

Re F (A Child) (2008)

[2008] EWCA Civ 218

12/02/2008

Court

Civil Division

Summary

A finding in care proceedings that a mother had intentionally killed her two children by suffocating them was set aside where, in light of a re-appraisal of the expert evidence, the cause of the deaths was found to be unascertainable.

Facts

The appellant mother (L) appealed against findings of fact made by a judge in care proceedings that had since been reviewed in her favour. L's children (H and B) had died. During care proceedings in relation to L's surviving child (J), the judge came to the conclusion that H and B had been deliberately suffocated by L and granted the local authority's application. L later gave birth to another child (M) and care proceedings were instantly commenced by the local authority in relation to M. In the course of that hearing the judge reheard all the evidence relating to the cause of the deaths. Having had the benefit of re-examining all the material and of hearing fresh evidence in relation to the deaths, the judge concluded that the cause of the deaths was, in fact, unascertained. L was granted permission to appeal out of time against the findings of fact made by the judge in the first care proceedings. All the parties to the appeal proceedings agreed that the findings of fact in relation to the cause of H and B's deaths made in the first proceedings could not stand in light of the evidential re-examination and that the care order made in relation to J should be set aside and fresh care proceedings brought in relation to J since L was unable to properly care for him.

Held

In light of the evidential re-examination and the subsequent agreement of the parties in relation to the cause of H and B's deaths, the findings of fact made by the judge in the care proceedings relating to J could not stand and the care order was set aside. The court recognised L's concession that she would be unable to properly care for J and fresh care proceedings would be brought immediately.

Permission

Lawtel 