

Re A (2017)

[2017] EWHC 1178 (Fam)

02/05/2017

Barristers

David Bedingfield

Court

Family Division

Practice Areas

International Children Law

Application for adoption where the applicant was the maternal aunt of the person to be adopted who was a citizen of Pakistan aged 19 years at the date of the hearing.

This was an application for adoption with a number of unusual characteristics. The applicant was the maternal aunt of the person to be adopted who was a citizen of Pakistan aged 19 years. The applicant had brought up her niece since the death of her mother some years previously and now both parties wished the aunt to adopt her niece. Furthermore, the report from the relevant Social Services department was positive and supportive of the adoption.

However, Holman J was unable to make the final order for adoption for two reasons. Firstly, as this was an application that may have an impact on any application for British citizenship by the person to be adopted, it was necessary to give notice to the Home Office and the Secretary of State (see *In Re W (A Minor) (Adoption: Non-Patrial)* [1986] Fam 54 and Practice Direction 14B to the Family Procedure Rules). The fact that both parties are habitually resident in this country makes no difference to this requirement. The application therefore had to be adjourned so that notice could be given.

Secondly, a person over the age of eighteen years can be adopted only if the application is received before their eighteenth birthday: s. 49(4), Adoption and Children Act 2002. In this case, the application form was received by the Court the day before the person to be adopted turned eighteen, but it was not issued until some eight days after her eighteenth birthday; moreover, there was some confusion as to whether the application was complete when it was lodged with the court or whether some of the documentation was received after the person to be adopted had turned eighteen. A further, and quite separate, reason for adjourning the application was therefore to seek clarification as to what had happened and when in terms of documentation.

Permission

 Family Law Week