

Five 4PB members represented various parties in the matter of Re SX [2020] EWHC 1573 (Fam)

17th June 2020

Proceedings were issued following the unexplained death of SX's younger sister, AX, in April 2019 aged two months. At post mortem, it was discovered that AX had suffered multiple unexplained fractures.

The local authority did not seek a finding in relation to cause of death but did seek findings in respect of AX's head injuries; rib fractures; limb fractures and bruising to the chest. The findings sought were that one or both of the parents had inflicted these injuries; alternatively, whether both parents should be placed in the pool of perpetrators; and that both parents would have known they had been inflicted and that neither parent had sought medical attention.

At the conclusion of the medical evidence, the court gave an interim judgment on continuing with the lay witness evidence remotely Re SX [2020] EWHC 1086 (Fam). The decision to proceed was case specific in circumstances where all the parties were very well represented; the technology worked well; there were no interpreters or intermediaries and none of the witnesses were, in any legal sense, vulnerable. In addition, both parents were in favour of proceeding with the remote hearing.

The court expressed the view that the process of having counsel manage the technology was an excellent solution. As expressed by Mrs Justice Lieven, *'I had no concerns it was not being done entirely fairly to all parties and it meant that there was no burden on HMCTS or my clerk'*. However, the court emphasised that the decision to go ahead with the lay evidence remotely and the comments about the efficacy of the hearing are entirely case specific.

At the conclusion of all of the evidence, the local authority represented by, Nick Goodwin QC and Ms Gayle Bisbey and the child (Guardian), represented by Alex Verdan QC and Sally Bradley submitted that both parents were equally responsible for inflicting the injuries.

The court found that the father was solely responsible for inflicting the injuries and that, in relation to the mother, this was an extreme case of failure to protect. The court found that the mother had deliberately allowed her daughter to be harmed again and again, knew she was in pain and distress, and chose for whatever reason not to stop the abuse.

Mr Nick Goodwin QC and Ms Gayle Bisbey (instructed by A Local Authority) for the Applicant

Ms Sam King and Julian Hayes (instructed by Berris Law) for the Mother, First Respondent.

Mr John Tughan QC and Mr Greg Davies (instructed by HarrisTemperley LLP) for the Father, Second Respondent.

Mr Alex Verdan QC and Sally Bradley (instructed by Eskinazi & Co) for the (Child's Guardian), the Third Respondent.

To read the full judgment [click here](#).