

W (A Child) [2012]

[2012] EWCA Civ 1828

12/12/2012

Barristers

Sam King KC

Court

Court of Appeal (Civil Division)

Practice Areas

Public Children Law

Summary

Appeal against a final care order and adoption order on the basis that the decision was plainly wrong.

Facts

The parents had had three children removed from their care under final care orders and placement orders. Three weeks later their fourth child was born and taken into foster care. The Court allowed an adjournment for further assessment, finding that the Local Authority's approach had not been fair to the parents, having ruled them out straight away in relation to the youngest child. At the final hearing the Judge made a final care order and placement order. The parents appealed on the basis that the decision had been plainly wrong, the Judge had paid insufficient attention to the improvements made by the parents and had relied too heavily on some difficulties the parents' had faced in the intervening period and that the Local Authority's approach at the beginning of the proceedings was so unfair that it was incapable of being balanced out during subsequent events.

Held

The Court of Appeal found that the more finely balanced a case is, the less possible it will be for parents who have failed to persuade a judge to decide in their favour to prove that the judge was plainly wrong.

McFarlane LJ found that the Judge had considered all relevant aspects of the case and had provided a careful and thoughtful judgment. Lord Justice McFarlane accepted that the case was finely balanced: the parents had made improvements but all professionals were unable to recommend the child returning to them. The Judge had to make a judgment call and the Court of Appeal could not find that that decision was plainly wrong.

Permission

Family Law Week 