

# In the matter of P (A Child) (2013)

**[2013] EWHC 4048 (Fam)**

17/12/2013

## **Barristers**

Rex Howling KC

## **Court**

High Court (Family Division)

## **Practice Areas**

Public Children Law

## **Summary**

A mother who had undergone an involuntary caesarean section and then had her child taken into care and placed for adoption would not be prevented by a reporting restriction order from identifying herself using her maiden name if she chose to tell her story to the media.

## **Facts**

The applicant local authority sought a reporting restriction order following proceedings concerning the placement for adoption of a girl (P) who had been born by involuntary caesarean section authorised by the Court of Protection.

The mother (M), an Italian national who was nearly due to give birth, had been visiting the United Kingdom when she was detained under the Mental Health Act 1983 s.3. Following an application by the NHS trust, the Court of Protection authorised the caesarean section, having concluded that M lacked capacity to decide for herself. The local authority then commenced care and placement proceedings in a county court and P was placed with prospective adopters. None of the information was in the public domain and the judgments had not been published. After a number of inaccurate reports in the media, the publication of the judgments was authorised and the local authority sought an order to prevent reports identifying not only P, but also her family, including M.

## **Held**

The court had to conduct a balancing exercise, focusing on the comparative importance of the specific rights in play in the individual case and treating the interests of the child, although not paramount, as a primary consideration. In the instant case, the public had an interest in knowing and discussing what had been done in the Court of Protection and in the county court. Given the circumstances of the case and the extreme gravity of the issues which confronted the courts, namely whether to order an involuntary caesarean section and whether to place a child for adoption despite the protests of the mother, it was hard to imagine a case which more obviously and compellingly required that public debate be free and unrestricted. M had an equally obvious and compelling claim to be allowed to tell her story to the world.

The court should be very slow indeed to prevent a parent doing what M wished to do. To deny M, in the particular circumstances, the right to speak out using her own name and displaying her own image would be an affront not merely to the law but also to any remotely acceptable concept of human dignity and humanity itself. On the other hand, P had an equally compelling claim to privacy and anonymity. Those competing demands were to be balanced by maintaining the anonymity of P and her carers, but allowing M to identify herself using her maiden name. Neither the compelling public interest in knowing about the case nor M's compelling claim to be allowed to tell her story to the media would be advanced one iota by identifying P or her carers; but it would be fanciful to think that identification of M by her maiden name would in some way lead to P's identification (see paras 33-42 of judgment).

## Permission

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