

IN THE KWAZULU-NATAL HIGH COURT, DURBAN

REPUBLIC OF SOUTH AFRICA

CASE NO: 14736/09

In the matter between

**HENDRIK BRONKHORST**

**Applicant**

and

**KAREN LEAH SPENCE**

**Respondent**

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**JUDGMENT**

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**MARAIS AJ:**

1. The parties were previously married.
2. Three minor children were borne from the marriage.  
(They are now 16, 15 and 14 years old).
3. The Applicant launched application for an order to allow the children to visit him in Ireland (where he now resides) during the December 2009 holiday.
4. The application is opposed by the Respondent.

5. In her answering affidavit, the Respondent complained that the Applicant behaved in a manipulative manner and that he did not always show understanding for the Respondent's efforts as the custodian parent, to maintain and run a household without disruption. Her affidavit also reveals that the Applicant has failed to co-operate with the financial difficulties experienced by the Applicant in maintaining the children.
6. The Respondent's affidavit does not, however, raise any real concerns which would weigh against the relief claimed.
7. The matter was fully investigated by the Family Advocate and the Court is indebted to the helpful report from both the Family Advocate and the Family Counsellor engaged in the matter.
8. The Family Counsellor investigated the circumstances of the parties and (since the children are old enough to express their own desires) also consulted with the children to obtain indication of their desires. The report reveals that the children are close to both parents, that they have maintained a loving relationship with the Applicant (in spite of the distance between them) and that they would like to visit the Applicant at his new home in Ireland. (In the case of the youngest, the only concern expressed was that the Respondent might be upset if she visited her father).
9. Against this background the Family Advocate recommended that an order be made giving leave to the Applicant to remove the children and enjoy them in his care in Ireland, from 11 December 2009 to 5 January 2010.
10. I cannot fault the reasoning of the Family Advocate and her Counsellor. Since the children are of the age where they can make some decisions of their own, because of the close relationship with their father and since no meaningful

objections have been raised by the Respondent, I am prepared to grant the relief sought.

11. I should, however, make some observations for the benefits of the parents.
12. It is clear that the Respondent has gone to a lot of trouble in difficult financial circumstances, to **keep the family together** and do her best for the children. On her version, the Applicant has not always appreciated this. In my view there might be merit in her complaints and I believe that it is necessary for me to warn the Applicant that the time has come that he should recognise the role that she played in the upbringing of the children, respect her arrangements and show more consideration when it comes to the affairs of the children. (The haste with which this application was launched without much preparation and discussion with the Respondent, gives support for this concern). If the Respondent's version is correct, the Applicant also seems to think that, by hurting the Respondent, he might **score a point**. (For example, on the Respondent's version, he took joy in, recently, saying to her that he has no remorse about having slept with prostitutes years ago).
13. Whilst I make no factual findings on this (since, after all, the matter is before me in the form of an application), I do think it necessary to observe that there can be no benefit to the parents for them to continue to hurt each other and that, by now, they should have **moved on in life**.
14. The Applicant's complaints, on the other hand, if true, suggest that the Respondent is too possessive, controlled and concerned with matters which, in the big picture, are of no real concern. Perhaps the time has come for the Respondent, too, to **move on**.
15. By all accounts the parties are closely bonded with their minor children and I would assume that

they have the children's interests at heart. On this assumption, the parties should realise that the children can only benefit by a meaningful and mature relationship maintained between their parents.

16. I would hope that my remarks would persuade both parties to adopt a more mature approach towards each other. (After all, as I said, the children will benefit from such an example).

17. I am not going to make any costs order against either party.

18. Against this background I make an order as follows:

(a) the Applicant is granted leave to remove the minor children Ky Michael, Cara Leah and Kayla May from the Republic of South Africa to Ireland for the period 11 December 2009 to 5 January 2010;

(b) the Respondent is directed to co-operate with the Applicant to obtain the necessary travelling documents to ensure that effect can be given to paragraph (a);

(c) the Applicant is directed to ensure that the minor children maintain frequent telephonic contact with the Respondent, whilst they are in his care, and that special arrangements are made for them to have meaningful telephone communications with the Respondent (at the Applicant's cost) on 25 December 2009.

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MARAIS AJ  
13 NOVEMBER 2009  
ACTING JUDGE : KWAZULU-  
NATAL HIGH COURT, DURBAN