

Surrey CC v ME and Others [2014]

[2014] EWHC 489 (Fam)

04/03/2014

Barristers

David Bedingfield
Rob Littlewood

Court

High Court (Family Division)

Practice Areas

Public Children Law

Summary

Application for a reporting restriction order in respect of five young people or children subject of care proceedings where the father of the three youngest children has been killed and criminal proceedings have been commenced in respect of that death.

Facts

Surrey County Council applied for a reporting restriction order (“RRO”) preventing the identification of children and parents of a family who were the subject of ongoing care proceedings. The children were GE, who was 16, JE, who was 14, JT, who was 10, NT, who was 5 and CT, who was 2. The mother of all 5 children was ME. The father of the older 2 children was GYE. The father of the 3 younger children was Neil Tulley. In August 2013 Neil Tulley was killed by Joshua Ellis and his brother JE. They were both charged with his murder. The local authority sought an order preventing the identification of the family members by the media in their reporting of the criminal trial.

The Court applied the approach from the seminal case of *Re S (A Child) (Identifications: Restriction on Publication)* [2005] 1 AC 593 that an intense focus on the comparative importance of competing rights under Article 8 and Article 10 was required. The court further approved the observation of Peter Jackson J in *A Local Authority v M and Others* [2012] EWHC 2038 (Fam) that a conclusion that the Article 8 rights of an individual should prevail over the Article 10 rights of the public will be highly exceptional and that a restriction on the reporting of the identity of defendant in criminal proceedings can only be contemplated where there is an ‘absolute necessity.’

Held

The court found that in respect of JE, ME and GYE the balance fell clearly and decisively in favour of the Article 10 rights of the media. The facts of the case were unusual and sensational but not exceptional and far from sufficient to justify the plain and substantial interference with the right of the media organisations to report the criminal proceedings. The court considered the position of the remaining children and was not satisfied that the reporting of the trial would lead to their identification as the

publicity to date had not done so. Nor was the court satisfied that the distress and upset caused would be sufficient to justify making a RRO. Furthermore in respect of the younger two children there was no evidence that they had been adversely affected by past publicity. The court found that there was a real risk that even a limited RRO might inhibit the media organisations from reporting the criminal trial and the court was not satisfied on the facts on the case that an order was either necessary or proportionate still less an 'absolute necessity.'

Permission

Family Law Week  Family Law Week