

Re B (Children) (2009)

[2009] EWCA Civ 1499

17/12/2009

Barristers

Private: Jonathan Cohen QC
Rob Littlewood
Paul Hepher

Court

Civil Division

Practice Areas

Public Children Law

Summary

A judge's decision, in the exercise of his discretion, to prevent a mother's contact with her children because she had been found to have unlawfully killed two of her children could not be said to be plainly wrong.

Facts

The appellant mother (M) appealed against a judge's order preventing her contact with her children. M had been found to have unlawfully killed two of her children by smothering, which led to extreme concern about her contact with her surviving children. The children were the subject of care proceedings and the question for the court was whether M should have supervised contact with them in the interim pending the final hearing. M submitted that there was no real risk of physical harm as there would be supervision. She argued that it was of extreme importance for the children that they should know in due course that she saw them and wanted to see them. She further argued that one could not assume that the outcome of the care proceedings was inevitable. The local authority submitted that even if the issue of physical dangers of her contact was left to one side, her emotional involvement and her emotional outbursts in the children's presence, which would upset them, could not be risked.

Held

Balancing the arguments was not easy. However, the court had not heard the evidence; it was only reviewing the exercise of the judge's discretion, *G v G (Minors: Custody Appeal)* (1985) 1 WLR 647 HL applied. The conclusion reached after reading his judgment and looking carefully at the reasons he gave was that on balance it could not be said that his decision was plainly wrong. M's submissions were effectively an adult perspective: the contact was more for her benefit than it was for the two children.

Permission

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