

A Council v (1) M (2) F (3) A (4) B, C, & D (By Their Children's Guardian) (Welfare) (2012)

[2013] 2 FLR 1261; [2012] EWHC 4242 (Fam)

17/07/2012

Barristers

Sally Bradley

Court

High Court (Family Division)

Practice Areas

Public Children Law

Summary

The court determined the future living arrangements of two sisters after a fact-finding hearing where it was held that their mother, who faced allegations of child cruelty, was a significant risk to any dependent child in her care. The elder sister, aged 17, was made a ward of court and her request to continue living at home was granted; the younger sister, aged 7, was removed from the mother's care on a permanent basis and would have no contact with her for at least 6-12 months.

Facts

Following a fact-finding hearing in which care orders had been made in relation to four children, the court was required to determine the living arrangements of two of the children (B and C), and the amount of contact that should be permitted with other family members.

B, aged 17, and C, aged 7, were sisters, both of whom had been adopted as babies. They had an older sister (X), who was 18 and also adopted. The girls had been raised by their adoptive mother (M) who faced five charges of child cruelty in relation to their upbringing. Three of the charges related to the artificial insemination of X to satisfy M's determination to have a fourth child. The plan had resulted in X bearing a child. One charge related to M leaving C in X's care while she and B went to America; and the other to cruelty to C, including physical abuse, inappropriate punishment, social isolation and oppressive control. M had expressed an intention to plead guilty to three of the charges and faced a probable custodial sentence. X and her baby were currently in foster care, C was in a different foster home, and B lived with M. B was aligned with M despite having been co-opted into involvement in the plan to exploit X and exposed to M's abuse of C. The issues were (i) whether C should return to M or remain in her current foster home under a long-term placement, and if the latter, how much contact she should have with her siblings and M; (ii) whether B should continue to live at home with M.

Held

(1) C's own wishes did not point strongly towards any particular outcome; she had strong ties to M but

her loyalties were divided. Emotionally, there was an urgent need for stable, nurturing parenting from carers who could deal with her oppositional behaviour. M, as an intelligent, articulate and determined person, had obvious strengths; the children were undoubtedly very important to her and there was clear evidence of good parenting, but her own needs had got in the way in a number of serious respects, which made her a significant risk to any dependent child in her care. She had an ability to reconstruct reality to meet her own needs without any understanding of the effect of such conduct on other people. She was sad and shaken by all that had happened, but also angry, unaccepting, remorseless and consumed by self pity. Such characteristics demonstrated that she lacked the ability to meet the needs of B and C. There was no possibility of her being able to parent C safely at any foreseeable point in the future. Given that she was highly unlikely to accept that, C needed protection from her. Contact since the protective measures began had been mixed; some good occasions, some disastrous. It was not currently in C's interests to continue contact with M. Regardless of whether M went to prison, there needed to be a gap of 6-12 months to allow C to settle and to understand that she would never return to M's care. She needed to establish herself without subtle, and less subtle, signs from M that she should not be there. She should continue to have monthly contact with X and X's baby. Contact with B should be maintained every six weeks in the school holidays. B could be trusted to behave well with C, but if she allowed M to intrude on the arrangements, the order would need to be varied. It was important to preserve family life between the three girls as much as possible, even though M would no longer be at its heart (see paras 21-24, 30-44). (2) B would remain a ward of court until she turned 18. She had chosen to live at home with M. She was in an impossible position, caught in the middle of a bitter estrangement between M and X and exposed to the consequences of C's permanent removal. She had been strongly influenced by M's preoccupations, and being dragged into M's abuse of X and C was nothing less than abuse towards B herself. She had not been in a position of being able to develop a truly independent point of view. It was agreed that she should continue living at home, or at any other address agreed between her, M, the local authority and B's adoptive father (paras 48-56). (3) An order was made under the Children Act 1989 s.91(14) barring M from access to the court for 15 months (para.47).

Judgment accordingly

Permission

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