

LA v DG & Ors (2013)

[2013] EWHC 734 (Fam)

01/02/2013

Barristers

Private: Joanne Porter

Court

Maidstone County Court

Practice Areas

Public Children Law

Care proceedings – chronic neglect – Slovak Roma family – care plans for adoption – application for intervener status by Slovak Central Authority

This case involved care proceedings concerning six children aged between 8 and 2 years who were first removed from the parents on 5th August 2011 due to concerns regarding chronic neglect. The local authority ultimately sought care and placement orders for the younger three children and a care order with plans for long term fostering for the older three.

The parents originated from the Roma community in Slovakia and their lives there had involved severe poverty and social deprivation. The father had moved to the UK prior to the rest of the family and secured employment and a tenancy on a one bedroom flat although he had then lost his job shortly after the rest of the family's arrival.

Concerns were first noted by the midwife for the youngest child in September 2010 and Child Protection Plans were in place in October 2010. Included in the background of concerns held by the Local Authority were: the children variously suffering from malnutrition, rickets, severe dental decay, vitamin D deficiency, poor growth and failure to thrive. There were numerous concerns regarding the parents' failure to provide adequate supervision or implement boundaries. This was in spite of the Local Authority having provided support for the family.

Following the removal of the children under ICOs, the parents initially attended contact consistently. However, on 6th July 2012, having shortly beforehand been informed of the Local Authority's plans for adoption, they left to return to Slovakia. The father said that this was to seek help from the Slovakian authorities to get the children placed in care in Slovakia, where he perceived there to be much more generous provision for parental contact with children in care. The mother said it was in order to obtain work. The parents could not return to the UK owing to lack of funds until the final hearing. The sudden cessation of contact was held by the judge to have been disastrous step for the children.

On 18th September, the Local Authority received, via the Central Authority in England and Wales, a

request sent by the Central Authority in Slovakia on behalf of the Slovakian Centre for the International Legal Protection of Children and Youth seeking the exchange of information concerning the proceedings under Art 55 Brussels II Revised and suggesting that the children should be returned to Slovakia to be placed in “institution or substitute care” there. The parties agreed to a list of documents to be disclosed to the Slovakian authorities. The Slovakian authorities then made plain that they disagreed with the Local Authority’s care plans for adoption in the UK. They sought intervener status three days prior to the date on which the final hearing was initially listed (26th November 2011) but did not attend that hearing and made it clear that if intervener status was granted their involvement would be limited to providing written submissions. Theis J dismissed the application for intervener status.

The final hearing proceeded over 5 days in January 2013. Expert evidence was received from a clinical psychologist who assessed each parent, a paediatrician, an expert with specialist knowledge of the Slovak Romany community and an independent social worker.

Theis J reminded herself of the words of Lord Templeton in *Re KD (A Minor) (Ward: Termination of Access)* [1988] and Munby J (as he then was) in *Re K A Local Authority v N and Others* [2007]. She nonetheless found the threshold met and that care orders (and, in respect of the younger three children, placement orders) were in the best interests of the children. The harm suffered by the children had been by omission rather than commission and the parents had not deliberately harmed the children, but they did not have the understanding or ability to provide good enough care for the children, even with the benefit of intensive support. As neither of the parents, nor any other party, had at the final hearing invited the Court to consider the return of the children to Slovakia, she did not need to consider the details of the proposals made by the Slovakian Central Authority.

Theis J also offered the following comments:

1. The involvement in the case of the Slovak Republic’s Central Authority had been very useful. In particular the exchange of information between the Local Authority and the Slovak Central Authority had provided the court with important information to assist the court in its decision making.
2. There was generally a shortage of Roma interpreters, and Theis J stated she would endorse any steps to encourage more Roma interpreters to assist the growing number of families here of Roma origin.
3. The court was grateful to the Legal Services Commission for having funded the parents’ return to the UK, which was more cost effective than the cost of a video link connection, for their participation in the hearing.

Permission

 **Family Law Week**