

Re K (A Child)

[2015] EWCA Civ 474

11/03/2015

Barristers

James Shaw

Court

Court of Appeal (Civil Division)

Practice Areas

Public Children Law

Summary

A judge had been correct to make a placement for adoption order in respect of a two-year-old child who was at risk from serious emotional harm. Although the local authority had failed to identify the support that was available to the family, the expert evidence was that the parents' deeply-rooted problems could not be neutralised by support measures and that any support would not be sufficient to bring about sustainable change.

Facts

The appellant mother appealed against a placement for adoption order made in respect of her two-year-old child.

The child lived with his parents, his aunt and uncle and their two children. The local authority had become concerned about the physical state of the house which was overcrowded, housed numerous animals including 17 cats, and had hygiene and odour issues. The biggest concern was the tension between the two families. All three children had been the subject of child protection orders and there had been allegations that another family member had engaged in sexually inappropriate behaviour. After a social worker had discovered urine and animal faeces in the house and the mother became verbally aggressive, the local authority issued care proceedings. A psychologist gave evidence that the father suffered from long-term psychological problems, and that the mother suffered from low mood and low self-esteem. A range of positives were identified, such as the parents' willingness to engage, but ultimately the psychologist's evidence was that the child was at risk from emotional and possibly physical harm as a result of the living arrangements. The guardian and social worker agreed with the psychologist. The judge found that support would not alleviate the concern, and that the risk of serious harm to the child outweighed the disadvantages of adoption. The appeal focused on whether the local authority had failed to consider a support package for the parents if it was decided that the child should remain in the parents' care under a supervision order. The issue was whether the judge had fallen into error by presiding over a defective process which did not properly consider what support the parents could be given.

The mother submitted that the judge could not have concluded that no support was sufficient to allow the child to stay with her as there was no evidence until the last minute as to what any support would comprise and thus no discussion as to how effective it might be. The local authority submitted that the case did not turn on whether support could be given to the family but on the more fundamental issue that the family functioned in a way which was harmful to the child.

Held

On the surface, it appeared that there had been an unfortunate failure by the local authority to identify support that was available to the family. A local authority had a duty to support a family rather than remove a child, where support would make a difference, *B (A Child) (Care Proceedings: Appeal)*, Re [2013] UKSC 33, [2013] 1 W.L.R. 1911 followed. However, the judge's approach had been justified on the evidence. She had given careful reasons, in which she had summarised all the positive as well as all the negative factors. She had accurately described the legal question. Moreover, she had considered the evidence from three different sources, which were to the same effect: that the parents had deep-rooted, complex psychological difficulties which meant that the children were at risk from future significant harm. The psychologist and guardian's evidence was that those deeply-rooted problems could not be neutralised by support measures and that courses would not be sufficient to bring about sustainable change. The judge had decided the case on far more fundamental matters which related to the family's ability to be amenable to change. She had been right to be content with the experts' views that support would not have addressed the key issues.

Permission

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