

IMPORTANT NOTICE

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 child[ren] and members of their [or his/her] 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.

Case No: LS18C00767

IN THE FAMILY COURT SITTING IN LEEDS

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF J

Date: 12.11.19

Before :

HHJ Lynch

Between :

Leeds City Council

Applicant

- and -

K (1)

L (2)

J

(through her children's guardian) (3)

Respondents

Rachel Mellor for the Applicant
Meggie Chan for the 1st Respondent
Andrew Jinks for the 2nd Respondent
Joanne Coen for the 3rd Respondent

Hearing date: 12.11.19

JUDGMENT

Introduction

1. These proceedings are about J, aged one. Her parents are K and L. J is her mother's first child. L has other children with whom he has contact but none of them live with him. L does not have parental responsibility for J, not having been known to be her father when her birth was registered but he has applied for that and no one opposes me granting that today, to reflect his role as J's father. The other important person in these proceedings is S who is J's paternal aunt; it is proposed by the local authority that J goes to live with her.
2. This case began because of K's significant mental health problems which were evident before J was born. It was her midwife who let the local authority know she was pregnant so that they could consider the situation before J's birth. The local authority began these care proceedings when J was born because of the concerns that had been evident to everyone about K's mental health at that time. An interim care order was first made on 8 November last year and has been in place ever since. J has lived with the same foster carers throughout this court case. Arrangements were made for J to see her mother but much of the time K has not been well enough to see J. After L was shown to be J's father by DNA testing, he began seeing her and has done so regularly throughout these proceedings.

The Issues and the Evidence

3. Today's hearing was fixed to be a final review or an early final hearing, depending on how things looked at this time. At today's hearing I have heard from the lawyers for everyone and it is suggested that we can finish the case today as the parties have agreed what should happen.
4. The main issue in this case has been K's mental health problems and the impact of those if any on J. It was known before the court case began K suffered from mental health difficulties. She has had a number of diagnoses over the years, including bipolar affective disorder, schizoaffective disorder, and emotionally unstable personality disorder. She has misused drugs which has seemingly affected her mental health as well. Unfortunately she failed to meet with the psychiatrist appointed within these proceedings to assess her so I still do not have a detailed understanding of her mental health. I am told that she does not work consistently with her own mental health support professionals, tending to really only do this when she is in crisis. The local authority attempted to assess K separately from the psychiatric assessment but again she did not get involved in this, seeming to a degree hostile to the social

workers. She was unable to have meaningful discussions about the things which were worrying social workers. In her final statement, J's social worker concludes that it would not be safe for J to be in her mother's care given her mental health difficulties and the impact they would have on her ability to look after J as she needs.

5. From all I have read and heard, it is evident that K is not well enough to look after her daughter and will not be going forwards, certainly whilst ever she is not working with her mental health workers to deal with her problems. She did not turn up regularly for the initial contact with J three times a week and so that was reduced to weekly. She then chose to have no contact at all with J although has restarted recently, albeit she attends only sporadically. I am quite sure this does not reflect any lack of love for her daughter but merely her own mental health difficulties.
6. L was tracked down and DNA testing was done to confirm he was indeed J's father. There has been a positive assessment of him as someone with whom J should have contact but he is not suggesting he should care for her, being conscious of his commitment to his other children and the need to provide financially for them all. He identified a family member as a potential carer for J and that was looking extremely positive and still a last-minute difficulty arose. That led to delay in these proceedings as immediately other members of his family were suggested to care for J, but I was very sure that it was right to take time to try to find a family placement for J, and ultimately S has been positively assessed.
7. The local authority's plan is for J to move to live with her aunt under a care order. This would keep the local authority involved while J settles in and contact with each of her parents hopefully beds down into a regular pattern. The local authority says J should see both of her parents. She will be able to see her father fortnightly once she has settled in with her aunt. In terms of J's time with her mother, the local authority proposes this happens six times a year for two hours each time, and to start with the local authority will supervise her contact itself before supervision moves hopefully to being done by family members. The local authority also wants to make sure that J has a relationship with her extended family, including her mother's family, which would be particularly important for J if her mother is not well enough to maintain a relationship with J.

8. There is a detailed assessment of S in the court papers with some updates dealing with queries which have arisen. S is already someone who fosters children and, probably unsurprisingly, the assessment of her to care for J is positive. She is an experienced parent as well as being a foster mother and would be able to meet all of J's needs. She understands the importance of J having contact with both of her parents and is committed to making sure that happens, including travelling back to this area at times to help with that.
9. The local authority's plans are supported by J's father and by her children's guardian. The guardian raised some relatively small issues following the assessment of S which have been dealt with to her satisfaction, save one which is just being clarified. The guardian said that she had "been impressed with S's insight into J's situation and her willingness and commitment to meeting J's needs as she grows up, including her need to have an ongoing relationship with both her parents". The guardian says that J is very attached to her foster carers and is likely to experience some distress at being separated from them so the transition into S's care will need to be carefully managed and reviewed. The guardian talks about the importance of J having a relationship with her family, including her wider family. She agrees with the plan for J to spend time with her mother six times a year and agrees with the suggestion of the IRO that half of those meetings should be here when S is visiting as K is likely to struggle to travel to where J will be living given her mental health difficulties. She also agrees that at the moment the right order is a care order rather than a special guardianship order given J is not yet in her family placement and S wants the local authority to take responsibility for contact now.
10. K has come to court today and it is obvious to me she has found this court case very hard. Of course she would want to be the one bringing J up and it has been I am sure very painful realising that that cannot happen. When it was mentioned in court today by one of the lawyers that everyone knew she would have wanted to care for J she called out "of course I do", her interruption showing the strength of her feelings. She has however been able to put her own feelings aside and to accept that the best thing for her little girl is for her to have a settled permanent home. She is very grateful to S for offering to care for J and is pleased she will remain living in her family.
11. Before making a care order, the court must be satisfied that at that time steps were taken to protect a child that child had suffered or was at risk of

significant harm due to the parenting it had received or was likely to receive. In this case K has been able to agree the wording of this and it is set out at the end of this judgment. I am satisfied that the evidence I have read justifies that wording being recorded as being accurate.

12. In preparing for this hearing, given nobody was arguing about what I should do, I read the written evidence, and I know this case well because I have been responsible for it all the way through. Nobody has given evidence in court, but I have heard from the lawyers about what the people involved in the case want to happen.

My Decision

13. I now turn to think about what orders if any are needed for J. Wherever possible, children should be brought up by their parents and if not by other members of their family. I know that J and her parents have a right to a private family life and when I make my decision I must remember that J's welfare throughout her life comes first in my thinking.
14. The only option which is being suggested for J's future is that she lives with S under a care order. In my head though I have gone through all the possible outcomes for J, including living with S but under a different order or staying in long term foster care locally, and I have balanced up the pluses and minuses of each. When doing that, I have thought particularly about the list of things in what is called 'the welfare checklist' which is set out in the Children Act 1989.
15. It is obvious that living with S would mean that all of J's needs were met, practically and emotionally. The assessment of S makes for very positive reading, maybe most particularly in the sense of her understanding of the importance to J of her parents and the rest of her extended family. I am confident that in living with her aunt J will grow up with a proper understanding of her background and the best possible relationship she can have with everyone else in her family including her parents. Although a move away from her current foster carers will have a negative impact on J, S's training as a foster carer will be important in helping J adjust and I know J's current carers are keen to help, indeed would like to maintain some degree of relationship with her in the future. I am sure that if J were able to say what she wants in terms of where she lives it would be to live with one of her parent if that could happen safely and if not to grow up in her birth family knowing

everyone who is important to her. Living with S is the only option where that could be achieved.

16. And I can see that is now the right order is a care order, given that J does not yet have an established relationship with S, there only having been a few times when they have met, and also the importance of the local authority staying involved in arrangements for contact, most particularly for J with her mother. It may also be important for the local authority to work at promoting relationships between the two sides of J's family to ensure that, if she may not be able to see her mother consistently, she can have a relationship with her mother's side of the family separately from that.
17. So, looking at the options for J, I do agree that the right thing for her is for her to be placed with her aunt under a care order. I am satisfied that the local authority's final care plan for J is the best arrangement for her and is proportionate. **I therefore make a care order.**
18. It is also right that L's role as J's father should be recognised given his commitment to having a proper relationship with her. It is right that he should be able to have information about how she is doing and to be involved in decisions regarding his daughter's life alongside her mother. **I therefore make an order granting him parental responsibility for J.**
19. There is one extra order I wish to make. I think it is hugely important for children who are not living with their parents that they have information available to them, through those bringing them up, so they can make sense of their early life. This judgment, in setting out what I have read and heard in court today, gives at least a summary of that start. I propose therefore to order that **this judgment must be given by the Local Authority to S, along with my letter to J, at the point that J is placed with her, so that it is available to her when she is older. That however is on the basis that she should keep it private so apart from looking at it herself she may only show it to any medical or therapeutic staff working with J or the family.** It is very important therefore that the judgment is passed on to S. I have written this not for the benefit of the grown-ups but for J and I wish to be sure it reaches her
20. Finally, I also **reserve any future applications in respect of J to myself if I am available** and I make the **usual order about court costs** in this matter.

THRESHOLD CRITERIA
AGREED BY THE PARTIES

APPROVED BY THE COURT

The court is satisfied that J is likely to suffer significant harm and that likelihood of harm is attributable to the care likely to be given to her if the order were not made not being what it would be reasonable to expect a parent to give her, in that:

- a. K has significant mental health issues which impact on how she presents and her behaviour. She has diagnoses of bipolar affective disorder, schizoaffective disorder, and emotionally unstable personality disorder.
- b. K engages inconsistently with mental health professionals. Her engagement is sporadic and limited to times when she is in crisis. Her mental health issues would have a significantly negative impact on her ability to meet J's physical and emotional needs, placing J at risk of harm.
- c. K has a history of drug and alcohol misuse. She was using cocaine regularly up until her pregnancy and used alcohol as a coping mechanism in the early stages of pregnancy. Use of drugs or alcohol would place J at risk of emotional and physical harm.