

Re J (A Child) (2007)

[2007] EWCA Civ 906; (2008) 1 FLR 369

17/07/2007

Barristers

Paul Hopher

Court

Court of Appeal

Summary

In the circumstances a judge had been right to make an order under the Children Act 1989 s.91(14) preventing a mother from making any further applications to the court in relation to her son until he was 18 years old.

Facts

The appellant mother (M) appealed against an order under the Children Act 1989 s.91(14) prohibiting her from making any further applications to the court in respect of her child (J). J, who had been born in 1992, suffered from a severe autistic disorder and had profound learning difficulties. Following M's separation from the respondent father (F) in 1993 a course of litigation had begun with over 10 hearings in relation to contact, residence, prohibited steps orders and alleged breaches of those orders. In 1999, a residence order was made in favour of M, and J lived with her for 18 months. M found it increasingly difficult to care for J and eventually J was taken into care and a care order was made on the application of the local authority. J was subsequently placed with F under the care order and arrangements for contact with M were left at the discretion of the local authority. M had unsupervised contact with J every fortnight for about five hours. M applied for specific contact under s.34(3) of the Act, which was refused. M applied out of time for permission to appeal against the care order, for a discharge of the care order and for an increase in contact. The applications were refused and, on the application of the local authority, an order was made under s.91(14) of the Act to last for five-and-a-half years until J was 18 years old.

Held

HELD: Whilst there was no reported case of a s.91(14) order being made in respect of a child in care nothing turned on that point as s.91(15) and s.91(17) provided a wholly inadequate level of protection. An order under s.91(14) without limit in time ceased to have effect when a child reached 18 years old under s.91(13) and was appropriate only in the most exceptional circumstances, *S (Children) (Permission to Seek Relief)*, *Re (2006) EWCA Civ 1190*, (2007) 1 FLR 482 applied. The judge recognised that ordering prohibition until J was 18 years old was an extremely unusual order. However, there was justification in the judge's view that it was in J's interests that a moratorium on all applications should be imposed. There was no question that any order of the court permanently shut the court door in the litigant's face. The court was ready, and obliged, to open the door to any application that had prima facie merit.

Appeal dismissed

Permission

Lawtel 