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Case No: SE19C02702

IN THE FAMILY COURT SITTING IN SHEFFIELD

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF Y AND Z

Date: 27.8.20

Before :

HHJ Lynch

Between :

A Local Authority

Applicant

- and -

M

G (2)

E & F (3&4)

The Children

(through their Children's Guardian) (5-7)

Respondents

Karen Dhinsa for the Applicant
Charlotte Bradbury for the 1st Respondent
Caroline Burke for the 2nd Respondent
Martyn Wood for the 3rd & 4th Respondents
Miles Parker for the Children

Hearing date: 27 August 2020

JUDGMENT

Introduction

1. This case is about three little children, X who is 6 ½, Y who is 5 and Z who is 4. Their mum is M . The dad of Y and X is F1 who has not taken any part in this court case although he was given court papers to tell him that it was happening. Z's dad is F2. The local authority tried to give him official notice of the case and asked him to ring about getting the court papers. When he rang however, he simply said he did not want to be involved in the court case and indeed he has not been. There are some other important people involved in the children's lives. X lives with his aunt, G, and she has been part of this court case. Y and Z live with their aunt and uncle, E and F, and they too are parties to this case.
2. This court case has been going on for a long time, since just before Christmas of last year. The local authority began this court case then to try to settle living arrangements for the children. By that time all the children were living with the people they are living with now and so that the first hearing the judge made child arrangement orders confirming those arrangements. She also made interim supervision orders, which gave the local authority the responsibility to advise and assist the families. Since the children have lived with their current carers, they have spent time with their mum with someone else also there to keep an eye on things. Y also sees her dad maybe once a week because she is living with his sister, but because of his problems with drinking too much alcohol either E or F will always be there. Z does not see his dad at his father's choice.
3. During the time this court case has been going on there have been assessments of those caring for the children. There have been some delays in the court case because arrangements for X were not as certain and that remains the case so his proceedings will continue. Everybody in the case though agrees that the plans for Y and Z are settled now and final orders can now be made.
4. Today is the first time I have dealt with this case. I have heard in court today that everyone agrees that Y and Z should stay living with E and F. Because that was agreed all I have had to do is make sure that I agree that is the right plan and that the orders which should be made should be special guardianship orders. A special guardianship order is slightly different to a child arrangements order because it gives special guardians overriding parental

responsibility. That means if E and F disagreed with M about something to do with Y or Z they would be able to have the last word. Orders like this are made when there is a really settled plan for children to stay where they are.

Background

5. Since the beginning of this court case M has been honest enough to say that she knows she cannot care for all the children. When the children were living with her, they suffered harm because she was not looking after them properly. The children had a number of injuries including bruises, marks, scratches and bumps, because she was not keeping a proper eye on them. She was not looking after their health, meaning they were sometimes dirty and not dressed properly, they were not being taken for medical appointments which they needed, Z had nappy rash for a very long time, and once Z managed to turn the cooker on and melt some scissors in a pan. The state of the house was very poor, and M did not manage her money well. The way she was bringing up the children was not good either, as she was not putting boundaries in place which meant their behaviour was getting bad. M resorted to smacking the children or shouting at them. She also increasingly blamed X for how things were at home and that was very hurtful for him.
6. People working for the local authority and other organisations tried hard to help M over quite a long period of time, but she did not get properly involved and so could not make the changes she needed to make.
7. The children's social worker explained in her first statement to the court that M has many problems which make a big difference to the kind of mum she can be. She did not have a good childhood herself and does not have much support from her own family. She has had problems with her own mental health and is depressed, and when everything gets on top of her she forgets to take her medicine. She had a meeting with a psychologist before the court case began and I have read a report from that person. I can see from that report that M is someone who has some difficulties in the level at which she functions. She finds it particularly hard to understand properly what people are telling her and she struggles to focus and concentrate on things. She also suffers from low self-esteem, thinking she is not a nice person. She needs other people to give her attention and reassurance to make her feel better.
8. M sensibly realised how bad things had got and first X and then the other two children went to live with family members. That was the situation when this court case began. During the court case, M has not put herself forward as

someone who could look after the children in the future. She is trying to make changes; she has moved into a flat and is trying to live a bit more independently. She is also trying to get therapy to deal with some of her problems. I can see how much she loves her children as she has bravely accepted that the children should say where they are. She can see that Y and Z are doing very well where they are. She is very grateful to E and F for looking after them so well. It is important that I write in this judgment that she has made this decision not because she does not care about all of her children but because she can see they are settled, happy and well cared for where they are. She wants to go on being part of the children's lives and says she would like to be able to spend some time with them without E or F being around, which is just starting to happen in a very thought-out way.

9. The children's previous social worker spent time with E and F and has written a report for the court about them. It is an extremely positive report and it is clear the couple have made huge changes to their life to ensure they can bring up Y and Z as well as E's daughter, including F giving up work and the family moving house to get more room. It is very obvious from reading the evidence how well both children are done in the care of E and F. The plan is for them to go on seeing their mum once a week, initially with either E or F present but hopefully moving on from that in time if things are going well. I can see from reading the court papers that they understand how important it is to keep a bond between the children and their mum. They have been good about keeping her in touch with things happening in the children's lives and that shows me how good their understanding is of what Y and Z need and the things they will do to make that happen.
10. The children's social worker says that the right orders for the court to make now are special guardianship orders, as the children's home throughout their childhood is going to be with E and F. She says no special orders such as a supervision order are needed to give support to the family and there is no need for any order about how the children will see their mum as this will be sorted within the family. The children's guardian agrees with the plans for Y and Z. In her report she talked about how well the children are doing and how this is the right place for them during their childhood. She agrees with the plans for how the children will go on seeing their mum.
11. I was worried that the court papers said almost nothing about the relationship between Y and Z on one side and X and how that was going to keep going

given they live apart. There was no mention of a plan in the social worker's final statement or the special guardianship support plan. In the report about the relationship between the children, it did say that the children can have as much contact with each other as is needed within family arrangements but again there was not much detail. Given the children live with two sisters, I could see in the court papers that there were times when the family all got together and I hoped that meant the children were keeping in touch. I asked the social worker in today's hearing about this and was delighted to hear that the answer was indeed as obvious as I had imagined, that G and E are close and there are many times in a week when the family get together, such that the children probably see each other at least three times in any week. In that scenario I could see why no one felt there needed to be any orders to make sure this went on happening. Were it to be that X ultimately were not in a family placement, I am told there would still be a plan for weekly contact including sleepovers.

12. In preparing for this hearing, given nobody was arguing about what I should do, I have focused on the key parts of the written evidence. Nobody has given evidence in court, but I have heard from the lawyers about what people want to happen. Although not strictly necessary given the orders I was being asked to make, the local authority wants to include in today's order an agreement as to what the problems were at the beginning of this case which led the local authority to ask the court to become involved and to make orders. Everyone in the case, including most importantly M, have been able to agree that document. What it basically says is what I have put in paragraph 5 of this judgment, just in a rather more lawyerly way.

My Decision

13. I now turn to think about what orders if any are needed for Y and Z. Wherever possible, children should be brought up by their parents and if not by other members of their family. I know that Y, Z, their parents and carers have a right to a private family life. When I make my decision, I must remember that the children's welfare throughout their lives comes first in my thinking.
14. In my head though I have gone through all the possible outcomes for Y and Z and 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 can be read in the most important Act of Parliament about children's cases, the Children Act 1989.

15. It is very obvious when I read the court papers that the children could not go back to live with their mum. Although she wants to work on changing the kind of person she is, she is a way off that actually happening and she can see that. If the children went back to live with their mum now, things would go back to how they were before and that would not be good for the children.
16. Equally there is no need for Y and Z to live outside their family. They have found a wonderful home with E and F, somewhere they are going to be able to live and grow up with all their needs being met, including the need for a relationship with their mum and with their dads where possible. I have thought about the different orders which could be made to make that a secure placement for the children throughout their childhoods and about orders which could be made to make sure support is put in place. Having thought about those options, I agree with the social worker and the guardian that the right order here is a special guardianship order. I also agree there is no need for any orders about support or contact, including with X.
17. So, looking at the options for Y and Z, I do agree that the right thing for them is to make special guardianship orders. I agree no other orders are needed. This plan for the children is best for them and is proportionate. I therefore make special guardianship orders for Y and Z in favour of E and F.