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Re T (A Child) (2007)

[2007] EWHC 455 (Fam)

08/03/2007

Barristers
Alison Grief KC

Court
Family Division

Summary
Justices in care proceedings had been entitled to find that they had sufficient information and evidence to make an adoption order in respect of a child without need for further assessment of his father's capability as a carer.

Facts
The appellant father (F) appealed against a care order made in respect of his son (S). F had had a history of personality disorder, violent behaviour and drug use and was made subject to numerous assessments to determine his suitability as a carer for S. A family assessment unit concluded that although F provided appropriate care for S during contact sessions, F's mental health would impact on his ability as a father. A jointly-instructed family psychologist found that F would be unlikely to maintain any reliable level of care because of his own significant needs. A social worker for the local authority stated that it would not be safe for S to be placed in the care of F and the guardian found that S would be at risk of significant harm from an uncertain lifestyle under F's care. A psychiatrist found that there was clear evidence of mental disturbance in F but went on to observe that the question as to his ability as a carer could only be resolved by experts in that field and accordingly recommended a comprehensive assessment. At the hearing, the family psychologist revised his position and also recommended a further assessment. The justices rejected such an approach on the basis that there was already overwhelming evidence that F would be unable to safely parent S and made the appropriate adoption order. F submitted that (1) where the court was faced with the recommendation of two experts that a further assessment should be undertaken, it should have required clear, cogent and compelling evidence as to F's unsuitability as a father before rejecting such recommendations and making a permanent care order, yet no such compelling evidence was forthcoming; (2) the justices failed to give reasons for departing from the opinion of the experts that the assessment of F was necessary.

Held
HELD: (1) The question of whether the justices had sufficient information before them to make a decision on the care application was a matter for the justices and not the experts. It was the justices' task to weigh the evidence and make a decision in S's best interests, in relation to which neither of the two experts had assessed S and were in no position to offer opinions in respect of his welfare, by way of

contrast with the guardian and the social worker who had been concerned with him. (2) It was of course the position that the justices were under a duty to set out clearly their reasons for departing from the opinions of experts. However, that was the position where the experts were reporting or giving evidence upon matters in their province. In the instant case, the justices did not depart from any assessment which the doctors had been asked to make, nor did they reject their evidence in relation to F's history, mental state or parenting ability as then apparent. In holding that the further assessment was not necessary in the light of the evidence before them, they were not differing from the opinion of the experts but simply emphasising and acting on various aspects of their evidence which recognised that the risks to S in the long term would remain.