

Re E (Children) (2005)

[2005] EWCA Civ 690

11/04/2005

Barristers

Joanne Brown KC

Court

Civil Division

Summary

The trial judge had been entitled to make the factual finding that the respondent father had made a genuine statement of acceptance that he had an alcohol problem which he needed to address along with his tendencies to commit domestic violence, and accordingly the judge had been entitled to make a contact order in favour of the father in light of that statement.

Facts

The appellant mother (M) appealed against a decision in which the respondent father (F) had been granted direct contact with their children. F had had a long history of alcohol abuse. He had also been violent to M whilst he was drunk. The result was that M and the eldest child were terrified of F. M's stance had been that she was willing for F to have full contact with the youngest children subject to F first admitting and addressing that he had a problem with alcohol and violence. The question for the judge at a hearing to determine contact was to what extent F had taken on board findings made against him as to his alcohol abuse and violence, which up until then he had not accepted. On the first day of the hearing F stated that he acknowledged that he had a problem which he needed to address. The judge was satisfied that that was a genuine and honest statement of recognition and determination. On that basis the judge went on to make an order that F have direct contact with the youngest children and indirect contact with the eldest child. M argued that the judge had erred by granting the order for contact merely upon F's recognition made at the door of the court. In support of her arguments M relied upon further events in which F had been sentenced for contempt following an incident in which he had threatened to kill M whilst he was drunk.

Held

HELD: The judge was fully aware of the further incidents that had occurred and had referred to them in his judgment, but the judge was aware of the history of the case and he had scrutinised the evidence. The judge had to determine on the evidence whether F had made an honest and sincere statement. The judge was entitled to find that it was a sincere and honest statement and accordingly his decision was not shown to have been plainly wrong.

Permission

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