

Re D-R (Adult: Contact) (1999)

(1999) 1 FLR 1161 : Times, February 8, 1999

02/02/1999

Barristers

Sam King KC

Court

Court of Appeal

Summary

A judge was right to refuse a father's application to have contact with his mentally disabled adult daughter, since it was not in the daughter's best interests to have such contact. There was no presumption of a right to contact between parents and their adult offspring.

Facts

Father's appeal from the order of Michael Horowitz QC, sitting as a deputy judge of the High Court, made on 3 July 1998 dismissing the father's application for a declaration that he be allowed direct contact with his disabled daughter ('L'). L was born in 1979 and suffered from cerebral palsy. Her parents split up in 1987 and the father had contact with L which ended in 1995. The father sought, inter alia, a declaration from the court under RSC O.15 r.16 that the mother was acting unlawfully in refusing him contact with L. The judge found that the father was not a significant part of L's world picture and decided not to grant contact to the father. The father appealed and submitted that the judge's approach to the question of whether he should have contact with his daughter was wrong.

Held

HELD: (1) There was no presumption of a right to contact between parents and their adult offspring. However, following the decision in *Re F (Mental Patient : Sterilisation)* (1989) 2 WLR 1025, the question was whether it was in L's best interests to have contact with her father. (2) The judge correctly identified the relevant factors in the case and weighed them in the balance. Accordingly, the judge was not wrong in principle and the Court of Appeal would not interfere with his exercise of discretion. (3) Since the lapse of the *parens patriae* jurisdiction of the court following the coming into force of the Mental Health Act 1983 there was now a gap in the procedure and law previously available. The gap had not been filled by *Re F* (supra), which was a poor substitute for legislation.

Permission

Lawtel 