine
- order you to a sentence of imprisonment.

In addition to these orders, a court may also adjourn the case to allow you or the other party to apply for a further parenting order.

The penalties are listed in Division 13A in the Family Law Act. To view the Act, go to **www.legislation.gov.au**
For more information about compliance, see the fact sheet ‘Compliance with parenting orders’.

Location and recovery orders

If you breach a parenting order and you cannot be found, a court may make a location order. This order requires other people or organisations, including government departments, to give any information they have about where you and the child may be located.

If you breach a parenting order by failing to return the child as required, a court may also make a recovery order. This is an order issued to the Marshal of the Court, all officers of the Australian Federal Police and all state and territory police officers to find and recover the child. The order may also allow a search of any vehicle, vessel, aircraft or any other premises where the child may be found.

This fact sheet provides general information only and does not provide legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The Family Law Courts cannot provide legal advice.

Family Violence Information Sheet

This information sheet contains important information for litigants who allege they have experienced, or are alleged to have perpetrated, family violence. This information is not a substitute for legal advice.

1. About family violence

Family violence means violent, threatening or other behaviour that coerces or controls a family member or causes them to be fearful (section 4AB *Family Law Act 1975*). Protecting family members from violence and ensuring the safety of all people engaged in the family law system, including when attending Court, is a high priority for the Federal Circuit and Family Court of Australia (the Court).

2. Safety at Court

Parties concerned about their safety when attending Court events can contact the registry in which their matter is listed to arrange a Safety Plan prior to the listing.

3. Legal and Support Services at Court

The Family Advocacy & Support Service (FASS) is a free legal and support service to assist family law litigants who allege they have been affected by family violence. For more information about FASS, parties should contact the registry in which their matter is listed.

4. Cross-examination

Division 4 of Part XI of the *Family Law Act 1975* provides that, from 10 September 2019, unrepresented parties will not be permitted to personally cross-examine another party if there are allegations of family violence and:

i) either party has been charged with or convicted with an offence involving violence or threat of violence involving the other party: section 102NA(1)(c)(i);

ii) a final Family Violence Order applies to both parties: section 102NA(1)(c)(ii);

iii) an injunction has been made under section 68B or section 114 of the *Family Law Act* for the personal protection of one party against another: section 102NA(1)(c)(iii); or

iv) the Court makes an order that personal cross-examination should not be permitted: section 102NA(1)(c)(iv).

In matters involving alleged family violence which do not fall into the above categories, the Court may permit personal cross-examination by an unrepresented party but must ensure alternative protections, such as cross-examination via video link, are implemented: section 102NB.

These provisions apply to all proceedings under the *Family Law Act*, not just parenting proceedings.

Parties who are not permitted to personally cross examine another party may retain private legal representation or apply to the Commonwealth Family Violence and Cross-Examination of Parties Scheme (the Scheme) to obtain legal representation. The Scheme is not means or merits tested but applicants may be required to contribute to the cost of their representation. Applications are made through the relevant State or Territory Legal Aid Commission.

All applications to the Scheme must be made at least 12 weeks prior to the final hearing.

Further information is contained on the Court's website: https://www.fcfcoa.gov.au/fl/fv/overview