

Re O (A Child) (2013)

AC9401456

19/12/2013

Barristers

Kate Branigan KC

Court

Court of Appeal (Civil Division)

Practice Areas

Public Children Law

Summary

A judge making a special guardianship order in favour of a child's maternal grandmother had been entitled also to make a prohibited steps order preventing the child from being taken to Kenya.

Facts

The appellant maternal grandmother (G) appealed against a decision that a special guardianship order should be accompanied by a prohibited steps order.

N was a 12-year-old boy who could not live with his mother because of her mental health problems. He went to live with foster carers. In care proceedings brought by the local authority it was accepted that the threshold in the Children Act 1989 s.31 was satisfied. The question was whether N should remain in care or live with G. There was expert evidence and evidence from the social worker and guardian as to what was in N's best interests. The district judge decided to take a course that had not been recommended but had been set out by the guardian. She made a special guardianship order in favour of G but also made a prohibited steps order preventing N from being taken to Kenya. G appealed on the ground that the prohibited steps order was disproportionate and wrong in law. A High Court judge reviewed the facts, the welfare issues and proportionality and upheld the district judge's decision.

Held

At the hearing of the appeal, after discussions between the bar and the bench during which all the issues had been fully canvassed, an agreement had been reached. It was accepted on all sides that N needed time to become a member of the family with G. She would supervise contact with his mother. Meanwhile he would continue at secondary school. N and G had also embarked on a course of therapy and counselling supported by the social worker. It was not yet time to consider removing N to Kenya. Accordingly the prohibited steps order would remain. Consideration had been given to making it a condition of the special guardianship order, but the consensus was that that would be less advantageous. G could apply in future to discharge the prohibited steps order. She would deal with the practical issues of housing and schooling, assisted by the local authority. It was to be hoped that funding would continue

to be available for longer than the 12 months for which it had been made available. On that basis permission was given for the appeal to be withdrawn and any further hearing listed in the proceedings was discharged.

Judgment accordingly

Permission

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