

Kent CC v A Mother [2011]

[2011] EWHC 402

03/03/2011

Court

High Court (Family Division)

Practice Areas

Public Children Law

Summary

Sexual abuse fact finding: lessons to be learned.

Facts

X (a girl aged 16), Y (a boy aged 15) and Z (a girl aged 7 ½) were the subject of care proceedings that resulted in this lengthy fact finding hearing before Mr Justice Baker. The mother also had two older children (a boy, V, aged 19, and a girl, W, aged 17). She suffered from a learning disability. Following the breakdown of the mother's relationship with the father of V, W, X and Y in 1996, various people and agencies made referrals to the local authority.

In 2002 the mother started a relationship with F and fell pregnant with Z. F also suffers from a learning disability and has other medical difficulties. They had a stormy and difficult relationship. Numerous referrals to the LA and section 47 investigations followed.

In November 2006, the mother and children were moved into B&B accommodation in another town. DM (a 50 year old single man) befriended them, and the children visited and stayed overnight with DM from January 2007.

The school made referrals to the LA. W made a disclosure of physical abuse and described DM's house as her "one safe place". It was agreed that she should stay there, and a "grossly inadequate" PNC check was made (DM was not asked to produce proof of identity). The outcome of a further section 47 investigation was that W should remain at DM's, and a referral for a private fostering assessment should be made. This was never undertaken. The mother entered into a relationship with IR against whom W subsequently made allegations of sexual abuse but no parties pursued findings. In February 2009 W moved in with her 21 year old boyfriend U. In June 2009 the LA carried out a private fostering assessment of this arrangement and approved the placement.

In July 2009 DM was arrested and fingerprinted, and his real surname and criminal record of sexual offences against children discovered. He pleaded guilty to 26 offences including sexual offences against X, Y and Z and was sentenced to an indefinite period of imprisonment for public protection (to serve a minimum of 7 years) and placed on the sex offenders register.

Held

The LA applied for care orders. On two occasions during the final hearing Baker J was informed that the LA had not disclosed documents. Further undisclosed material was also discovered on the LA computer system.

Baker J considered the threshold criteria satisfied and made the following findings of fact:

- X, Y and Z were sexually abused by DM over a prolonged period.
- Despite being confronted with the evidence, the mother refused until recently to accept that X and Y were abused and still refuses to accept that Z was abused.
- The mother allowed W, X and Y to regularly stay overnight with DM which a reasonable parent would never have allowed.
- Some time before July 2009 X told the mother that she had been sexually abused by DM which the mother refused to believe and failed to tell anyone about until after DM was arrested.
- On occasions F overchastised W, X and Y; once he slapped X across the face and twice he assaulted the mother.
- In June / July 2003 F took the mother, V, X and Y to Birmingham and abandoned them there.
- On 2 June 2004 X alleged that F assaulted her. The mother failed to give proper support to X in pursuing the complaint.
- The mother continued her association with F despite advice from the LA that he posed a risk to her and her children.
- The mother struggled for a number of years to provide a consistent and adequate level of physical care for the children.
- The mother has a chronic inability to control her children.

Baker J also highlighted various “alarming” matters that had come to light about the practices and procedures of the LA in the hope that lessons might be learned in the future. These included the lack of compliance with “Good Practice Guidance on Working with Parents with a Learning Disability”; failure to take steps that might have prevented DM’s abuse; “deplorable” breach of duty to comply with statutory obligations as to private fostering arrangements; “incomprehensible” approval of W’s placement with U; “seriously deficient” record keeping procedures, and “wholly unsatisfactory” disclosure.

The learned judge gave a helpful summary of the legal principles governing LA disclosure and emphasised the obligations upon the LA lawyer. He observed that it was “absolutely essential” for counsel for the LA to prepare a chronology in cases such as this.

Permission

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