



PLAINTIFF

Socialnämnden i Region Gotland [Gotland Region Social Welfare Committee]
621 81 Visby

Representative: Advokat Richard Ploman
Östergarn Skolhuset 104
623 68 Katthammarsvik

DEFENDANT

1. Annie Johansson, 710917-1780
2. Christer Johansson, 690615-3231
c/o Rune Johansson
Alva Gudings 363 623
46 Hemse

Representative and counsel for both the above persons, in accordance with the Swedish Legal Aid Act: Jur. kand. [Bachelor of Laws] Ruby Harrold-Claesson
Juristkonsulten
Ströms väg 37
424 71 Olofstorp

JUDGMENT

1. The District Court dismisses the Social Welfare Committee's case.
2. The District Court orders, pursuant to Chapter 43, section 5, second paragraph of the Swedish Public Access to Information and Secrecy Act (2009:400), that the confidentiality provision contained in Chapter 36, section 1, second paragraph of that same Act continue to apply to information on individual personal and financial circumstances, as contained in case file enclosures 12, 13, 14, 15, 16, 17, 18, 49, 127 and 128, that was presented in the main hearing held in a closed session.
3. In accordance with the Swedish Legal Aid Act, Ruby Harrold-Claesson is granted remuneration of SEK 148,780, of which SEK 72,300 relates to work, SEK 29,835 relates to time expended, SEK 16,889 relates to expenses and SEK 29,756 relates to value-added tax. Of that remuneration, 30 per cent relates to Annie Johansson and 70 per cent relates to Christer Johansson.

Doc. ID 54500

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BACKGROUND

Annie and Christer Johansson, who are married to each other, have a son together named Domenic, who was born on 9 September 2001. Ever since his birth, Domenic has been in the joint custody of his parents. Annie Johansson comes from India and is an Indian citizen.

Through a decision of 24 June 2009, Domenic was immediately taken in care under section 6 of *lagen (1990:52) med särskilda bestämmelser om vård av unga*, LVU [Swedish Act (1990:52) containing special provisions on the care of young persons]. The decision was implemented on the following day – 25 June. In a judgment of 18 August 2009, the then Gotland County Administrative Court then ordered that he be provided with care pursuant to sections 1 and 2 of the LVU. The judgment was appealed before the Swedish Administrative Court of Appeal in Stockholm, which dismissed the appeal in a judgment of 17 December 2009. The then Supreme Administrative Court did not grant leave to appeal. The matter of cessation of compulsory care was subsequently examined by the Social Welfare Committee, the Administrative Court and the Administrative Court of Appeal and the parents' request for cessation of care was dismissed at all those instances. Domenic has thus been in compulsory care since June 2009. After having been placed for a short period in temporary residential care, Domenic has been placed in the same foster home since the late summer of 2009 with a couple named Hultberg in Väskinde on Gotland.

From the judgment of the County Administrative Court referred to above, it may be deduced that Domenic was placed in compulsory care because he was considered to have been exposed to a lack of care in both physical and psychological terms. According to the reasoning in support of the judgment by the County Administrative Court, the lack of physical care consisted of the fact that the parents were about to travel to India with Domenic without him previously having received the necessary vaccinations or the opportunity to acquire immunity against diseases occurring in India and that his parents had failed to ensure that Domenic received the necessary dental care and that he had not been taken to health checks. According to the County Administrative Court, the lack of psychological care consisted of the fact that Domenic had been deprived of the opportunity to go to school, which resulted in social isolation from other children of the same age, and to acquire knowledge. The County Administrative Court found that Domenic's physical health had already been damaged (he had caries in several teeth) and that there was a clear risk that his social, emotional and intellectual



development would be damaged and that it did not appear possible that the necessary care would be provided on a voluntary basis.

It has already been noted that the decision to take him into care immediately was implemented with the aid of the police on an aircraft at Arlanda airport when the family (both parents and Domenic) were about to leave Sweden to travel to India.

Furthermore, it has already been noted that Domenic, who was obliged to attend school from autumn 2008, did not attend school in the 2008/09 academic year, even though his parents had been ordered to send him to school or else face a penalty and even though the then County Administrative Court had imposed the penalty ordered on two occasions. It is further noted that Domenic is now in year three instead of year four, where he would have been had he started school in autumn 2008.

It is further noted that on 21 January 2011, Christer Johansson was found guilty of unlawful deprivation of liberty and minor drug offences. The unlawful deprivation of liberty consisted of the fact that, on 22 November 2010, he had taken Domenic and had kept Domenic away from the foster home for approximately 48 hours. The District Court found that the severity of the punishment amounted to one year's imprisonment and decided on a penalty of probation and two months' imprisonment. The prison sentence was considered to have been served during the period in which Christer Johansson had been held in custody in the case (during which time, incidentally, Christer Johansson underwent an examination conducted by a forensic psychiatrist). In a judgment of 9 May 2012, the Svea Court of Appeal upheld the District Court's judgment after the prosecutor had appealed it, requesting that Christer Johansson should instead receive a prison sentence.

It is further noted that the Social Welfare Committee decided on restrictions on access under section 14 of the LVU. In January 2010, contact between Domenic and his parents was further restricted to one hour every five weeks in the presence of a family therapist, plus a 15-minute monitored phone conversation. In December 2010, it was decided to impose a complete prohibition on access. This decision was necessary because on 22 November, Christer Johansson had interfered in the care.

Thus, the



complete prohibition on access has been in place for a year and a half and Domenic has not seen his parents during that period.

Finally, it is noted that Christer Johansson was informed by the prosecutors of a prohibition on visiting/contact as far as Domenic was concerned. That prohibition was originally issued for the period from 8 March 2011 to 7 March 2012, after which the prohibition was extended up to and including 6 September 2012.

CLAIMS, ETC.

The Social Welfare Committee of the Gotland Region has requested that the District Court, applying Chapter 6, section 7 of the Swedish Children and Parents Code, rule that custody of Domenic should be transferred to a specially-appointed custodian and that the attorney Margaretha Dufvenmark, Visby, should be appointed as that custodian.

In support of its action, the Committee has issued a statement which is summarised as follows. Annie and Christer Johansson were found guilty of neglect and inadequate care of Domenic, which resulted in lasting danger to his health and development. Domenic is in compulsory care under the LVU since it was considered that there were deficiencies in care that had led to damage to Domenic's health and development and that there was a substantial risk of further damage if he remained in his parents' care. The parents have always denied any deficiencies in care and they have opposed his being placed in care. A child psychiatric report of 2 October 2009 contained an assessment that Domenic had suffered significant neglect. The parents have had some access to Domenic during the period of compulsory care. This was subsequently restricted because the parents discussed the ongoing process with Domenic and showed very little interest in Domenic and instead burdened him with their own problems. Domenic has reacted badly to this and has come to oppose having contact with his parents. Because access was limited to once every five weeks, plus a phone call every other week, Domenic felt relieved and has been able to enter into contact in a more relaxed manner. Through the criminal abduction of Domenic in November 2010, Christer Johansson undermined



Domenic's security and hindered his continued care. Furthermore, through the abduction, Christer Johansson violated Domenic's integrity and caused him mental trauma with subsequent worry and a continual fear that he would once again be removed against his will from the foster home, where he feels most secure. The Social Welfare Committee considers that this is a placement in which the child will grow up. However, the parents are not able to encourage Domenic to feel comfortable in and to like his foster home. Instead, they try to demonise the foster parents. In the District Court judgment in the criminal case – Case no. 990-09 – the District Court states that it is impossible to ignore the fact that there is some risk that Christer Johansson will again commit an offence against Domenic or another person connected with Domenic's being taken into care. It has emerged that neither of the parents consider that it was a crime to remove Domenic in the way in which it occurred. There were obviously plans to take Domenic away from Gotland after the abduction. On a previous occasion, in May 2010, the parents, along with their representative Ruby Harrold-Claesson and the grandparents, attempted unauthorised interference in his care by turning up unannounced at the boy's school and asking to be allowed to see him. After that, the Social Welfare Committee was forced to adopt different security arrangements to protect Domenic. The parents, as custodians, are entitled to be informed of study materials and other matters relating to Domenic, including those that would otherwise be confidential. The Committee has verified that some of the material relating to Domenic's personal relationships has been posted on the Internet through the parents, possibly with the help of another person, on both Swedish and international websites. The fact that the information has been published risks damaging Domenic's mental health and violating his personal integrity in both the short term and, in particular, the long term. The information on the Internet will remain there "forever" to read by all and sundry, including Domenic himself. Ever since he was taken into care, "the Domenic case" has been continuously reported on the Internet. The parents certainly have a right to argue their case in general terms, but by exposing Domenic on-line, they demonstrate an obvious lack of care for him. In the Committee's opinion, there is a substantial risk that there may be new attempts at unauthorised interference in his care or that either parent may commit or condone offences against Domenic. Since the abduction, it has been necessary to take certain precautions to protect Domenic. Domenic is aware of these precautions and this is likely to

impede his development. With reference to the current situation, it is not compatible with Domenic's legitimate interests in terms of protection of his person and his personal integrity for his parents to remain as custodians. With reference to what the District Court stated concerning the risk of offences against persons associated with his being taken into care, it is not appropriate for the foster parents to be appointed as custodians. Another person should be appointed instead. Margaretha Dufvenmark is suited to the role. She has not previously carried out any such assignment but, as an attorney (and a mother), she will fulfil the role competently. The actual care will continue to be provided by the foster home on behalf of the Social Welfare Committee. Even after the special custodian has been appointed, the Committee considers it necessary for care to be provided under the LVU to minimise the risk of unauthorised interference with the necessary care. The question of cessation of compulsory care is currently being investigated once again. An investigation into this matter was begun at the request of the parents in December 2011. The latest six-monthly review of the care took place in May 2012 and it was decided at that time that care would continue.

Annie and Christer Johansson consider that the case should be dismissed. In support of this, they have made a statement that is summarised as follows. They have not provided Domenic with inadequate care but have always taken care of him and cared for him as good, loving parents. Instead, it is the Social Welfare Committee that has harmed him by brutally taking him into care and through its subsequent decisions. The actions of the Social Welfare Committee and the administrative courts constitute a violation of their and Domenic's human rights, as expressed in the European Convention on Human Rights and Fundamental Freedoms as well as the Additional Protocol thereto, the UN Declaration of Human Rights and the UN Convention on the Rights of the Child. They have brought an action against Sweden at the European Court of Human Rights. Taking Domenic into care is economic exploitation of him because taking him into care means that the foster home receives large sums of money. It is not true that Domenic had been physically harmed. Up to the time when he was taken into care, he was completely healthy. It is true that he had caries, but the importance of this has been greatly exaggerated and it was intended that Domenic would receive dental care in India. When he was taken into care, his state of development was good. He was able to speak both Swedish and English (his mother's language) and he also had good ability in



other areas, such as maths, letters, etc. He was taught at home by his parents. They both have the required educational level to teach him. The intention was for him to start school in India. When this was explained to the authorities, the penalty orders ceased. It was not necessary to vaccinate him before departure. Being taken into care in such a sudden, brutal way, on-board the aircraft, caused Domenic tremendous harm. He became traumatised. This is clear from his powerful physical reaction directly after being taken into care. The fact that the report by the child psychiatrist states that his development is not appropriate for his age may well be as a result of being brutally taken into care and the separation from his parents. If he is still in a bad state, it is because of being taken into care and continued compulsory care and not because he was received inadequate care when he was with them. Nor can the fact that he was able to go home with them for two days in November 2010 be the cause of his unhappiness. Domenic had a good time during those days and was able to see his parents and grandparents. He said he did not want to return to the foster home. The only way for Domenic and them to be healed now is for Domenic to be allowed home. Only when they are together again can they work through the traumatic events. In the circumstances, it would be unnatural for them to encourage Domenic to "feel at home in and enjoy" the foster home. The term "*uppväxtplacering*" [childhood placement] used by the Social Welfare Committee does not exist in law, but is used by the Committee to mislead the court. The purpose of care under the LVU is instead to ensure that care can cease as soon as possible and that the child can be reunited with its parents. Domenic has a right to be with his parents and his family. Both parents, and particularly Annie Johansson, have been badly affected by the fact that their son has been taken into care and placed in compulsory care. Annie Johansson had a cardiac arrest and was close to death. If custody is now taken away from her and Christer Johansson there is a clear risk that she will not survive. A transfer of custody would place both parents' lives in jeopardy. Because their son was taken into care, they live as hostages in Sweden. They are unable leave Sweden to settle in Annie Johansson's homeland, for example, because it is unthinkable that they should leave the country where their only child is. Moreover, Christer Johansson missed out on the job that awaited him in India. It is completely incomprehensible that Domenic should have been taken into care because he did not go to school, since all the schools were on their summer holidays when he was taken into care. It is



true that there is information about Domenic's case on the Internet. They have not posted all the material but they did tell the story of what had happened and half a billion people around the world have become involved in the case.

INVESTIGATION INTO THE CASE

The District Court held a main hearing in this case. At this hearing, the Social Welfare Committee cited as documentary evidence an investigation of 6 December 2010 into the transfer of custody (case file enclosure 12), a social investigation of 17 July 2009 (case file enclosure 13), a care plan dated 17 July 2009 (case file enclosure 14), the Gotland County Administrative Court judgment of 13 August 2009 in Case no. 531-09 referred to above, the Social Welfare Committee's statement to the Administrative Court of Appeal of 22 September 2009 and the report by the child psychiatrist dated 2 October 2009 attached thereto (case file enclosure 15), the judgment of the Administrative Court of Appeal in Stockholm of 17 December 2009 in Case no. 6186-09, an investigation into restriction of access of 21 December 2009 and a report containing a decision (case file enclosure 17), a social investigation of 8 April 2010 (case file enclosure 16), a judgment of the Administrative Court in Stockholm of 21 September 2010 in Case no. 27370-10, an investigation into restriction of access of 26 November 2010, along with a report containing a decision (case file enclosure 18), a report on a preliminary investigation of 14 December 2010 in Case no. AM-107116-09, a forensic psychiatric report of 19 January 2011 (case file enclosure 49), a judgment of the Gotland District Court of 21 January 2011 in Case no. B 990-09, a decision of 8 March 2011 on a prohibition on visits, a judgment of the Administrative Court of Appeal in Stockholm of 1 July 2011 in Case no. 5965-10, a decision of 7 March 2012 on a prohibition on contact and a judgment of the Svea Court of Appeal of 9 May 2012 in Case no. B1430-11.

Annie Johansson and Christer Johansson have cited as documentary evidence the invoice and boarding passes for their planned journey to India, decisions on police assistance of 24 June 2009 and documents (partially "masked") of 25 June 2009 from Gränspolisens [the Swedish border police], Arlanda airport, documents (partially "masked") concerning the investigation and approval of the Hultberg spouses as a foster home, Annie Johansson's degree certificates, documents relating to the challenge and dismissal of Ruby Harrold-Claesson as court-appointed attorney, a submission of 26 January 2011 from



Johan Carlsson, Attorney, to the Administrative Court of Appeal in Stockholm, an undated letter from Bengt Nilsson (now Bengt Sprowede), statements by Trevor Archer of 30 August 2010 and 3 May 2012, child healthcare records (case file enclosure 127) and school healthcare records (case file enclosure 128).

Case file enclosures 12-18, 49 and 127-128 were presented in a closed session. Furthermore, Annie Johansson and Christer Johansson have cited a viewing of photographs.

Furthermore, extensive oral evidence has been presented. There has therefore been an examination of the parties *Annie Johansson* and *Christer Johansson*. Furthermore, at the Social Welfare Committee's request, there has been an examination of the witness *Gunvor Allqvist*, the section head of the social welfare service. At the request of both the Social Welfare Committee and the Johansson spouses, there has been a witness examination of the lawyer Eva Ernstson, who was Domenic's court-appointed attorney and representative in the cases referred to above in the administrative courts and his special representative in the criminal case. Furthermore, at the request of the Johansson spouses, there have been witness examinations of the Professor of the University of Gothenburg, *Trevor Archer*, along with the relatives *Rune Johansson*, *Mikael Johansson*, *Therese Johansson*, *Bertil Johansson*, *Inger Johansson* and *Ove Lindstedt* and the spouses' friends *Cornelia Adolfsson* and *Artur Niczko* and finally of the previous "personal representative" *Bengt Sprowede*.

The documentary evidence

The following is clear from the documentary evidence, beyond what is noted above under the heading "Background".

The Social Services Department's investigation was begun in December 2008 due to the fact that Domenic was not attending school. In contact with school and Social Services Department personnel, Christer Johansson stated that the parents intended to homeschool Domenic. Reports regarding concern for Domenic and his domestic situation had been received as early as 2006. Questions had been raised concerning the parents' physical and mental health and it had been stated



that Christer Johansson used cannabis. It also emerged that the parents had missed several *Barnvårdscentralen* [Child Welfare Centre] and *Folktandvården* [National Dental Service] visits with Domenic.

Domenic did not go to preschool and nor did he attend so-called "preschool classes".

The child psychiatric report referred to above stated, among other things, that Domenic had the cognitive, emotional, social and motor skills development of a younger child and he often appeared naive and lacking in social norms in his behaviour and contact with others. He appeared to lag behind children of his own age. He appeared to be a happy, energetic boy who was able to connect with others. However, his attachment patterns were considered to be ambivalent and there were indications of mental ill-health. It was considered that he did not show the social skills expected for his age. Furthermore, it was stated that it was difficult to assess his potential difficulties because he was in a state of upheaval due to having been taken into care and the resulting change in his living circumstances.

According to the forensic psychiatric report on Christer Johansson, he was not considered to be suffering from any serious mental disorder. However, he was diagnosed with a certain personality disorder.

The oral evidence

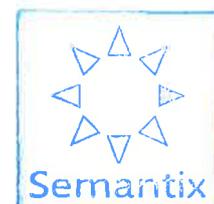
Annie Johansson's statement may be summarised as follows. She has a Bachelor's Degree in Literature and also a Master's Degree in Literature, Marketing, Leadership and IT. She had a good upbringing with her mother, father and siblings. She met Christer in India and they got married in 2000. Domenic was born in 2001. At that time they were living in Hemse. As time went by, they made the decision to settle in India in 2009. Before that, they had been somewhat unsure of where they wanted to live. When the police walked in on them one Sunday, they began to consider moving to India. Both she and Christer assumed responsibility for teaching Domenic and they both also had sufficient knowledge to do so. They were not sure where Domenic would go to school. They also felt somewhat insecure about matters such as travelling to school. Domenic socialised with a group of children. The way he was taken into care, on the aircraft, was completely traumatic. They had arranged passports and visas, bought tickets and boarded the aircraft. The plane was taxiing out. Then someone came and said that they were looking for Christer Johansson. They had to get off. There were a lot of police officers and they said they wanted to talk to Domenic for a short while. Then they took Domenic and put him on a flight to Gotland.



13/06/2012

Domenic was crying and screaming "Mamma!" and she did not know what to do. She had a cardiac arrest and was close to death. The Social Services Department has been harassing them ever since. They have ordered Christer to be put on the criminal register because he took Domenic home in November 2010. Domenic was only able to be at home for four hours. She cannot understand how Domenic's own father could be a danger or a threat to Domenic or how Christer's actions could constitute a crime. She has been crying and has been to casualty 35 times since they took her son. She has not been allowed to see her child since November 2010. She cannot believe that Domenic does not want to see her and Christer. They are his parents. Domenic must be allowed to return to them. How they care for their child is none of society's business; it is their own business. According to the Bible and the marriage service, it is the parents who should care for the child; not the Social Services Department. The Social Services Department acts as though Domenic were a pet, not a human being.

Christer Johansson's statement is summarised as follows. He was born and raised in the country. He is interested in animals and nature and sees a lot of his parents and siblings. He met Annie when he was working in India. They suffered both an earthquake and a robbery in India. They were in a state of shock and needed some help when they arrived home in Sweden in 2001. Domenic was born in Sweden in 2001. They took life calmly and carefully and everything went well until 2006. Then the Social Services Department turned up at their home unannounced along with the police. They had received an anonymous report. They were critical of the fact that Domenic, who was 5 years old at the time, was sitting on Annie's lap drinking from a baby's bottle and they told Annie that she should separate from him. They urged them to take Domenic to the BVC [*Barnvårdscentralen* – Child Welfare Centre]. They did so, and Domenic proved to be perfectly healthy. Domenic was perfectly healthy for seven years until he was taken into care. The only problem was that he had slightly bad teeth. They had been making plans to travel to India since 2002. They asked to be provided with homeschooling materials to teach Domenic at home. All of a sudden, the authorities decided that Domenic should go to school. They wanted a meeting with the *Barn- och utbildningsförvaltningen* [Child and Education Board] to discuss this, but they did not get one. They decided to travel to India. They were sitting on the aircraft and the whole family was happy. It is impossible to understand why the Social Services Department took Domenic. The Social Services Department said that the Social Services Department would take Domenic if they left Sweden. They decided to cooperate with the Social Services Department, but the Social Services Department took Domenic anyway. Both he and Annie had a breakdown. Annie stopped breathing and her heart stopped beating. He was forced to give her first aid. No-one else helped Annie. Domenic started vomiting with fear and shock. Domenic was taken away from them and was flown to Gotland. Domenic was placed in temporary residential care, which in itself was an OK home. Then Domenic was moved to another home. Domenic is now completely changed. His Gutnish has completely disappeared and he is not himself. Previously, Domenic spoke Gutnish and was good at English. Domenic has never said that he did not want to see them. The access they have had was completely controlled by the Social Services Department. Domenic became traumatised by being taken into care. He was ill for six months. He must be still suffering a great deal and the only way for him to heal is for him to come home to them. Only then can the three of them together work through what has happened. Domenic should be at home with them and will not feel well in any other home. When he took Domenic home in November 2010, it took maybe an hour and a half before Domenic was himself. Domenic was able to see his paternal grandmother, paternal grandfather, paternal uncle Micke and all the animals. He was able to see his room and all his toys and he was so happy. When

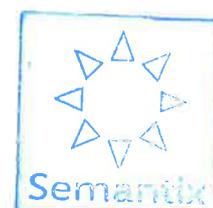


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the police officer came (he called the police himself) there was an uproar. Domenic told him that Domenic did not want to go back to the foster home, which made him, Christer, extremely frustrated. The police came and took Domenic away. Domenic never got the opportunity to see his paternal grandmother again and was not allowed to go to her funeral. He and Annie have told the truth on the Internet about how they have been treated. Half a billion people have responded. Perhaps another half billion are needed. Nothing could be worse than being separated from your family.

Gunvor Allqvist's statement is summarised as follows. She is a head of unit at the Social Services Department. She has received information from the social workers most closely involved and the foster home on how Domenic reacted to the abduction in November 2010. Domenic said that he was frightened, but that he had got used to it. Furthermore, he described how he slept in a barn the first night, how he was able to see his paternal grandmother and paternal grandfather and that he tried to call 112. After the incident, Domenic was worried and afraid. He was still asking the foster home whether his father might come back in May 2011. That fear has now receded, but he is still worried. The abduction seriously undermined Domenic's trust in adults. He is afraid of his parents, particularly of his father. When he was placed in care in 2009, it was verified that Domenic was late developing. He had enormous difficulties with social interaction and was behind in terms of knowledge. He began in year 1 despite the fact that he should really have been in year 2. He has now mostly caught up, but when he gets worried "he falls back" sometimes. He has some difficulty concentrating in school, but that has improved and she states that the school is now able to meet his special needs. Domenic has been on the Internet and has found information about himself. It says that he was kidnapped. He has since become very afraid and the fact that there is so much material about him available on-line greatly endangers his development. There is a certain amount of material that is confidential. The Social Services Department cannot deny the parents access to material on Domenic that would otherwise be confidential. The Social Services Department has been forced to adopt certain security measures to protect Domenic. These are measures agreed under the Social Services Act, not the LVU. Access has had to be restricted. That is because "adult discussions" on the parents' terms took place during the visits. Domenic was drawn into the discussion of the LVU process. This meant that Domenic did not always want to take part in the visits. She does not know whether the Social Services Department had access to the Child Welfare Centre journal before Domenic was taken into care. She herself has not had access to it. According to her assessment, Domenic is still worried because of his father's abduction in November 2010 and not because of the occasion when he was taken into care on board the aircraft in June 2009.

Eva Ernstson: She was Domenic's court-appointed attorney in all the processes taking place in the administrative courts. She has met Domenic a total of 7-8 times. The tone of those processes was highly charged compared to other LVU processes. She has been bombarded with e-mails, threatened with claims for damages and with being reported to the police, etc. She has had and still has the impression that the Social Services Department's supporting data was as complete as could be expected. She has never experienced any doubt with regard to the measures adopted by the Social Services Department or the judgments of the administrative courts. She agrees that compulsory care was warranted. She was also Domenic's special representative in the criminal case. She attended the hearing with Domenic. He was noticeably upset and needed constant reassurances from his foster parents that they had everything under control. In



her view, he is still worried. Domenic gets up during the night and wants reassurance that his father will not come and get him. That worry has receded now. However, the abduction was a major setback. Domenic's development went backwards. Domenic has bonded with his foster parents. It is probably a survival instinct that makes a child bond with its carers. She does not know how Domenic is at present, but she has been led to believe that he is doing well. She knows that he has some problems at school. There is an Internet campaign in which information about Domenic is posted. He is completely defenceless against this. She is very worried about how this may affect him now and in future. He is well aware that the information is available on-line. She does not remember saying that Christer Johansson has a hatred of the authorities. However, she sometimes tends to express herself in dramatic terms so it is not impossible that she did say something like that.

Trevor Archer's statement is summarised as follows. He is Professor of Psychology at the University of Gothenburg. He met the Johansson spouses in the late summer of 2010 and had conversations with them. He has since had some contact with them by telephone and e-mail. He believes that both parents have been very badly affected by the fact that their son has been taken into care. Christer Johansson was the one who was in the best state of health. To him, Christer Johansson appeared to be a well-meaning person with a convincing educational level and knowledge, but who had suffered a great deal of anxiety and many traumatic experiences. He can seem a little confused and somewhat naive. Annie Johansson was seriously ill. Seeing her was a shocking experience. She was severely traumatised by fear and anxiety. Overall, both parents were frighteningly traumatised individuals without any control over their lives. Christer and Annie described the events that led to them being separated from their son in great detail; how they were sitting on an aircraft about to travel abroad when the police intervened and took their son into custody. He has been informed that Annie Johansson has suffered cardiac arrests on a number of occasions and he is not at all surprised by that; it is to be expected. He is slightly surprised that she is still alive because in summer 2010 he wondered how long she would survive. She has somatic symptoms associated with PTSD. However, health-wise both parents have done better than he expected. They have not suffered any serious conditions and have shown great resilience. Frustration was an important element at the beginning, but now helplessness is the most serious element in their health profile. He was informed that Christer Johansson took Domenic home in autumn 2010. He is unable to express an opinion on how Domenic may have perceived that. It fully depends on how much trust Domenic had in his father previously. However, he is surprised to learn that Domenic was in a very state afterwards. If the legal custody of Domenic were transferred, the prognosis for the parents would be very bad indeed. They would not survive. He has had access to two photographs of Domenic, one taken before and one after he was taken into care. One can hardly believe that it is the same child in the photographs. One photo shows a happy child with big eyes who seems alert and proactive. The other shows a child with closed eyes who is no longer proactive, but reactive, and who appears fairly apathetic. It is a little frightening if it is the same child. He does not know how Domenic is and can therefore only speculate about how he is. Since he lived with his parents for the first seven years of his life, he must have formed a strong bond with them. When such a bond



is broken, it results in extreme sadness that is extremely difficult to recover from. It is difficult for outsiders to make up for that loss. He suspects that Domenic is living with chronic stress and that his development will be disrupted. That is suggested by the way the brain is designed and functions. The only solution he can see is for Domenic to be reunited with his parents.

Rune Johansson stated as follows: He is Christer's father and Domenic's paternal grandfather. He and his wife, who is now deceased, lived with Christer and Annie at various times over several years. Christer and Annie were just ordinary parents. There was nothing out of the ordinary. Everything was going well and the parents were extremely careful about food, for example. Domenic is a quick-witted lad who learns fast. Domenic learned a lot about computers and he also learned English. He could read and write. He used to come with him to the shop and he knew every make of car. He was precocious for his age. When Annie and Christer decided to travel to India, there was a bit of a "fuss" with the school. Domenic had slightly bad teeth, but that could have been fixed in India. He has not been allowed to see Domenic since November 2010. Domenic was not allowed to go to his paternal grandmother's funeral. He does not know how Domenic is at the moment or what Domenic wants at the moment. It feels very strange that he is not allowed to see Domenic and that he will grow up without his parents. In November 2010, Christer brought Domenic home. Domenic sat at the kitchen table, did a bit of drawing and thought it was good to be home. He was happy and excited to be home. Christer then called the police and told them where they were. The police then came and took Domenic away without either a hat or shoes. Domenic shouted to him, Rune, that he did not want to leave. He heard Domenic say that twice, but does not remember whether it was when the police had arrived or before that. He understands why Christer took Domenic home. He probably would have done the same himself. He thinks that Domenic should have been allowed to start school in Havdhem, where he was registered.

Mikael Johansson, Christer Johansson's brother, made a statement which is summarised as follows. He is married and a father of two children. His children are Domenic's cousins. He had a good relationship with Domenic. The last time he met Domenic was during a short visit in October 2011 at a café in the centre of Visby. His son used to play with Domenic before he was taken into care. After he was taken into care, his children were not allowed to see Domenic. They find it strange and wonder why they are not allowed to see Domenic. He has been in contact with the Social Services Department and has asked for a chance to see Domenic, but the officials never replied to him with regard to that. He has not been informed whether the access restriction only applies to the custodians. He knows that there was an anonymous report to the Social Services Department that Christer was not a good father and that he and Annie were bad parents. It was not true. It was all wrong. They have never been bad parents. Since the Social Services Department became involved in their lives, they have been in a bad state and have not received any help. At present they are in a very bad state. They have had their only child taken away. He has never seen Domenic being mistreated by his parents. Domenic was always happy. Domenic was a happy little boy who liked animals and nature. The family had a dog, a rabbit and cats. Other people saw Domenic in the same way as he did. Domenic was very sociable with friends and family and also with other people. He was curious and wanted to know what their names were. When Domenic came home to Alva in November 2010, Domenic was happy to be back and did not want to leave when it was



time to go. He was also in Alva. The police came and took Domenic way. Domenic was not even allowed to take clothes or shoes with him. Domenic did not want to leave Alva, so that must have meant that he did not want to go back to the foster home. The way that Christer and Annie have been treated in the LVU case is horrifying. There are no grounds for Domenic to be taken into care and he cannot understand how they could have custody taken away from them. He does not understand how this could have gone on for so long.

Therése Johansson has stated as follows: She is married to Mikael Johansson, Christer's brother. She has known Christer for a very long time and she has known Annie since Annie came to Gotland. She has known Domenic since he was born. She last saw Domenic on the evening before they were due to travel to India. That was also the last time her children saw Domenic. Immediately after they took Domenic into care, the Social Services Department called and spoke to her. They were not asked whether they might be willing to be foster parents to Domenic. Annie and Christer have been affected by this and even she and her husband have found it difficult to understand why this has happened. It has been difficult for everyone. She thought Annie and Christer took good care of Domenic. Domenic was happy and healthy, as children are. The way that he was forcibly taken into care has had the same effect on her children as on her: they wonder how it could have happened. Her son wanted to see Domenic, but was not allowed to. No-one at the Social Services Department has informed her that the access restriction applies only to the custodians and not to the rest of the family. She does not understand at all why custody should be transferred. She does not understand why it could not be transferred to them, as close relatives, in that case. She wants the court to return Domenic. She does not understand how things turned out as they did. She did not previously express any concern at the fact that Domenic did not go to school. But of course she thought that Domenic would go to school, just like her children.

Bertil Johansson, Christer Johansson's paternal uncle: He has spent time with Annie and Christer Johansson regularly, as relatives do. They live not very far from one another. He himself has children of Christer's age. Annie and Christer have not done anything wrong in their parenting. He last saw Domenic approximately two years ago. He did not have any contact with the Social Services Department after Domenic was taken into care. He has not visited Domenic. Annie and Christer have been in a bad state since he was taken into care and they naturally miss their son. If your kid is taken away, it obviously affects you. It has affected the whole family. He cannot understand why Domenic was taken into care. He cannot see how that could be right. He does not think there was anything particularly remarkable about Domenic's upbringing, except that he told Annie and Christer that Domenic should go to school and meet other children apart from Domenic's cousins. He knows that Annie, Domenic and Christer were about to leave Sweden. He cannot see how it could be right to stop them from going just so Domenic could go to school, though he knows nothing about such matters. They should have been allowed to go.

Inger Johansson: She is Christer's maternal aunt. They have known each other since Christer was small. Because they are related, they have spent time together. She saw Annie and Christer as being quiet and pleasant and the boy as alert and happy and so on. She herself has children of Christer's age and six grandchildren. Domenic was just like their own grandchildren. He was spontaneous and happy and liked to be with people. If she had noticed that something was



not right, she thinks she would have said something. She has never seen Domenic mistreated by Annie or Christer. She thought that being able to travel to India would be nice for Annie and Christer. Domenic seemed happy that they were going. Rune, Christer's father, told her that they had come and taken Domenic from the aircraft. It is unbelievable that he has been taken into care. Annie and Christer are now hopeful that they will get Domenic back. She has not had any contact with the Social Services Department to be allowed to see Domenic. She has not been informed that it is possible for her to see Domenic. One cannot believe that they have really been treated like this. She does not understand why they could not see that they should give in and return him. She cannot understand why they would want to take away custody. Every child has a right to be with its parents. She is retired now, but she worked in childcare for 24 years. Domenic was like all other children. Not all children are alike, but Domenic was not odd. Domenic played with her grandchildren and they got along well. She wants them to be reunited. She did not notice that Domenic was lagging behind in terms of his development. However, she did express concern that Domenic did not spend a lot of time socialising with other children. In her profession, she found that it does children good to socialise with other children. She did not say, as the social investigation stated, that Christer is obstinate and lives by his own rules. She does not remember how the questions were put.

Ove Lindstedt stated as follows: He is a cousin of Christer Johansson's mother. He has worked in schools as a children's sports coach for many years. He has known Christer since he was very small and he has known Annie since she came to Sweden. He has visited the family every summer. He has never seen anything odd about Christer and Annie. They had a good relationship. It came almost as a shock when Domenic was taken into care. Domenic was a cheerful, curious boy who wanted to be with people. He did not consider Domenic's development to be anything out of the ordinary either in social or educational terms. However, he did hear from the parents that Domenic had been bullied at school and was very unhappy because of that.

Cornelia Adolfsson: She has known Annie and Christer since she moved to Alva. They became good friends very quickly. She also visited them whenever she was in Gotland (after she moved to the mainland). Her contact with Annie and Christer also included contact with Domenic. She has not seen Domenic since he was taken into care. She has worked with children and saw Annie as a fantastic mother and Christer as a very good father. She cannot understand why Domenic was taken into care or what happened. It seems unclear. She last met Domenic in summer 2009. Domenic did not seem neglected to her. Annie and Christer have been in a very bad state since Domenic was taken into care. She has never seen anyone lose their joie de vivre as much as Annie has. She cannot understand why custody should be transferred. She hopes with all her heart that Domenic will be allowed to come home. There is nothing to indicate that Domenic is lagging behind in terms of his development. On the contrary, he was surrounded by intellectual stimulation and was quick to learn.

Artur Niczko: He has known Annie and Christer since 2006 and knows them very well because he lived on the same farm as them for two years before Domenic was taken into care.



13/06/2012

He last saw Domenic the day before they were due to depart for India. He did not understand why Domenic was taken into care or what had happened or why. It seemed to him that Domenic was well looked after. He was shown a lot of love, he was respected and boundaries were set. Everything was verging on exemplary. He played with Domenic nearly every day. Sometimes, they might play for a few hours and other times they played for a few minutes during the day. Domenic was mature for his age. he was sociable and he was keen to show things when they had visitors, like his flight simulator, etc. To him, Domenic's relationship with his parents appeared to be straightforward and uncomplicated. They rarely argued, but sometimes his parents had to tell him off. The fact that Domenic has been taken into care is beyond his understanding. As he understands it, it is purely as a result of homeschooling. If the court or social services find that homeschooling is a reason for taking him into care, he strongly disagrees. There is no reason to take a child away from its parents because of that. He had not seen anything at all that give rise to any concern about Domenic. His firm belief is that the best thing for Domenic would be for him to come home to his parents.

Bengt Sprowede: He previously worked as a personal representative for people with mental disabilities. He had an assignment for Christer Johansson, who had approached him for help with contacting authorities and coordinating that contact. It mainly revolved around contact with the Social Services Department. He helped the spouses in their contact with authorities so they could establish themselves on Gotland. He was successful in making contact with the authorities, but he does not know how things went after that. He considered that the Johansson spouses' housing conditions were normal. He suffered a personal crisis and committed a serious error as a personal representative when he telephoned the Johansson spouses. The call must have surprised the Johansson spouses. He stopped being a personal representative after that.

REASONING IN SUPPORT OF THE JUDGMENT

Legal bases

In accordance with Chapter 6, section 7, first and second paragraphs of the Swedish Children and Parents Code, the following applies.

If, when exercising custody of a child, a parent is guilty of abuse or neglect or is otherwise wanting in his or her care of the child in a manner which entails an enduring risk to the child's health or development, the court shall make a decision changing the custody position.

If both parents have custody of the child and what is said in the first paragraph applies to one of them, the court shall entrust custody to the other parent alone. If that parent is also wanting in his or her care of the child in the manner referred to in the first paragraph, the court shall transfer custody to one or two specially appointed custodians.



In accordance with Chapter 6, section 2a, the best interests of the child shall be the primary consideration in the determination.

The following statements may be reproduced from the commentary on the Act.

There is reason for the general courts to observe restrictions when the question arises of whether to take custody away from a parent and give it to a specially appointed custodian. In general, the question of the application of the above section 7 should have been preceded by a placement of the child under the LVU, even if it is not necessary. According to Anna Kaldal, *Parallella processer* [Parallel processes], page 245, the legal sources cited argue that the level of risk in accordance with the above paragraph should be higher than is required for a child to be taken into compulsory care under the LVU because that taking into care does not mean that custody ceases, but constitutes a temporary solution, whereas the aim of the provision in the Swedish Children and Parents Code is a more permanent separation from the custodian. Apart from the difficulty of quantifying the different risk levels, such arguments mean that the courts should be particularly careful to entrust custody to a specially-appointed custodian.

Transfers of custody pursuant to the above paragraph are rare. They involve approximately ten children per year in the entire country.

A decision on care under the LVU is issued by the Administrative Court. It is important that every effort should be made to seek an appropriate solution in agreement with the parents and the child. The Social Welfare Committee's primary responsibility is to offer assistance within the Social Services Department. If the child is placed in another home, the Committee also, in principle, works to reunite the child with its parents. If no reunification can come about despite prolonged, extensive efforts by the Committee, it may be necessary to request a change in the custody position.

A transfer of custody presupposes that there is a person who is both willing and suitable to take over custody and that this person has such a good relationship with the child that the child can or reasonably should accept him or her as a custodian (Walin/Vängby, Swedish Children and Parents Code (Zeteo, January 2012), commentary on Chapter 6, section 7).

The District Court's judgment

The Social Welfare Committee has based its case on the fact that grounds exist for Domenic to be placed in compulsory care due to inadequate care and because of what occurred in the period after the compulsory care began. Thus, the Committee has made clear, by means of a plea, that to support the assertion that a transfer of custody is necessary it is now stated *that* the parents are not able to put Domenic's interests before their own, *that* the parents, through the unlawful abduction, proved to be indifferent to the risk of



harming Domenic, *that* there is a risk of further interference in his care and *that* the parents, through publication on the Internet – including of material that is "confidential" – are harming Domenic on a continuous basis.

The District Court notes, by way of introduction, that the purpose of compulsory care under the LVU is that care should continue for as long as is absolutely necessary and that it should cease thereafter. This entails an obligation for the Social Welfare Committee to work to enable the child to be reunited with its parents. In addition to this, it may also be said that it must be considered to be incumbent on the parents to cooperate with the Social Welfare Committee to enable this goal to be achieved. Both the Social Welfare Committee and the parents must thus act according to the child's best interests and not in their own interests. The District Court, which notes that the question of cessation of care is once again being investigated, cannot, for its part, find that the investigation of the case provides unambiguous support for the conclusion that reuniting Domenic and his parents should be completely ruled out. On this point, the District Court attaches crucial importance to what emerged in the questioning of Domenic's paternal grandfather, paternal uncle, paternal aunt and other relatives as well as other friends of the family, who all stated that they have not seen any shortcomings in the way the parents cared for Domenic and that he should be reunited with his parents. It is true that all these people are relatives or friends of the Johansson spouses and their information must therefore be assessed with some caution. At the same time, it is precisely the family's relatives and friends who have been in a position to make observations in the home and who have been able, on that basis, to give an opinion on the way in which the parents cared for Domenic. There is, in the District Court's view, no reason to fear that they would all tell lies or doctor the truth before the court and under oath to promote the Johansson spouses' interests in the case. One crucial prerequisite in order for them to be reunited is that assurances be given that Domenic may continue to go to school. The fact that, throughout the 2008/09 academic year, they failed either to ensure that Domenic went to school or to obtain the necessary permit for homeschooling constituted a serious lack of care in the District Court's view. The statements by the parents concerning their plans to move to India cannot give rise to any other view. Also, the fact that Domenic had caries in several teeth must be considered as a lack of care.



Although the possible cessation of care in a foster home cannot therefore be ruled out, that care, as long as it continues, must be provided in a manner that is safe and secure for Domenic. The question now arises as to what risks exist that this may not be the case.

As the Social Welfare Committee has pointed out, Annie and Christer Johansson have always denied that any lack of care and any consequent need for care exists. As a natural consequence of this attitude on their part, they have appealed the judgments and decisions that established that Domenic must be compulsorily separated from them and must be cared for in the foster home in question instead. They have also taken further action, i.e., the criminal abduction of their son in November 2010 and the publication of details of the "case" on the Internet. The fact that they neither wanted nor were able to encourage Domenic to bond and feel comfortable in the foster home can also be laid at their door.

As regards the risk of new interference in the ongoing care, the Committee has referred to what the District Court stated in its judgment on the criminal case of 21 January 2011. The extent of the current risk that one of the parents may once again try to interfere in the care is, in the District Court's view, difficult to assess. In this context, the District Court notes that there is no indication that any such attempt was made after November 2010.

The parents have expressed a great deal of anger and frustration over the fact that Domenic was separated from them. In the District Court's view, there is every reason to assume that a final separation of Domenic from his parents, which a transfer of custody would entail, would further accentuate those feelings of frustration, desperation and sheer powerlessness. In the District Court's view, it cannot be ruled out that such a decision would actually increase rather than decrease the risk of further interference in the care and of further writings on the Internet. This cannot be considered to be in Domenic's best interests, even if the possible option of keeping certain information secret from the parents is considered.



As a background to what is stated above, the District Court cannot find that it is now necessarily in Domenic's best interests for custody of him to be transferred from the parents. The Social Welfare Committee's case should therefore be dismissed.

Ruby Harrold Claesson has requested remuneration for 114.5 hours' work and remuneration for 27 hours of time expended and certain expenses relating to travel between Olofstorp in Västra Götaland and Gotland.

In accordance with section 27, first paragraph of the Swedish Legal Aid Act, legal aid counsel are entitled to reasonable remuneration for their work, time expended and expenses required in order to perform the assignment. The remuneration for work will be determined on the basis of a reasonable time consumption according to the nature and extent of the task. It is therefore for the court to assess what constitutes reasonable remuneration. According to the fourth paragraph, as a general rule the remuneration of a legal aid counsel does not include any additional costs for time expended and expenses accruing due to the fact that the counsel carries out his or her business activities in a place that is far from the court. Such additional costs will only be reimbursed if there are special reasons to do so.

The investigation clearly shows that Ruby Harrold-Claesson has been involved in the case for several years. She must thus be assumed to have been well versed in the case for a long time. In addition to that, Annie and Christer Johansson both expressed a very strong desire for Ruby Harrold-Claesson in particular to be appointed as their legal aid counsel. The special reasons referred to in section 27, fourth paragraph, therefore exist.

The main proceedings in the case have taken two full days. Oral preparations have also been held, which took half a day. The District Court understands that, due to its complexity, the case has required a considerable amount of work. However, the District Court finds, with particular reference to what has just been stated concerning the fact that Ruby Harrold-Claesson is well-versed in the case, that she has spent considerably more time than was required to safeguard the rights of Annie and Christer Johansson. Added to this, some of the items listed in the estimate of costs are not reimbursable, such as



a review of a French judgment on the possession and use of cannabis for medical purposes. The District Court finds that Ruby Harrold-Claesson is reasonably provided for with remuneration for 60 hours' work.

Value added tax will be payable on the amounts requested by Ruby Harrold-Claesson for expenses (flight tickets, taxis, hotels, etc.) in accordance with NJA [*Nytt Juridiskt Arkiv* – New Juridical Archive] 2005, page 606.

There is reason to order confidentiality in the manner clearly stated in the judgment.

APPEALS PROCEDURE, see annex (DV 401)

Any appeal, lodged before the Svea Court of Appeal, should be submitted to the District Court no later than 4 July 2012.

[Signature]

Kristina Wirdemark
District Court Judge

Lay judges Jonna Brodd, Arne Eklund and Göran Norrby participated in the ruling.

Jonna Brodd dissents and states as follows.

The investigation clearly shows that the parents provided inadequate care for Domenic in a way that made LVU care necessary. The Social Services Department then attempted to establish relations between the parents and Domenic. It has become apparent that those relations were not at all favourable for Domenic due to the parents' behaviour and because of that the Social Services Department was forced to restrict access and then finally prohibit it. It is now difficult to see how they can be reunited. Added to this is the fact that the parents expose Domenic on the Internet in a way that must be considered to cause him significant harm. Domenic is completely defenceless against these



publications and this must be considered as a severe lack of care. Because of the foregoing, I find that the Committee's application for transfer of custody from the parents should be approved. In all other matters I agree with the majority.

