

Tina's Story

Family background:

This case study involves Tina and her former partner Jay and their son Oliver.

Tina is British and her former partner Jay is American. The child has dual-citizenship (American/British) and was born in 2013 in the U.S.

The parents met in Los Angeles in September 2010 at the time Tina was living between the U.S and the U.K. The pair subsequently married in 2011. The first 5 months of Oliver's life were spent in the U.S, the following two in the U.K then the family returned to the U.S. It was at this point that the marriage broke-down and Tina and Jay separated.

Before the initial move:

Before Tina moved to the U.S she did not know about the law on habitual residence. Tina said it was only when Jay and Tina broke up and he refused to let her and Oliver move back to the U.K that the legal complications became apparent. Tina was shocked to find that taking her own child to the U.K could be classed as 'kidnapping'.

About the relationship breakdown:

In 2013 the mother described how Jay's personality completely changed during her pregnancy with Oliver; he became very aggressive, financially manipulative and irrational. Tina told the interviewer, "I was afraid of him - I thought it was because he was becoming a father." It transpired that Jay had relapsed on Methamphetamines.

The police were on occasion called to their property. At first, Tina did her utmost to help Jay by paying for him to see psychologists. However, upon finding drugs in the matrimonial home Tina demanded Jay take a drug test which came back positive for heroin and methamphetamines. Tina offered him the chance to get sober and enter into a recovery programme. Tina told me, "I was scared to imagine our child growing up in this environment."

The mother said she felt unsupported during the relationship breakdown, when Oliver was 8 months, Jay had not had a job for 6 months (Tina was working the day after she gave birth). It became apparent that Jay was continuing to use and Tina demanded he take another test or leave the matrimonial home. It was at this point that Jay left and told Tina he would not let her take Oliver out of the U.S.

After the relationship breakdown

After the relationship breakdown Tina wanted to go back to the U.K to live with Oliver or be granted sufficient travel time in order to maintain her job as a journalist. Tina tells me that she wished she had fled rather than initiating a custody trial in the U.S



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because she explained, “The legal system here is impossible, its geared towards reunification and that is not what I needed or wanted.”

The mother was eligible for social welfare support in the country of the child’s habitual residence. Having spent about \$40,000 on lawyers, Tina had to declare herself bankrupt. Following this, she received \$600 dollars a month, \$500 meal stamps and help to pay for Oliver’s pre-school.

After the relationship breakdown the mother’s residence / immigration status was stable. Tina is currently in the process of applying for US Citizenship because she fears being sent back to the U.K without her son.

Relocation / Leave to Remove:

Tina filed for relocation or ‘move away’ order in February 2017. By this point, Tina had been in Court a total of 60 times and spent \$40,000 on lawyers. Her financial status of bankruptcy meant that Tina had no choice but to represent herself.

Tina was not eligible for legal aid, but custody assessments were covered.

Tina agreed to withdraw the relocation order because Jay finally ‘panicked’ and negotiated that Tina could have 90 days travel time. However, Tina told me that this was unworkable because Jay had the power to veto her travel if it coincided with various holidays such as Fathers Day and his birthday.

Tina has not tried to ‘leave’ and therefore has not been privy to Hague Convention proceedings. Tina feels more ‘stuck’ than ever because the latest Court Order reverted to an old order which means that Tina’s 90 days travel time has been revoked.

Tina’s current status is that she is preparing to file another relocation order; “I don’t really know what else I can do. I will keep going to Court.”