

(1998)

(1999) 1 FLR 1014

02/12/1998

Barristers

Private: Amanda Barrington-Smyth

Court

Family Division

Facts

An application by an English couple for adoption of a Romanian child ('R'). The English mother ('M') had travelled to Romania in 1993 to adopt a child. R was one of 13 children of a family in Romania. R had a severe squint and was withdrawn. R's parents agreed that R could go to England with M for a visit for three months. In July 1994 M obtained formal consent for the visit for medical treatment. M informed the United Kingdom immigration that R was visiting for a holiday. In September 1994 R was registered at a local school in England and the couple began the adoption process. Extensions for leave for R to remain were acquired from immigration, but the couple did not inform the local authority until January 1995 that they intended to adopt R. An adoption application was lodged claiming that the natural parents consented to the adoption. The authorities became aware that the natural parents did not consent and the couple amended the application hoping to dispense with the natural parent's consent. In 1998 with the backing of the English authorities the natural parents issued wardship proceedings for R to be returned to Romania.

Held

HELD: (1) The decision could not be based on the standard of living and the natural parents were prima facie the best people to bring up R. Only if R's parents could not provide the immediate and future adequate quality of parenting and care for R, then R could be placed elsewhere. (2) However, the decision had to be based on R's welfare, and the deception and injustice to R's family was relevant to R's welfare. (3) R was 10 years old at the time of the instant hearing and had particular educational needs that were currently being met but which could not be met in Romania. R's natural parents had not acknowledged R's significant disabilities and there was evidence that R would suffer if returned. There was also evidence of a lack of parental concern by the natural parents, in their lack of contact with R and lack of efforts to effect her return. (4) It was now too late to take R from what she considered to be her home, and the court was satisfied that the English couple would now promote R's culture and contact with her natural family. (5) The adoption application would be refused but R would be made a ward of court to remain in the care and control of the English couple with contact with her natural parents.

Permission

Lawtel 