



Address by Tim Scott Q.C. to the High Court of Justice on 07 July 2008, in open Court.

Representation

Madeleine McCann is a ward of Court. She had her 5th birthday on 12 May 2008.

Gerry and Kate are not here as they are on holiday with their twins, Sean and Amelie. Who could deserve a holiday more after a period more traumatic than any family should have to cope with.

As the world knows, Madeleine was abducted from an apartment at a resort in Praia Da Luz in Portugal on 03 May 2007. No one has ever been arrested or charged in connection with her abduction. Her whereabouts are completely unknown. There is no proof that she is alive, but there is not a scrap of evidence that she is not.

After the abduction Gerry and Kate McCann set in motion their own search with professional assistance. A Fund was set up to finance the search and many people, often those who could barely afford it, have given generously to that fund.

Simultaneously a massive international police search was launched. Since the McCann family lives in Leicestershire, the Leicestershire Constabulary has been the lead force among UK law enforcement agencies. Gerry and Kate would like, through me, to acknowledge the enormous effort which has been devoted both by the Leicestershire Constabulary and by other law enforcement agencies to the search for Madeleine. They would also like to thank many individual officers for the kindness and concern which they have shown to the family throughout this terrible time.

Proceedings were started in this Court by a summons dated 17 May 2007. The sole purpose of the proceedings has been to call upon the extensive powers of the High Court to require assistance to be given in the search for a missing child. It is of course quite

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routine in the Family Division for such Orders to be made. For example in an appropriate case (though not this one) an Order can be made against a mobile phone company to produce the call record of a phone. It was never the parents' wish that the proceedings should become adversarial.

On 22 May 2007 an Order was made by you [4] in very wide terms requiring any person on whom the Order was served to disclose to the parents' solicitors any information which might assist in identifying Madeleine's whereabouts. The Order contained a clause entitling any person served with it to apply to discharge or vary it.

Among the bodies on whom the Order was served was the Leicestershire Constabulary, who immediately expressed doubts as to whether the Order was intended to or could properly extend to them. In due course the parents' solicitors issued a further application seeking clarification of this. On 02 April 2008 you gave directions which were intended to lead to a hearing at which this question would be resolved. This is that hearing.

As the preparations for this hearing advanced, it became clear that the Leicestershire Constabulary and other law enforcement agencies, while personally sympathetic to the position of the McCann's objected on principle to the disclosure of at least the great bulk of the information in their possession. They raised a number of legal arguments relating among other matters to the public interest in maintaining the confidentiality of police investigations. Both the Serious Organised Crimes Agency and the Attorney-General intervened in the proceedings in order to advance their own arguments on issues of public policy.

It became clear that if today's hearing proceeded on a fully contested basis a number of areas of law of great interest to lawyers would have had to be considered. However Gerry and Kate McCann are not lawyers and so far as they were concerned the legal proceedings were moving further and further from the only matter which concerns them: the search for Madeleine. The proceedings were in danger of becoming a distraction from rather than an aid to that single goal.

Also there have been two recent developments which have greatly affected Gerry and Kate's views on these proceedings. The first is that the Leicestershire Constabulary has now agreed to release an important, though limited, part of the information which they have been seeking; I shall come back to that. The second is that, as has been widely publicised, it is expected that Gerry and Kate's status in Portugal as arguidos or suspects will be lifted soon. When that happens it is hoped and expected that a substantial further amount of information will be released.

Since Gerry and Kate have always wanted to work with all law enforcement agencies on a cooperative basis, they decided to withdraw the application against the Leicestershire Constabulary. We therefore come to Court today to ask you to approve an Order which all parties consent to.

The first part of the Order recites that the Chief Constable of Leicestershire has agreed to provide by today a document in accordance with Paragraph 50 of the Skeleton Argument which has been presented to the Court on his behalf. That Paragraph is at 34. It says that the Chief Constable is currently preparing a document which will provide the parents with the contact details of persons that have been forwarded to the investigation by the parents or those acting for them. This document will also contain a brief resume of the information that it is believed the person informed the parents or those acting for them that they wished to pass on to the investigation.

I said earlier that this is an important but limited amount of the information which Gerry and Kate had hoped to obtain. I would like to explain why it is important. Although the Leicestershire Constabulary were quick to set up a major incident room and to provide a telephone number which anyone with information could call, there was a period of time before this became widely known.

During that time Gerry and Kate's solicitor, Ms Ann Thomas of The International Family Law Group, who sits in front of me, had already been retained. Her firm's number was publicised and a large number of people called in.

All of these callers were given the number which the Leicestershire Constabulary had set up for the purpose. The solicitors thought it right that the police should be receiving it. In fact with few exceptions the solicitors did not even retain any notes on what the callers were saying or even their contact details.

So what the Chief Constable is now voluntarily providing is the contact details and a summary of the information provided by a substantial number of people who were among the first to try to help the investigation. It is because these were on the whole people who came forward to volunteer information in the period immediately after the abduction that it is likely that the information which they provided will be most helpful.

So on that basis Gerry and Kate McCann are content to withdraw their application for any wider disclosure. Paragraph 4 of the Order provides that the documents in the case shall remain confidential to the Court. This of course is completely normal in wardship. An exception is made

to enable the Chief Constable at his discretion to reveal the contents of his evidence and the legal arguments advanced on his behalf.

The parents understand that the points of principle which have arisen are of wider interest to law enforcement agencies, and they would not want to restrict proper discussion of those matters which might have a beneficial purpose in future investigations. They are confident that the Chief Constable will exercise his discretion in a responsible way.

The search for Madeleine continues. The fund which was established in May 2007 known as "Madeleine's Fund – Leaving No Stone Unturned" remains closely involved in the search. It always has been and remains Gerry and Kate's purpose to leave no stone unturned. This was why they asked for the assistance of this Court in the first place, and this is why, in the light of developing circumstances, they now withdraw their application. We hope that you will accept, and will feel able to say that they have behaved completely properly and responsibly at every stage.

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For Gerry and Kate McCann

