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# Re G (Care Proceedings: Spilt Trials)

## [2001] 1 FLR 872

29/11/2000

**Barristers**
Private: Jonathan Cohen QC
Catherine Wood KC
Paul Hepher

**Court**
Court of Appeal

**Facts**
The care proceedings were heard in two parts, the first part dealing with whether the mother or the father was responsible for the serious physical injuries to the baby which had resulted in the baby's death, and the second part dealing with what should happen to the baby's half-brother. No directions were given that the two parts should be dealt with by a single judge. At the end of the first part, the judge concluded that either the mother or the father was responsible for the death of the baby. The judge did not reserve the case to herself, and the second part was listed in front of a different judge. A psychiatrist, giving evidence in the second part as to the seriousness of the risk to the half-brother if he were to remain in his mother's care, had received a summarised version of the first judge's judgment, rather than a full transcript. The second judge, disagreeing with the psychiatrist, concluded that the half-brother should go to live with his own father, rather than remaining with the mother, and the mother appealed.

**Held**
Held – dismissing the appeal –

(1) Where an application for a care order was split into two parts, the first part dealing with the threshold criteria, and the second dealing with the disposal of the case, it was very important that the same judge should hear the case throughout, if possible. The Bar and solicitors were asked to have this in mind, in order to make certain that when directions were given for two parts of a split trial, those directions should indicate that the two parts should, if possible, be heard by the same judge. The judge should be requested to make sure that the order at the end of the first part of a split trial indicated that the second part should be reserved to him or her, if available. The Clerk of the Rules should be told before the second part of a split trial was fixed for hearing that a particular judge had dealt with the case in the first half, and that it was very important, if possible, that he or she should deal with the second part. Although considerable difficulties had been caused in this case because the split trial had been dealt with by two separate judges, these had had no effect upon the way in which the case was eventually disposed of.

(2) Where a consultant was asked to express an opinion, having assessed the parties in the case, the consultant must have all the relevant information, including a copy of any judgment given in the case, in order to be able to give a balanced opinion. It was not sufficient for the consultant to be given a summary of a judgment in the case, which could never be a substitute for the full judgment. The fact that this expert had not seen the full judgment, and had had only a short time to consider the summary, was sufficient to raise a question mark over his evidence, and entitled the judge to disagree with him as to the degree of risk to the child.

(3) The judge had tried this difficult case with great care. He had analysed the nature of the risk, the likelihood of harm, and possible safeguards. All relevant considerations had been weighed in the balance. The judge had not misdirected himself, was not plainly wrong, and the appellate court would not interfere.