

IN THE FAMILY COURT AT CARDIFF

Cardiff Civil and Family Justice Centre
2 Park Street
Cardiff
CF10 1ET

BEFORE:

HIS HONOUR JUDGE JONATHAN FURNESS QC

BETWEEN:

CARDIFF CITY COUNCIL

APPLICANT

- and -

**A MOTHER
A FATHER
CHILDREN (VIA THE GUARDIAN)**

**RESPONDENT (1)
RESPONDENT (2)
RESPONDENT (3)**

Legal Representation

Mrs Sheila Radcliffe (Barrister) on behalf of the Applicant
Mr Andrew Neaves (Barrister) on behalf of the First Respondent
Ms Michelle Jones (Solicitor) on behalf of the Second Respondent
Ms Sian Clarke (Solicitor) on behalf of the Third Respondent

Judgment

“This judgment was delivered in private. 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.”

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His Honour Judge Jonathan Furness QC:

1. I am dealing today with two children. X, born in 2009 who is 12, and Y, born in October 2020 who is now four months old. Y, as I say, was born at full gestation, but in December, when he was almost two months old he was seen for a check up and some bruises were noticed. What followed was that he was referred to hospital because of those bruises, and a CT scan of the head was taken which was indicative of a non

displaced fracture to the left parietal bone, according to the radiologist who looked at that CT scan.

2. A further skeletal survey was carried out which also showed linear lucency in that region. It was therefore believed that this little boy had suffered bruising and a fractured skull, for which there was no explanation. I should say no explanation for the fractured skull because the mother had indicated that it might be possible that the bruising had been caused by too strong a grip whilst changing a particularly virulent nappy. The Local Authority then felt it needed to take protective measures for the children, and it was right to do so on the basis of the medical evidence with which it was presented.
3. The parents, very responsibly gave their consent to the children going to live with the maternal grandfather, which is what happened in December of last year. Proceedings were then started and there was an initial hearing before me on 23rd December 2020, when I made an Interim Care Order in respect of Y. I ordered a report then from Dr Olsen, a Consultant Paediatric Radiologist, and that early hearing was, as it happens, very useful because it enabled the Court to order that report from Dr Olsen very early on in the proceedings, which meant that it has now been received.
4. There was a hearing on 19 January 2021 before myself again when I ordered further reports from Dr Cartlidge, a consultant paediatrician, and Dr Keenan, who is a consultant haematologist.
5. All those reports have now been received. The case is listed for an issues resolution hearing on 30th March 2021, and a final hearing for four days commencing on 20th April 2021.
6. Dr Olsen's report came in and indicated that, in his view, the parietal bone lucency seen on the CT scan, is an accessory suture, which is a normal variant, and is not therefore indicative of a skull fracture. That being so, the Local Authority immediately notified the Court and sought a hearing at which it could withdraw these proceedings. It's case had always been that without the skull fracture, this would not be a matter that ever came before the Court.
7. Happily, Dr Cartlidge has also filed his report before today, and that enables me to look at the bruising as well. The bruising, Dr Cartlidge describes in this way. First of all he says that the medical aging of the bruising does not contradict the history given by the parents of first noticing the bruising on a specified date in December. Secondly, he says that he thinks that they are consistent with the legs being held too tightly. Thirdly, he says that the mother thinks that she could have caused the bruises by holding Y's legs too tightly when changing a soiled nappy, and he says this:

“I think this is a plausible mechanism.”
8. The issue then becomes whether her action was reckless or deliberate, i.e. non accidental, or heavy handed and non deliberate, which I would consider as being accidental. In my view, non deliberate heavy handedness could have caused the bruises.
9. There is a radiological report which indicates that there is no fracture, and I find therefore that there is no fracture. There is a paediatric report which indicates that the

bruising could have been caused accidentally by a bit of heavy-handed gripping whilst changing a nappy. Clearly that is something that the mother must be careful about in the future, but it is not the sort of incident that causes the Court particular concern, and it is not the sort of incident that requires any order to be made, or indeed crosses the threshold under Section 31 of the Children Act.

10. I am therefore satisfied that there is no injury here which crosses the threshold, and that the application made by the Local Authority today to withdraw these proceedings, is entirely appropriate. I therefore grant the Local Authority permission to withdraw the proceedings.
11. Of course, this has been a difficult time for the parents. The two children have been away from them now for more than two months, and they have had restricted contact because of the difficulties with the lockdown and Coronavirus. I do want to say to them that, although the end result of this case is the Local Authority withdrawing proceedings, the Local Authority were right to bring them on the basis of the evidence.
12. I agree with what Mr Neaves has said, which is that the Local Authority must inform the appropriate other bodies about the outcome of this case. I give leave for the medical report of Dr Cartlidge and of Dr Olsen to be released to the police, if they require sight of those reports to ensure that the police action ceases as well. I would like the report of Dr Olsen to be sent to the head of the radiological department at the relevant hospital, so that it can be seen by the radiology department and [used in training] by them, so that hopefully this does not recur in the future.
13. I wish the parents well. My apologies from the Court for what they have been through. It is not the Court's fault, it is not the Local Authority's fault, and they should be grateful for the expertise that has come in the medical reports which have now been provided.

This Transcript has been approved by the Judge.

The Transcription Agency hereby certifies that the above is an accurate and complete recording of the proceedings or part thereof.

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