

R (G) v Nottingham City Council [2008]

[2008] 1 FLR 1668; [2008] EWHC 400 (Admin)

05/03/2008

Barristers

Brian Jubb

Court

High Court (Family Division)

Practice Areas

Public Children Law

Summary

Reasons given for orders in judicial review proceedings brought by the applicant in the light of the removal of her baby at birth. Damages were awarded for infringement of the applicant's article 8 rights and leave to apply to extend claim to common law damages.

Facts

This case is of interest because of the publicity surrounding the circumstances of the baby's original removal, which was made public when the initial hearing in these judicial review proceedings coincided with the birth and unlawful separation. Munby J therefore decided that this judgment should be made public in the interest of transparency and for the technical reason that declarations in such proceedings must not be made by consent and that needed to be recorded.

Held

The claim for judicial review was founded on deficiencies in the applicant's pathway plan, designed to assist her as she left care and regulated by the Children (Leaving Care) (England) Regulations 2001, and in this hearing, opposition to the local authority's claim that the mother had consented to the removal of her child soon after his birth. Munby J found both that the pathway plan was deficient, particularly as the personal adviser involved was in conflict as she had also helped to devise the plan, and that the mother had not consented to the removal of her child simply because she had not raised an objection at the time. Munby J also found that the NHS Trust "cannot immunise itself from liability by pleading the bare fact of "authority" allegedly "provided" by another public body".

Permission

Family Law Week 