



Neutral Citation Number: [2023] EWFC 31

Case No: ZC21C00571

IN THE FAMILY COURT
SITTING AT THE ROYAL COURTS OF JUSTICE

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/01/2023

Before :

MR JUSTICE KEEHAN

Re G & H (Children: Placement for Adoption)

Between :

A LOCAL AUTHORITY
- and -
(1) A MOTHER
(2) A FATHER
(3) AN INTERESTED PARTY
(4-5) G and H
(Through their Children’s Guardian)

Applicant

Respondents

Ms Bibi Badejo (for December hearing) & **Ms Polly Allison** (for judgment) (instructed by **Legal Services**) for the **Applicant**
The First Respondent did not appear and was not represented
Mr John Tughan KC (instructed by **JMW Solicitors**) for the **Second Respondent**
Ms Susan George (instructed by **Freemans Solicitors**) for the **Interested Party, Third Respondent**
Mr Tim Hussein (instructed by **Miles & Partners**) for the **Fourth and Fifth Respondents**
through their Children’s Guardian

Hearing dates: 7th & 12th December 2022 and 11th January 2023

Approved Judgment

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MR JUSTICE KEEHAN

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.

Mr Justice Keehan:

Introduction

1. I am concerned with twins, G and H, who were born in July 2019. X is their mother. Y is their father. They are both 30 years of age and are nationals of a third country. As a result of allegations made by one of their nannies, P, to the Metropolitan Police in late 2021, an emergency protection order was granted in respect of the twins in November 2021. The local authority, then issued an application for a care order three days later, subsequent to which the children were made the subject of interim care orders three days later. At a hearing on 24 January 2022, the court approved a plan for the children to return home under 24-hour care provided by the former nannies. The children were made wards of court and remained so until the judgment given today. The local authority, in circumstances in which I shall allude to later in this judgment, issued applications for placement orders in respect of both G and H on 13 December 2022.
2. This matter was listed for a fact-finding hearing in June of last year, and I shall set out what occurred at that hearing in a moment, but I reserved judgment on the fact finding to this final hearing. The local authority's plan is for the twins to be placed for adoption and they seek care orders and placement orders in respect of both of them. Those plans are supported by the Children's Guardian but are opposed by the father. The mother in circumstances which I shall describe has not engaged in these proceedings for a very long time and her views are unknown, but I will assume she would oppose the applications made by the local authority.

The Law

3. I remind myself that when in relation to making findings of fact, the burden of proof is upon the local authority and the standard of proof is the simple balance of probabilities. I take into account that the welfare best interests of the twins are the court's paramount consideration, section 1(1) of the Children Act 1989 and section 1(2) of the Adoption and Children Act 2002. I have regard to the welfare checklist set out in section 1(3) of the 1989 Act and in section 1(4) of the 2002 Act insofar as they are relevant to the facts of this case.
4. I also take account that I must, when considering the issue of making placement orders, have regard to the consequences of doing so for the twins throughout the whole of their lives. I have taken account of the provisions of section 21 of the 2002 Act and the circumstances in which the court may make a placement order, and the provisions of section 52 of the 2002 Act as to the circumstances in which a court may dispense with the consent of parents to the making of a placement order and/or an adoption order
5. I have regard to the article 6 and article 8 rights of the mother, the father, and of the twins, but I bear in mind that where there is a tension between the article 8 rights of a child on the one hand and a parent on the other, the rights of the child prevail: *Yousef v The Netherlands* [2003] 1 FLR 210.

The Background

6. In 1992, the mother and father were born in another country. In 2005, the father moved to live in England. At around the same time the mother started boarding school in a different country. In 2015, the mother and the father met and they married the following year in 2016.
7. In 2016, the mother moved to live in London. In 2018, the father obtained British Citizenship. The twins were born in another country in July 2019. In October of that year, the father and a nanny brought the twins to the United Kingdom where the twins were cared for by nannies and lived in a separate home from mother and father which arrangement I was told is customary in wealthy families from that country.
8. In early 2021, the mother and the father employed a nanny, P. She arrived in this country and subsequently alleged that the mother and the father were being abusive to the twins, physically, emotionally, and psychologically. Those allegations are set out in a revised findings of fact schedule which is appended to this judgment.
9. In November 2021, upon learning of the allegations that had been made by P, the mother and the father deleted photographs of what were said to be the children's injuries from P's phone. In police interview, the mother admitted doing so but the father denied it. A few days later, on learning of the fact that P had reported allegations of child abuse to the police, the father, using a false name, falsely reported P to the police for child mistreatment and physical punishment of the children.
10. Three days after the father's report to the police, P was interviewed by the police. The following day the mother and the father were separately interviewed by the police. The mother and father's mobile telephones were seized by the police though consistently the parents refused to give the passwords for their mobile phones to the Metropolitan Police so that they could be interrogated. Later in November, P returned to live in her home country.
11. Shortly thereafter, the mother and father left this jurisdiction to go to another country purportedly because the mother's grandfather was unwell, but they have never returned to this jurisdiction. The local authority organised indirect video contact between the twins and their parents.
12. The mother and the father failed to attend the fact-finding hearing in person, as was ordered by me on 26 May 2022. On 7 June last year, the case was listed for a 13 day fact-finding, but there were unfortunately issues about outstanding police disclosure and on the following day when the Metropolitan Police attended before me: directions were made for disclosure and the matter was further adjourned to 16 June.
13. On 16 June, I was told by leading counsel for the mother and the father that neither parent now contested the findings of fact sought but no admissions were made. It was asserted that the mother and the father did not oppose P's evidence. On 28 June at the resumed hearing of the fact-finding hearing, I approved the schedule of findings of fact sought by the local authority and made those findings. I also on the same occasion exonerated P from any allegation that she had been involved in the mistreatment or abuse of either of the twins.
14. On that same day, I acceded to an application made on behalf of the mother and the father for there to be a "resolutions model assessment" of them given that they did not

accept any of the findings of fact made by the court. I acceded to that application notwithstanding the opposition of the local authority and the Guardian and accordingly Miss Tracey Carboni, an independent social worker, and Dr Pison-Young, a psychologist, were instructed to undertake assessments of the mother and the father.

15. In October last year, the Metropolitan Police sought disclosure of various documents from this case into the police investigation. The Metropolitan Police appeared before me today and there was no opposition by any party for the limited disclosure that the Metropolitan Police sought of documents from these proceedings into the police investigation and into any subsequent criminal proceedings.
16. In October or November of last year, the parents asserted that they had separated and were no longer living together as a couple. The matter was listed on 7 December last year for a final welfare hearing but on the first day of that hearing there was an application on behalf of the father for further time to be given to him for him to file and serve his final evidence. No party opposed that application and on the basis that it was agreed by the parties that there was no need for oral evidence from any witness but that the matter could proceed on submissions only, I acceded to the application.
17. During the course of closing submissions, it became apparent that placement applications had not - by an oversight by the local authority - been issued. Accordingly, I could not conclude the matter on that occasion or give judgment and the matter was further adjourned until today.

Experts' Evidence

18. The parents do not accept the findings of fact which are set out in the revised schedule. As I have said they sought a resolutions model of assessment. In light of the stark choice in terms of the placement of the children for adoption as opposed to placement of the children with one or other of the parents, I granted the application. The mother, however, has not cooperated with or taken part in the assessments undertaken by Dr Pison-Young or by Miss Carboni. The father did engage but to a superficial degree and refused Dr Pison-Young's request for a second session of assessment. Unsurprisingly, neither expert supported the children being rehabilitated to the care of the parents nor to the care of the father.
19. Upon the basis of the parents' purported separation, the father sought that the children should be returned to his care in his home country where they would be cared for by a team of nannies. The father's time, it was said, with the children would be supervised by the nannies and by security personnel employed by the father. In support of this proposal, I received a report from a local lawyer on the child protection provisions and the role of the court dated 7 November 2022.
20. The conclusions of Dr Pison-Young may be summarised as follows:

“This psychological assessment is only of Y as X did not engage. My interview with Y was limited in depth and scope because of his reluctance to engage fully. I consider this reflects Y's wider difficulties engaging with professionals and

understanding the severity of the concerns in relation to his care of G and H.

Y does not present with a mental health or personality disorder. He is described as having emotionally repressed and avoidant personality style which decreases his capacity for empathy, emotional literacy, and ability to confide in others. Overall, I would be very worried about the safety of G and H if they were to return to the care of Y or X in the other country. This includes a scenario of whereby the boys are cared for by paid carers but under Y's authority. I argue the risk of further physical harm, emotional abuse, and neglect remains high.

I am worried about Y's potential for collusion with X and his protective capacities as well as his own capacity to inflict physical abuse and emotional harm towards his children. There is an absence of clear, robust, and protective factors in this case. This is concerning as the court's findings indicate the children were subjected to repeated physical abuse, cruelty, neglect, and emotional harm by the parents. Y continues to deny all of the court's findings both in relation to himself and X.

I cannot give robust opinions about the dynamics of the relationship between Y and X due to their non-engagement. I outline my concerns about possible coercion, control, and dominance from X toward Y, however without disclosures from Y these remain speculative. I can say that the relationship was not protective for the children and would increase risks if the parents reunited. I do not identify any support services or psychological interventions that would be indicated for Y due to his avoidant psychological profile; reluctance to engage with professionals and lack of readiness to change. I conclude this case is not suitable for a resolutions assessment.”.

21. And a little later, Dr Pipon-Young offered the following opinions:

“I would argue that Y's approach of denial of harm and lack of meaningful engagement in the court process, including mine and Miss Carboni's assessments, means that little has changed for these children over the course of these proceedings. As indicated in my response to question 1 above, I think the children would be at ongoing risk of physical harm, emotional abuse, and neglect if they were returned to that other country.

I am aware that Y's position is the children would be cared for by carers paid by him and so his contact with the children would be minimum. My decision is this is not a safe or sustainable risk management plan. Carers employed by parents should not be used to protect children from risky parents in my view. Indeed, the history of this case demonstrate the flaws,

pitfalls, and power differentials in this kind of arrangement since the children were still subject to repeated harm and abuse despite the parents employing a nanny.

In terms of a resolution intervention, I am aware that Miss Tracey Carboni will file her own assessment on the matter. My view is that this is unlikely to be safe to pursue. There does not appear to be robust involved family network who could mitigate the risk and act independently of the parents. A resolutions approach where the risks from the parents are so significant would also be strongly reliant upon proactive high quality and open engagement by both parents. This is absent in this case and would make embarking on such an intervention unsafe in my view.”.

22. And finally, Dr Pipon-Young said:

“Given the above, I must conclude that Y’s prognosis for changing his parenting style is not strong and there is scant evidence for me to advise the court that Y would not return to previous levels of punitive controlling and abusive parenting practices.”.

23. The conclusions of Miss Carboni may be summarised as follows:

“In what follows, I argue that a resolutions programme is not viable in this family. I outlined the work that I have undertaken to date which involved father only partially engaging with me and mother withdrawing from the assessment entirely. I suggest this case is alarming based on the historic information, the parents’ lack of engagement with all professionals, and based on what information has been gleaned during the current assessments instructed by the court.

I argue that the abuse of the children in this case was significant and was underpinned by a worrying lack of parental bonding towards the children. I suggest the children were intentionally harmed by their parents and that this harm was fuelled by negative psychological meanings that the parents held in respect of the children and which also entailed the clear lack of empathy.

I conclude the risk are too high in this family for reunification to be considered since the parents sought out opportunities to harm the children. I end also by suggesting that the current arrangements whereby the children are cared for, protected by nannies, is not a viable long-term safety plan nor one which provides a psychologically and conducive environment for the children’s emotional development given the overall picture in this family.”.

24. And a little later she continued:

“Father states that he will accept the good advice of the Judge on this issue but in reality, he has not engaged with my assessment fully or that of Dr Pison-Young. I have wondered if the father has had very few restrictions placed on him in life beyond not being able to see his parents due to the family wealth which leaves him feeling confident that he simply does not have to. My view is the father will not do anything that he feels he does not need to do and I do not have faith in any undertakings that he gives to this court. Father has evidenced that his non-engagement with the professional network is a pattern, as has the mother.”.

25. A few pages later, she continued:

“It is not viable for these children to be unified back to their parents’ care. Whilst the father says he now seeks for sole parental responsibility since he is clear that he does not wish to care for the children on a day-to-day basis, I do not assess that it would be safe to implement this model with the father. The constellation of evidence in this case are too broad and high. There is no wider family available to work and there is no real emotional investment in the children at all from members of the family.

Moreover the parents in my view, motivated to harm the children given the evidence that both parents were able to overcome any internal dis-inhibitors in order to justify inflicting the harm on the children, and them acting so dangerously, thus professionals should not lose sight of the fact that the children were subjected to what I consider to be abject cruelty at the hands of their parents who did not act in any way to de-escalate the situation or each other’s actions.

A resolutions programme is therefore not viable even if wider family were available. The contact between the father and the children is evidently of such inadequate quality that any future contact would need to be limited should it continue. My view is that limited indirect contact should be promoted for identity purposes only.”.

26. In the absence of any positive case against the opinions of Dr Pison-Young and Miss Carboni, I have no hesitation in accepting their evidence.

Discussion

27. The revised schedule of findings sets out numerous occasions between July and November 2021 when the parents, or one of them, subjected one or other, or both of the twins to physical, emotional and/or psychological harm which included slapping them, force-feeding them, and shouting abuse at them. These events were reported to

- the police by one of the nannies, P. When the parents discovered that P had photographs of the children's injuries on her mobile phone, the parents deleted them. P was then dismissed.
28. The police arrested the parents and seized their mobile phones. The parents however refused to disclose their respective mobile passwords to the police which would have enabled the police to interrogate their mobile devices. The police investigation into alleged child abuse by the parents is ongoing.
 29. The parents, as I have mentioned, returned to their home country, purportedly because the mother's grandfather was unwell. They have not since returned. In light of their absence from this country, the local authority arranged for the children to have indirect video contact with the parents. The mother has not attended any contact with the children since 6 January 2022. The father's participation in the video contact has been sporadic and he is regularly late arriving for the contact and/or brings the contact to a conclusion early, and on occasions abruptly.
 30. The mother has not attended any court hearing, whether in person or remotely since 4 February of last year. She has not engaged or cooperated with any of the professionals involved in this case. She failed to comply with the direction I made on 9 March 2022 for her to file a statement setting out her current medical condition despite repeated extensions having been granted to enable her to comply with the order.
 31. On 26 May of last year, I directed the parent must attend the fact-finding hearing in person and that any application for one or both of them to attend the hearing remotely must be supported by comprehensive evidence. In breach of that order, the parents did not attend the hearing in person. No application was made for them to attend remotely and no evidence in support of their need to attend remotely was filed or served. The mother did not attend the fact-finding hearing at all and neither did she attend the final hearing in December 2022.
 32. For the avoidance of doubt, I should make it clear that after the fact-finding hearing, the parents' solicitor came off the record as acting for the mother and continued to act for the father alone. As I have already mentioned, the mother did not attend any court hearings remotely or in person after 4 February last year. The father did not attend the final hearing, whether in person or remotely. No application was made for him to be excused from attending the hearing and no explanation was given despite me asking leading counsel about the father's failure to attend the hearing.
 33. All of the professionals in this case; the experts, the social workers and the Guardian, oppose the father's application to care for the children in his home country with the children being cared for by a team of nannies in a home separate from the father and supported by a security team. The Guardian supports the local authority's application for the twins to be placed for adoption. The father opposes this plan and I assume, but do not know because of her lack of engagement with these proceedings, that the mother also opposes the plan.
 34. The parents, but most especially the mother, have by their own freewill and actions abandoned the children. They, the children, have not had the benefit of physical contact with their parents for over 12 months and no contact at all with their mother

over this period. The mother has completely disengaged from contact with all of the professionals involved with this case and with these proceedings. The father has to some degree engaged with the professionals and with the court proceedings but at best he has done so superficially and very much on his own terms.

35. The father, like the mother, continues to deny all the allegations made of child abuse against him. Indeed, as I have mentioned, in late 2021 he made a false allegation of child abuse to the police against the former nanny, P. He does not accept any of the risks of harm which the local authority and the Guardian consider he and the mother pose to the children. Accordingly, while I do not doubt that the main carers in that other country, as was the case when the parents lived here with the children, would be nannies employed by the father, I have no confidence that any of the other protective measures proposed by the father would be established and/or maintained by him. Likewise, I have no confidence that the father would not permit the mother to play a role in the children's lives.
36. As far as the father is concerned, he and the mother have done nothing wrong whatsoever in respect of their care of the children. Why, therefore when free from the oversight of this court and of this local authority would he limit his or the mother's involvement with and in the care of the children? Given his and the mother's conduct and actions in the course of these proceedings, I am satisfied and find that it is more likely than not that he would not institute or abide by the restrictions he has now proposed to this court.
37. In these circumstances, I agree with the experts, the social workers, and the Guardian, that the children would be exposed to a real risk of suffering further serious physical, emotional, and psychological harm if they were returned to the care of their parents. It would be wholly inimical to the welfare of either of the children to expose them to this risk of harm.
38. Unfortunately, I was unable to conclude the final welfare hearing in December and give judgment because during the course of the hearing it emerged that due to an internal error the local authority had not issued the applications for placement orders. These were issued on 13 December last year. I readily acknowledge that by making placement orders and the children being placed for adoption this will sever the legal and emotional bonds between the parents and the children. I remind myself that this will have an impact on the children throughout the whole of their lives. However, I take account of the fact that there is no subsisting relationship with the mother and they call one of their nannies "mummy". They do recognise the father and call him "daddy" when remote contact is taking place but the emotional bond with their father is at best tenuous.
39. One of the principle submissions made on behalf of the father against the children being adopted was the loss of the benefit of their parents' considerable wealth and the loss of the right to inherit their parents' wealth in due course. This is an important consequence to take into account. These losses could be ameliorated if the father and/or the mother chose to make alternative financial provision for the children upon their adoption. In any event, I am entirely satisfied that the loss of these benefits of material wealth are plainly outweighed by the very considerable benefit of enabling the children to spend the rest of their lives in a safe, loving, and nurturing family.

40. The choice faced by the court is stark, namely to place the children in the care of the father, where they will both be at very real risk of suffering further serious physical, emotional, and psychological harm, or being placed for adoption in a safe, loving, and nurturing family. In my judgment, it is overwhelmingly in the welfare best interests of the children for them to be placed for adoption.
41. The children were born as a result of a surrogacy arrangement between the parents and the surrogate mother, the interested party. Neither parent has any biological connection with the twins and neither has parental responsibility for them. The only person with parental responsibility is the interested party and she consents to the twins being placed for adoption and being adopted in due course.

Conclusion

42. I will make all of the findings of fact as set out in the revised schedule of findings which shall appear as an appendix to this judgment. It is in the welfare best interests of the children for them to be made the subject of care orders and placement orders and I shall make care orders and placement orders in respect of both of them. That is all I propose to say.

Appendix 1: Schedule of Findings

	Date	Finding
1.	Between 29 July and 3 November 2021	On more than one occasion when G ate too slowly: <ul style="list-style-type: none">a. The mother or the father shouted or screamed at Gb. The mother or the father forced him to eat more than he wanted, and he would regurgitate the foodc. If G regurgitated his food, the mother instructed the father and P to feed him the regurgitated foodd. If the food fell on the floor or on his bib, the mother instructed the father and P to feed him thise. The mother or the father hit G for not eating or eating too slowly
2.	Between 29 July and 3 November 2021	On more than one occasion, the mother and father would: <ul style="list-style-type: none">a. put G in a small pen in the bathroom without supervision when they felt they were being naughty or disobedient, andb. instructed P to beat the children and lock them in the toilet if they did not behave
3.	Between August and September 2021	On one occasion, the mother removed a shoe G had in his mouth which caused a scratch to the right side and marking to the left side. The mother instructed P not to take them to the park due to G's injuries.
4.	In October 2021	The father, encouraged by the mother, hit G with a wire coat hanger causing extensive bruises on his buttocks, his outer thighs, and his calves. The mother and father purchased ointment and instructed P to apply the ointment to the bruising which were so extensive that both children were kept from attending nursery for 3 weeks until the bruising had subsided thus the bruising was not detected by any third parties.
5.	On or around 23 October 2021	The mother would not allow G to wear a coat and instructed P not to cover his feet with her coat. The mother slapped G's foot and incidentally hit P's hand.

	Date	Finding
6.	On or around 24 October 2021	The mother limited the amount of food G ate and did not allow him to have breakfast or lunch that day
7.	In or around the last week of October 2021	On more than one occasion, both the mother and father hit H and G (excessive physical chastisement), including with a slipper.
8.	In or around the last week of October 2021	The father was holding the hands of H and G, but H was crying and was not walking, so he squatted down and the Father dragged him forcibly along the road.
9.	In or around the last week of October 2021	The mother grabbed H and pulled him up by the ankles. H was held upside down by his mother and he hit his head
10.	On or around 30 and 31 October 2021	The mother and/or father would beat or hit H for reasons that included not greeting them in the morning or socialising with others and not being affectionate with them, including: a. on or around 30 October 2021, the mother and father hit H on the soles of his feet causing bruising and causing him to limp when he walked and b. on or around 31 October 2021, the father beat H for not saying good morning to his parents
11.	Between 29 July and 3 November 2021	After checking the temperature for the children’s bath, the mother added more hot water while the children were in the bath. The bath was too hot, and the children began to cry.
12.	Between 29 July and 3 November 2021	The Line messages between P, the mother, and the father are genuine and in them the mother referred to G as follows: a. “This child is really hopeless. We’re dying to get this baby adopted” b. In response to P stating that the parents love the children the mother wrote, “No, we don’t. I am seriously. We are frustrated... But it isn’t love. We don’t love, we seem more likely to get exasperated... We really don’t want anything to do with this baby.” c. “We all wish him to get hit and killed by a car right walking out the door.”

	Date	Finding
		<p>d. “Tomorrow, don’t let him attend school. Hit him until he can’t attend school for a week.”</p> <p>e. “At first, when we forced him, he just ate slowly, keeping the food in his mouth, without swallowing it. But after being hit, he at least swallowed.”</p> <p>f. “This kid is bad, awful, a son of bitch”</p> <p>g. “I want to see how to sign a waiver of inheriting property. He can’t rob H for a dime in the future.”</p> <p>h. “All resources are for H only. Have another child in a few years. He can’t take out[sic] last name either.”</p> <p>i. “This child is really hopeless. We’re dying to get this baby adopted. Are there any parents just keeping one of their children to raise?”</p>
13.	3 rd November 2021	The mother and father deleted photos of the children’s injuries from P’s phone to eradicate evidence of the injuries that they had inflicted. The mother accepted both she and the father deleted photographs in her interview while the father lied and said he did not touch P’s phone.
14.	6 th November 2021	After the mother and father became aware that P had reported them to the police, and using a false name to conceal his identity, the father falsely reported P for mistreatment of the children, including physical punishment, “in order to prevent this person from taking up other jobs as a legal babysitter when she returns to her home country.”
15.	25 th November 2021	On 25 November 2021 the father spoke with the Interested Party on the phone. he falsely told the Interested Party that G and H had been placed voluntarily in foster care because the children had been hurt by their nanny.
16.	Between 10 th November and to date	Despite repeated requests from the Metropolitan Police, the mother and father have each refused to provide their access codes to allow for the interrogation of their respective mobile phones and the father’s ipad.
17.	23 March 2023 to date	The mother has not attended contact since 6 January 2022 or any hearings since 4th February 2022. In breach of the orders of Mr

	Date	Finding
		Justice Keehan, the mother has not filed and served any medical reports. The mother was not so unwell that she could not attend contact or court hearings and has instead sought to avoid engaging in the court/fact-finding process.
18.	26 th May 2022	In breach of Mr Justice Keehan's order of 26 May 2022, the mother and father failed to attend the fact-finding hearing in person.
19.		The parents' allegations that P: (a) physically harmed the children (b) falsified allegations of abuse, and (c) forged documents to obtain her employment with the parents are unfounded.