

Re D (A Child) (2014)

AC9601784

14/10/2014

Court

Court of Appeal (Civil Division)

The appellant mother (M) appealed against a placement order made in respect of her two-year-old daughter (D). D had been subject to proceedings shortly after her birth as a result of concerns arising from M's addiction to stimulants. Care and placement orders were made in August 2013. M's application to discharge the care order after six months was refused. A placement order was made in January 2014. In granting leave to appeal against it, the judge anticipated that, by the time of the appeal, there would be fresh medical evidence to establish whether M suffered from a thyroid condition that might impact on the results of hair-strand testing for current amphetamine use. On the day of the appeal, such evidence had not been produced: M was due to undergo a biopsy of her thyroid gland on October 20, 2014, and until that had taken place her medical condition could not be diagnosed, and any impact on hair-strand testing could not be demonstrated. M therefore sought an adjournment of the appeal.

D's case needed resolution. The immediate progress of the appeal would not be able to achieve that. If the Court of Appeal could not consider evidence on whether the results of hair-strand testing could be affected by a thyroid condition, another court would have to. Further delay was inimical to D's welfare. M retained the right to oppose a placement order on proof of a demonstrable change of circumstances. It was open to the court, prior to determining the appeal and without disposing of it, to refer any issue for determination by a lower court. That included the issue whether, after expert evidence on the impact of M's medical condition on hair-strand test results, there had been a sea-change in the circumstances of M's previous addiction. That course would be adopted, through the court's case management discretion, as necessary to mitigate any further delay in resolving the outcome of the case. The matter was therefore referred for determination by a specified judge. It was directed that (a) the case be listed in seven days for a case management hearing before the judge for timetabling of expert evidence: it was imperative that all parties attend with relevant CVs and identification of possible experts, and a draft letter or letters of instruction; (b) the issue referred should be determined by the judge by November 30, 2014. The appeal was thereby effectively adjourned in a such a way that the resolution of D's case would not be subject to further delay.

Appeal adjourned

An appeal against a placement order made in respect of a two-year-old girl was effectively adjourned, without determining or disposing of it, by referring to a specified judge the issue whether fresh expert medical evidence, which was expected shortly, could demonstrate that the mother's thyroid condition might impact on the results of hair-strand testing following her previous addition to stimulants. Such case management was necessary to mitigate any further delay in resolving the

case.</p>□□

Permission

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