

M & Others v Suffolk County Council [2014]

[2014] EWCA Civ 942

15/07/2014

Barristers

Kate Branigan KC

Court

Court of Appeal Civil Division

Practice Areas

Public Children Law

Summary

Appeal by a mother and her mother and step father 'the maternal grandparents' against care and placement orders

Facts

The appeal was limited to one ground which can be summarised as whether the grandparents were able to provide the children with a permanent home.

The appeal divided into two key issues: a) did the judge's findings and value judgments support his welfare analysis and in particular, his conclusion about risk so far as the grandparents were concerned and b) did the judge undertake a welfare analysis of the options and a proportionality evaluation of his decision so as to conclude that 'nothing else would do'?

Ryder LJ commented that it is not surprising nor necessarily unusual, for a judge to have to make a choice between two differing professional or expert opinions. That choice may be made upon the basis that the judge investigates the assumed factual substratum or reporting upon which an assessment is based and comes to different conclusions of fact which necessarily influence the expert's advice or he may prefer one opinion as against another or a combination of the two. Furthermore, an assessment's methodology or purpose may be more relevant or focused on the key issues in the case and inevitably, if accepted, provide a better basis for the judge's conclusions.

Ryder LJ established that it was a sufficient analysis for the judge to be able to conclude that the grandparents would not be capable of protecting the children from the risk of emotional harm from their parents and also that the grandparents would not be likely to offer the long term placement needed by the children. The analysis was rooted in his conclusions about the parents, in particular the mother and the opinions expressed in the special guardianship report which he was entitled to prefer over the opinions expressed in the long term foster care assessment for the very reason that the former was concentrating on permanence and substitute parenting rather than capability to provide care albeit in

the broadest sense of that word.

Held

It was held that on an appeal the court's primary function is to review the welfare analysis and proportionality evaluation and decide whether those value judgments were wrong within the meaning of that phrase. Ryder LJ came to the conclusion at the end of the appeal that the judge's analysis and evaluation were not wrong and most certainly were not insupportable and accordingly the appeals had to be dismissed.

Permission

Family Law Week 