

Re A (Children) (Adoption/Long Term Foster Care) sub nom H Borough Council v CDP & 8 Ors (2015)

[2015] EWCA Civ 1021

13/10/2015

Barristers

Alex Verdan QC

Court

Court of Appeal (Civil Division)

Practice Areas

Public Children Law

Summary

When refusing to make adoption and placement orders in respect of three children, a judge had been entitled to take into account the strength of the children's relationship with their three elder siblings.

Facts

A local authority appealed against a judge's refusal to make adoption and placement orders in respect of three children aged 3, 5 and 6.

The children had three older siblings aged 10, 12 and 13. All six children had been removed from their parents as a result of neglect and their parents' drug use. Their mother also suffered from mental health problems. The children were moved to the homes of two foster carers. The siblings continued to have regular contact with each other, and the 10-year-old attended the same primary school as the younger children. Their parents also had regular unsupervised contact with them. The local authority proposed that the three younger children should be adopted, and the elder children placed in long-term foster care. After adoption, sibling contact would be reduced to three times per year. The judge concluded that the six children were a close sibling group and the reduction in sibling contact had not been well-thought out. She was concerned about the success of adoption, and concluded that a breakdown in an adoptive placement would be disastrous for the children. The guardian had initially supported the local authority's care plan. Following the judge's refusal to order adoption, the youngest children's foster placement broke down. The guardian changed her view and stated that she could no longer support the local authority's care plan.

The local authority submitted that the judge had attached insufficient weight to the advantages of adoption and had placed too much emphasis on sibling contact. It also argued that the judge had applied *B (A Child) (Care Proceedings: Appeal)*, Re [2013] UKSC 33, [2013] 1 W.L.R. 1911 incorrectly, as the test in that case referred to the severing of ties with parents, not with siblings.

Held

The case of B (A Child) did not consider directly the importance of sibling relationships and care had to be taken in taking dicta, such as those of Baroness Hale and Lord Wilson, too far, B (A Child) considered. However, of more materiality was the Adoption and Children Act 2002 s.1 which applied whenever a court was coming to a decision relating to the adoption of a child. Section 1(4) listed the matters to which the court had to have regard. The court had to consider the child's relationship with all of his/her relatives, and the wishes and feelings of those relatives, including siblings. The sibling bond was recognised by all as being particularly strong in respect of the six children in the instant case. Even in the face of care plans for adoption, the three younger children had contact virtually every day with one or more family members. Further, three of the children (including one of the elder children) attended the same primary school. In the face of that material, the court could not accept that the judge had placed too much weight on the sibling relationship. It was also relevant that sibling contact had not played any part in the local authority's care plans and that in the local authority's view, an adoption placement would always override sibling contact. The local authority's evidence had not addressed the potential for success of an adoption placement for children who were to be separated not only from parents, but also from siblings to whom they were very close and with whom they had very regular contact. Little or no work had been done to see whether the sibling relationship could be accommodated. The judge had also had significant concerns about the possible failure of an adoption placement and the consequences for the children if that occurred. The judge had not failed to give adequate weight to the advantages of the permanence of an adoption placement, and the evidence of the likelihood of it being achieved. It was impossible to say that the judge was wrong in the decision that she took (see paras 30-35, 37-39 of judgment).

Permission

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