

Re K [2008]

[2008] 2 FLR 581; [2008] EWHC 540 (Fam)

18/03/2008

Barristers

Brian Jubb

Court

High Court (Family Division)

Practice Areas

Public Children Law

Summary

Applications by local authority to, among other things, discharge an order requiring that the mother of an infant should take part in a residential assessment and requesting an order preventing contact between the mother and her infant son. Applications allowed.

Facts

Munby J had initially found that mother's child (K) had been removed unlawfully at judicial review proceedings heard in public. The care proceedings were then transferred to the High Court, in the course of which, Munby J made a orders that the mother (G) should undergo a residential assessment at the Cassell Hospital, with her child to join her if the first stage was considered successful.

In the event, the local authority reported fights with father of the child in view of hospital staff and during contact. G also left the Cassell unit and informed them that she would not return. They therefore applied for the order requiring assessment to be discharged and contact between G and K to cease as K was at risk.

Held

In allowing the local authority's application, Munby J found that the order should be discharged because of the mother's attitude and because the Cassell were no longer prepared to accept her. On the issue of contact, he did grant an order under s34(4) of the Children Act, even though he set the bar very high saying the circumstances for granting such an order should be "extraordinarily compelling". It was this reasoning that led him to refuse the local authority's request that the order should endure until the final hearing; instead he made an order that would expire on the date of the case management conference, following transfer back to the county court. He also pointed out that such an order

"only "authorises" the local authority to refuse to allow contact. It does not forbid such contact and a local authority, even if clothed with authority under section 34(4), is, of course, under a continuing duty to keep matters under review and to allow contact to resume as soon as it is safe and appropriate to do

so.”

Permission

Family Law Week 