

LA v (1) FM (2) MA (3) A (4) B (2013)

[2013] EWHC 4672 (Fam)

05/11/2013

Barristers

Alex Verdan KC

Court

Family Division

Practice Areas

Public Children Law

Summary

Placement orders were made for two young children where their mother was unable to accept the court's findings that her husband had caused the death of their eldest son. She was unable to protect the children from future significant harm in the timescales that met the welfare needs of the children to have a stable, permanent home.

Facts

The applicant local authority applied for placement orders for two children (C), aged 21 months and 10 months old.

C's father (F) had been charged with the murder of their four-year-old brother (B). The local authority had sought care orders and a placement order with a care plan for adoption on the basis that C were at risk of future significant harm due to the history of domestic violence between F and C's mother (M); F's responsibility for B's death; M's inability to acknowledge the history of domestic violence and F's responsibility for B's death; and the serious risk of future harm which such a history posed to C. Following a fact-finding hearing, the court found that F had caused B's death and that there had been domestic violence. M had been described as a warm, loving mother but was unable to acknowledge the history and future risks to C. The court gave her time to consider its judgment to see whether she could accept it. Evidence was heard from a social worker and C's guardian that she still had a long way to go before she could fully accept that F had caused B's death and that there was not the required level of trust to safely place C with M.

Held

There was powerful evidence of the strength of the relationship between M and C but that was outweighed by the clear conclusion that M would be unable to protect C from future significant harm in the timescales that met their welfare needs to have a stable, permanent home. C's welfare needs required the court to make the care orders. Without a working relationship based on trust, the local authority would be unable to provide the necessary support to protect C if they were returned to M's

care. Further assessments of M would take up to five months which was outside the timescales for C. In any event it remained uncertain whether M could achieve the level of insight required to make it safe for C to return to her care. Care orders were made and the care plan was approved. The stringent test for dispensing with parental consent for placement orders under the Adoption and Children Act 2002 s.52 was met and placement orders were made, B (A Child) (Care Proceedings: Appeal), Re [2013] UKSC 33, [2013] 1 W.L.R. 1911 followed (see paras 33-34, 37-38, 41, 46-47 of judgment).

Permission

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