

A v L (Contact)

[1998] 1 FLR 361

27/10/1997

Barristers

Barbara Mills KC

Court

Family Division

Facts

The father applied for indirect contact with his 3-year-old son. The mother and father had had a relationship prior to the son's birth, but it was marred by the father frequently being very violent to the mother. During the course of the mother's pregnancy she formed a relationship with another man, who, following the birth of the child, became the person whom the child thought was his father. The child had no knowledge of his real father. There had not been any contact between the father and the child since very early in the child's life. The welfare officer reported that the child was not distressed by his lack of contact because he did not know of his real father's existence and recommended that for the time being either: (a) there be no contact, or (b) the mother agree indirect contact, which the mother in fact opposed. The mother decided not to tell the child about his true parentage until he grew older. The father accepted this. The father was serving a long prison sentence and in view of the unwillingness or inability of any relation to facilitate contact, direct contact at the prison was not feasible. The justices inquired about a means of facilitating indirect contact, but, upon being informed that no one was willing to do so, refused the father's application. The father

Held

Held – allowing the appeal – the justices were plainly wrong because they allowed themselves to be influenced by inappropriate and irrelevant matters. It was very important, if at all possible, for a child to grow up with some knowledge of, and some contact with, his natural father. That was a fundamental right of a child and it was ordinarily very much in the welfare of the child to grow up having some contact at least with both of his parents. A child also had a right to know the truth about his paternity and it was in the best interests of a child to know the truth from an early age in a way appropriate to his years. The justices were wrong to accept the mother's view (although it was also accepted by the father) that the child should not be told about his parentage until he grew older. The justices were also wrong in finding that no one would facilitate indirect contact; the mother's solicitors indicated their willingness on appeal to pass letters from the father to the child via the mother without disclosing the mother's address to the father. A defined order for indirect contact would be made.

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