

IN THE FAMILY COURT AT BRISTOL
[2018] EWFC 93

Bristol Civil Justice Centre
2 Redcliff Centre
Bristol BS1 6GR

Tuesday, 6 November 2018

BEFORE:

MR JUSTICE HOLMAN (SITTING IN PUBLIC)

BETWEEN:

SOUTH GLOUCESTERSHIRE COUNCIL

Applicants

- and -

NM
LG

Respondents

MS C ELFORD appeared on behalf of the applicants

MR S ROBERTS (instructed by Barcan Kirby) appeared on behalf of the first respondent
mother

MRS A LIPPMAN (instructed by Battrick Clark) appeared on behalf of the second
respondent father

MISS L HARRIES (instructed by Langley Wellington Solicitors) appeared on behalf of the
children's guardian

JUDGMENT

(As approved by the judge)

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(Official Shorthand Writers to the Court)

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The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

1. MR JUSTICE HOLMAN: I preface this short judgment with a few observations. I personally arrived in Bristol today for the first time sitting here in six years. This particular case was listed for hearing by me with two days allowed, today and tomorrow. Quite frankly, until I got here today, I knew nothing at all about the substance of this case. It was merely a case with a name on a list.

2. Increasingly during the course of today, and particularly when, a short while ago, I was given to read and did read the judgment of HHJ Ingham dated 15 May 2018, I have felt that this is a case which really is part heard before HHJ Ingham and should not be being heard by myself or, indeed, by any other judge than HHJ Ingham. It was listed for so-called final hearing before her during May, but the upshot of her judgment of 15 May 2018 was that she made certain findings as to the facts but considered that there was what she described as a "gap" in the evidence, so that a number of further steps needed to be taken by the mother, and in assessment of the mother, before any so-called final conclusions could be reached. That has now happened over the intervening months, and quite patently this case ought now to be going back to HHJ Ingham, who heard all the evidence and made the findings in May, for her now to decide what should happen.

3. I do not personally know, and I get the impression that nobody in this courtroom knows, exactly why HHJ Ingham shifted the case from herself to me. She is apparently now the designated family judge in Taunton. She is no doubt very busy there. It may be that the case was listed for hearing by her during the course of this week and other more pressing cases have supervened. However it arose, she seems to have arranged that this should be heard by myself this week. There is, in fact, a considerable degree of unanimity between the various parties and only really one discrete area of difference. Further, we have now been here all day today. If I were to decline now to resolve this case today, there would be likely to be a further period of delay before it could come back before Judge Ingham.

4. So, for all those reasons, albeit that it does not seem to me that I really should be hearing this case today, I will now conclude it and rule on the principal outstanding issue.
5. I wish separately to mention that although this case was listed for two days, circumstances have arisen which are known to all the advocates, but not to the parties, why there is a very pressing need for counsel on behalf of the local authority not to be present at court tomorrow. For that reason, and in view of the substantial degree of progress which has been made today, I am willing to sit late (as we are now doing) and finally conclude this case in a somewhat summary fashion today.
6. For reasons which are fully set out in statements and in position statements, the local authority, with the agreement of the children's guardian, have reached the position that they do consider that a sincere attempt should be made to return or rehabilitate the two younger children to their mother. They equally clearly consider that the eldest child, A (not his actual initial), cannot, in the foreseeable future, return to live with his mother and must remain long-term fostered. As far as the position of A is concerned, the mother, with sadness, accepts the realism of the position of the local authority and A will stay where he is. The mother is obviously grateful that the local authority make this commitment sincerely to try to rehabilitate the two younger children to her.
7. Having regard to the background to this case, which is very fully set out in the judgment of HHJ Ingham, as well as in the updating evidence of the local authority, I am crystal clear that all three children must now be made the subject of full care orders. The interim situation cannot be attenuated longer. Any process of return or rehabilitation of the two younger children to the mother will inevitably take a considerable number of months. Quite frankly, having regard to her difficulties and shortcomings in the past, the period of time before one could say with any confidence that the children can be safely and appropriately parented by her must be measured in years not months.
8. So, in my view, all three children must be the subject of full care orders and those orders will be made.

9. In so far as the younger two children are concerned, I myself have very considerable concerns and misgivings, which I have voiced during the course of today, about even the attempt to return or rehabilitate them to their mother. The main reasons for those concerns are, first, that the mother has not yet managed to kick her use even of cocaine, let alone cannabis. Second, she has clearly not been truthful to the local authority during the course of the last few months with regard to her continued drug use. Third, the current state of her home remains way below any acceptable standard for young children to live in. Fourth, there is evidence, in particular from the social worker, Charlotte Aiken, as narrated through the very recent updating statement by the social worker Mr Careswell, to the effect that in all sorts of ways, which are set out in paragraphs 4 and 5 in particular of that statement, the mother is not really able to demonstrate commitment to doing what she knows requires to be done before her children can safely live with her.
10. Those are my personal misgivings. The fact is that these children will now be in the care of the local authority. The local authority take a more optimistic view. In that, they are supported by the children's guardian who has been familiar with this case from the outset. It would be a very strong thing indeed for a court to stand in the way of an attempt at rehabilitation or return to which a local authority and the guardian were both committed, and, in the last analysis, I do not seek to do so.
11. An "addendum rehabilitation plan with additional timetable" has been negotiated and drafted during the course of today. If it has not yet been done, Ms Elford, who appears on behalf of the local authority, has committed to beefing up that plan and making it more clear and specific in relation to drug usage. The mother needs clearly to understand that she must give up all consumption of any illegal drug other than cannabis right now. If any future drug tests indicate continued use or ingestion by her of cocaine or any other drug than cannabis, then, frankly, this rehabilitation plan will come to a complete halt. But that needs to be spelled out very clearly in this addendum rehabilitation plan so she knows with absolute clarity where she stands.

12. It is accepted by the local authority and the guardian, and is, indeed, accepted by me, that some social use of cannabis, provided it is done well away from the children at times when she is not actively caring for the children, will not, in the short run, stand in the way of rehabilitation. That, too, needs to be spelled out in this addendum rehabilitation plan. But the mother clearly needs to understand that if she wishes long term to care for any of her children without interference by the local authority or the state, the sooner she manages to wean herself off any usage at all of cannabis the better.
13. So far as the eldest child, A, is concerned, the mother, as I have said, sadly accepts that into the foreseeable future he will not be able to return to live with her. Accordingly, he will remain long-term fostered, hopefully with the same family with whom he is currently living, but that placement clearly shifts now from being an interim or holding one to being a long-term one, and his stability within that family needs to be strengthened and bolstered. A clear message needs to be given to A that he is not going to be returning home to live with his mother.
14. I absolutely accept the evidence of the social worker that in order to give that message and reflect the changed basis upon which A is now being fostered, there must be a reduction in the contact between A and his mother. Currently, she is seeing him twice every week for about an hour and a half each time on Mondays and Wednesdays. Realistically, Mr Stephen Roberts, who appears on behalf of the mother, has himself recognised that some reduction in that contact is necessary in the best interests of A.
15. The local authority, supported by the guardian, consider that the reduction should be right down to once every three weeks on the basis that there will also be a meeting between the two younger children and A, without their mother present, approximately once every month. On that basis, therefore, all three children would be together approximately twice every month. But the contact between A and his mother would be only on one occasion every three weeks. Additionally, there is an established practice of the mother and A speaking on the telephone once a week on Fridays. The local authority have said that they can see no reason why that telephone call, which currently is only verbal, should not become a visual communication using modern electronic

means such as FaceTime or Skype. They have said that they will facilitate that. The weekly phone calls can now be done by those means. The mother herself says that she has a phone with a camera and a screen on it, so that form of communication can be facilitated.

16. In his closing submissions, Mr Roberts made the point, on instructions, which had not, I think, really been canvassed between the parties until that stage of this day, that the mother herself feels that there is a need for her to have some time one-to-one with A alone without the two younger children being present. I personally am very sympathetic to that. Any parent needs, and any child needs, one-to-one time from time to time with each other without other siblings being present. In a normal family setting it is usually possible to arrange that, perhaps after younger children have gone to bed or whilst they are engaged on other activities. Under the existing proposal, the mother would only ever see A also with the two younger children present on this once every three weeks basis.
17. It seems to me that the way to bring these competing arguments into some sort of balance is that, in fact, the mother should have a face-to-face meeting with A once every two weeks. One of those each month will be with the two younger children also present. The other will be between her and A alone, always assuming (which will be entirely her responsibility) that she can make proper arrangements for the two younger children to be cared for while she is having her contact with A.
18. For those reasons and on that basis I intend that the mother should have contact once a fortnight with A. On one of those contacts each month, the other two children should be present. On the other contact each month, they should not be. In addition, all three children, but without the mother present, should have a meeting once in every month, so arranged by the local authority as to space as evenly as reasonably possible the contacts between all the children together. That can either be made the subject of an order under section 34, or the local authority, having heard the ruling, can adjust the wording of their addendum rehabilitation plan to reflect it.

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