

G (Children)

[2015] EWCA Civ 1091

02/09/2015

Barristers

Sam King KC

Court

Court of Appeal (Civil Division)

Summary

It was appropriate to continue to adjourn applications in long-running care proceedings, as proceeding to a hearing would have an adverse effect on a father's health, whose blood pressure was dangerously high, and a court-requested cardiologist report was yet to be provided.

Facts

The court was required to determine as a preliminary issue whether to adjourn a number of applications and an appeal in long-running care proceedings concerning the appellant parents' children.

Previously adjourned applications had again been adjourned in July 2015 on the basis of medical evidence of the father's poor health, as a GP's note was produced stating that the father was "being checked for a serious condition – ministroke". Consequently, the applications were re-listed for September 2015 when a more detailed specialist report on the father's health was to be produced. Since the July hearing, the father had been referred to a specialist cardiologist whom he was to see on 13 October 2015. A week before the September hearing, the mother applied for to adjourn because of the father's further health issues. The parents had been acting in person, with the father advocating on their behalf. The adjournment was refused, and the parents renewed their application at the instant hearing. The father submitted readings of his blood pressure taken that day by a pharmacist, who had said that his blood pressure was very high, he was at risk of having a heart attack or a stroke, and needed immediate medical attention.

The parents submitted that the litigation should not proceed (1) as the father's wellbeing would be at risk; (2) until the father had seen the specialist cardiologist and a report had been prepared.

Held

1) When the direction to obtain a specialist report was made, the court had thought that the father had already been referred to a specialist and thus expected a report to be ready at the instant hearing. However, specialist evaluation of the father was yet to occur. The court was sympathetic to the local authority's position that further delay was not in the children's best interests. However, as a starting point the court had to be tolerant to the way in which the parents wanted to proceed: they were acting in

person; they were not entitled to legal aid; and it was unlikely that they would be represented pro bono. It would not be wise for the court to ignore blood pressure readings at the high end of the scale and proceed. For that reason alone, the litigation would be adjourned. (2) The father was right to say that the court-requested specialist report should be seen through to its conclusion. A further six-week delay until the October appointment would not be a significant increase in a case that had already been delayed on many occasions. Fortunately, the children's future plans were not in abeyance, and they were to stay in foster care. The balance of convenience was outweighed by the harm that the father would suffer if the litigation continued. The adjournment would be granted, but the father was required to consent to his current GP disclosing his medical records concerning his difficulties with hypertension, the referral letter for his appointment in October 2015, and the cardiologist's letter after evaluation.

Permission

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