

Re F (A Minor) (Blood Tests: Parental Rights)

[1993] 3 WLR 369

28/02/1993

Barristers

Michael Sternberg OBE KC

Court

Court of Appeal

Facts

In 1991 the wife gave birth to a daughter who had been conceived at a time when the wife was having sexual relations with both her husband and the applicant. The relationship between the wife and the applicant ended before the birth of the child, who was brought up as a child of the family by the wife and husband, without any contact with the applicant. The applicant applied to the magistrates' court under the provisions of sections 4(1)(a) and 10 of the Children Act 1989 for the making of parental responsibility and contact orders in respect of the child on the ground that he believed himself to be her natural father. The justices transferred the applications to the High Court, where the district judge referred the matter to a High Court judge to determine whether blood tests should be ordered under section 20(1) of the Family Law Reform Act 1969 to ascertain whether the applicant was the natural father of the child. The judge dismissed the applications on the grounds that since the applicant's association with the mother had ceased before the birth of the child, parental responsibility or contact orders were unlikely to be made and an order for blood tests would achieve no more than a theoretical declaration of paternity, the benefit of which would be outweighed by the risk of disruption to the child's family unit as a result of such tests.

On the applicant's appeal: -

Held

Held, dismissing the appeal, that in considering whether to order the taking of blood tests pursuant to section 20(1) of the Family Law Reform Act 1969 in the child's interests the court was entitled to take into account the probable outcome of the proceedings in which the issue arose; and that, therefore, the judge had rightly considered the question in the context of the likely refusal of the applications for parental responsibility and contact orders; that the court would not order blood tests against the will of the parent who had had sole responsibility for bringing up a child since birth; and that, accordingly, since the possible detrimental effect on the child's welfare of ordering blood tests had not been shown to be counter-balanced by any positive benefit, there were no grounds for interfering with the judge's exercise of discretion (post, pp. 372D-E, 374C-E, G, H, 375B-C, E, H - 376B, B-C).

S. v. McC. (or se. S.) and M. (D.S. intervener); W. v. W. [1972] A.C. 24, H.L.(E.) applied.

Decision of Judge Callman sitting as a deputy High Court judge affirmed.

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