

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 and members of his 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: SE20C01704

IN THE FAMILY COURT SITTING IN SHEFFIELD

IN THE MATTER OF THE CHILDREN ACT 1989 AND THE ADOPTION AND CHILDREN ACT 2002

AND IN THE MATTER OF P, A CHILD

Date: 11.2.21

Before :

HHJ Lynch

Between :

A local authority

Applicant

- and -

M (1)

F (2)

P

(through his Children's Guardian) (3)

Respondents

Marie Monnet for the Applicant
James Gascoigne for the 1st Respondent
Miles Parker for the 2nd Respondent
Sarah Peart for the Child

Hearing date : 11 February 2021

JUDGMENT

Introduction

1. This court case is about a baby called P. His mother is called M in this judgment, his father F. M has two older children, S and T, who do not live with her, both children being the subject of separate court proceedings to decide their future. P was born when that court case was well advanced and has a different father, so it was decided to keep the two cases separate.
2. The local authority began these proceedings when P was born, and a care order was made at the first hearing. P was placed in foster care and has been there ever since. DNA testing was carried out which confirmed that F was P's father. Within this court case there has been little assessment of M given that the issues which led to the older children being removed are still very much in evidence now, in relation to her mental health, substance misuse, abusive relationships, and poor engagement with professionals. Three initial assessment sessions were offered of which she only attended one. She has not even been able to commit to turning up to see P when the possibility has been there. F, a man with a troubling criminal history including drugs, alcohol and firearms and who has caused significant harm to M, was until very recently serving a prison sentence and did not ask to be assessed to care for P, just to have contact. Sadly, there are no potential family carers for P. The name of one family friend was given to the local authority by F but a preliminary look at her was negative and she has not sought to challenge that assessment. The family member caring for P's older siblings was asked but she could not manage another child on top of her other care commitments.

The Issues and the Evidence

3. The plans for P are not actively opposed by any party. M has told her solicitor she does not actively oppose the plans for him or the findings the local authority asks the court to make, although I appreciate she has found this very upsetting and has chosen not to attend today's hearing. F was in prison until very recently, but has had solicitors representing him throughout the hearing who have kept him up to date with developments in the court case. The placement order application was sent to him in prison and was also personally served on him yesterday. He has today spoken to his solicitor and understands that the reality is he would not be seen as a suitable carer for his son given his history. F very much wants to make a change in his life but he sees that he is at the very start of that process. He can also see that P needs a family that can be his forever sooner rather than later. Because of that, he was able to tell his

solicitor that he did not challenge the plans today. He does want to be involved in life story work for P and will be talking to the social worker about that.

4. To summarise the concerns about the parents in this case shared by the social worker and the Guardian, I cannot do better than to adopt a section of the Guardian's report which sets this out very well. It reads as follows:

“4. Proceedings were initiated in this matter due to significant concerns in respect of M's chaotic lifestyle, substance misuse, poor mental health, domestic abuse featuring in her relationships with others and M failing to engage with professionals involved including failing to engage in postnatal care as expected. As demonstrated in her care of P's older half siblings, M has been unable to place the needs of a child above those of her own.

5. The significant concern in this matter is the illegal substance misuse of M who has so far failed to achieve abstinence for any significant period, or evidence increased motivation to reduce her usage. M has not engaged in hair strand testing within these proceedings and therefore her current usage is unknown. M's level of dependency and consumption of illegal substances as a maladaptive coping mechanism for stress and emotional turmoil is at such a level that this would impact upon the care and safety of P. M has not sought to engage consistently in support afforded by substance misuse services or appear fully motivated to make the necessary changes to her lifestyle to ensure P's needs are given paramount priority, over those of her own. There is a continued risk of M's substance misuse and chaotic lifestyle continuing to compromise her ability to place the needs of P above those of her own, placing P at significant risk of harm.

6. M in her own right appears to be a vulnerable young woman who has struggled to distance herself from relationships that are inappropriate, has achieved little consistent stability in terms of her own lifestyle and lacks the ability to regulate her emotions or make safe decisions for the sake of her children. Her mental health fluctuates with M struggling to access appropriate support to manage this in a more conducive manner. M has continued to be dishonest with the Local Authority regarding her actions and behaviour which provides little increased confidence that she is now able to safely resume care of P. Whilst M can vocalise the changes she needs to make to safely care

for P, she lacks the commitment and motivation to put ‘theory into practice’.

7. The relationship between M and F was characterised by both verbal and physical altercations with F having assaulted M during her pregnancy with P which resulted in F being recalled to Prison. It is understood that whilst serving his custodial sentence, F has breached the Restraining Order in place in respect of M by attempting to contact her from the Prison over 300 times. There is a significant concern that he will continue to contact M upon his release which would place P at significant risk of harm if he was to be placed in either parent’s care.

8. M’s relationship history is one of violent and chaotic relationships. She has struggled to separate from abusive partners and has a pattern of quickly entering into relationships, investing trust and intimacy with people who pose her risk of significant harm. M’s repeated pattern of entering and remaining in abusive relationships raises significant doubt as to her ability to act as a safeguard for any child placed in her care. Both parents lack insight and fail to fully acknowledge the level of risk that such abusive relationships would have upon a child resulting in there being a dynamic risk of either parent entering further abusive relationships including a present but unquantifiable risk of P being both emotionally and physical harmed as a result.

9. It is sadly the case that M has not engaged consistently or meaningfully with professionals, demonstrating a poor insight into the concerns and the impact her behaviour has and will continue to have upon P. The risk of both parents continuing to place their own needs above those of P continues to be dynamic in nature, given their inconsistent engagement, lack of accountability and inability to accept the concerns and impact of their substance misuse and lifestyle. It is likely that P would be at risk of significant harm should he return to either parents’ care.”

5. This summary is very much endorsed in the social worker’s final statement. It is evident to the local authority that M has in no way addressed the issues which led to the removal first of her older children and then of P. The social worker has concerns about reports of her ongoing behaviour, her apparent relationship with another dangerous individual, her lack of involvement with the local authority or any other agency attempting to help her, her failure to

engage with drug testing within these proceedings, and her non-attendance at sessions set up for her to have time with P, virtually or face-to-face. F has only just come out of prison, that sentence being for an assault on M. He wants to make changes in his life but the professionals agree it is not in P's timescales to wait to see if that happens.

6. Given the situation of both parents and the lack of any potential family carers, the social worker concludes the best way that P's needs can be met going forwards is by way of adoption, although she acknowledges that means the loss for him of any relationship with his birth family. In terms of contact, one more session will be offered to his mother. If F engages with the local authority, the social worker would carry out a risk assessment and if appropriate one contact session would be organised. After that contact would just be in writing through the letterbox scheme. There will not be any face to face contact between the three children, as it is felt that would not be helpful to the other children, to meet P only for that to be the last, but the plan is letterbox contact twice a year, to ensure privacy around P's adoptive placement.
7. The position of the social worker is mirrored by the guardian. She notes the ongoing issues of both the parents and the lack of any other potential carer within the extended family. She says P is at an increased level of vulnerability given his young age which means he will need to be cared for in a way which is safe, consistent and adaptable to his needs as he grows and develops. He needs a secure home in order to thrive in and carers who can provide him with the day-to-day predictability of care he requires. The guardian too analyses the options for P and concludes that the only viable alternative for him is adoption.
8. As I have already said, M has not opposed the local authority's plans today, although I entirely appreciate that is not because she does not love her son and want to care for him, but because she can see the inevitability of the court making the order sought. F's views are unknown to me as he has given his solicitors no instructions for today's hearing.

Threshold

9. The court has to be satisfied that the threshold criteria are met in any case, which means looking at what the concerns were at the outset of this case, at the time the local authority acted to protect P. Neither parent positively agrees to the threshold findings sought by the local authority. I have considered the

evidence filed in this case and am satisfied to the required level of proof that the situation when this case began did meet the threshold criteria required for me to go on to make the orders sought by the local authority. The threshold findings I have made are set out at the end of this judgment.

Today's hearing

10. In preparing for this hearing, given nobody was arguing about what I should do, I read just the key parts of 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 people want to happen.

My Decision

11. I now turn to think about what orders if any are needed for P. Wherever possible, children should be brought up by their parents and if not by other members of their family. A judge should only ever agree to a child being adopted if that is absolutely necessary, where no other order would be good enough for the child, "when nothing else will do". I know that P and his parents have a right to a private family life. And when I make my decision, I must remember that P's welfare throughout his life comes first in my thinking.
12. The social worker asks me to make a placement order in respect of P, the first step towards him being adopted. Given that M does not agree to P being adopted, I can only make that order if I am satisfied that I should dispense with, get rid of, the need for her agreement. I cannot do that unless P's welfare requires me to do so.
13. The only possible options for P are for him to live with one of his parents, really only his mother as his father has not asked to be assessed to care for him, or to be adopted. In my head though I have gone through all the possible outcomes for P 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 two most important Acts of Parliament about children's cases, the Children Act 1989 and the Adoption and Children Act 2002.
14. P cannot live with either of his parents. He would be at risk of significant harm were he to be in the care of his mother given her ongoing issues. If she had engaged with the help offered to her it would have been possible to consider whether she could turn things round, but she has not. All the same issues which led to the other children being removed from her care are still there. She

is a young woman leading a lifestyle that does not fit with bringing up a baby. The findings I have made in respect of the threshold criteria shows the risk of harm there would be to P in the care of his mother. Looking at her ability to meet his needs, it is evident to me that she would not be able to do so because of her lifestyle and the issues with which she needs to grapple. There is no support that could be put in place to assist her to do this, not least because she does not take the help which is offered to her.

15. Similarly, P cannot live with his father. His father's serious offending history including possession of fire arms and violence, not least the significant harm he has caused to M, means he could not safely care for P. He would also put P at risk of harm were P to be living with his mother. Whilst in prison he has tried multiple times to contact M in breach of a restraining order so I can have little assurance he would keep to that once out of prison. He is also someone with his own lengthy history of substance misuse.
16. P needs to be cared for in the way any little baby does, with everything being done for him by those looking after him. He needs to be kept safe, to have all his day-to-day needs met, to be loved, to be cared for.
17. From all I have said in his judgment, it follows that there is not an option of P being cared for by either of his parents. The only alternatives, given the lack of any family placement, are long-term foster care or adoption. Long-term foster care is almost never felt to be right for a baby of this age. It does not give the same security for the future that adoption does. Foster placements are much more likely to break down and have the potential to be impacted upon by the child's parents. Adoption gives the child a permanent home for the rest of their life, bringing with it security and stability. It gives a sense of permanence that long-term foster care cannot. I acknowledge that adoption means the loss of any relationship with birth parents and the loss of any potential relationship with birth family. In this particular case sadly, P does not have a relationship with either of his parents as he is not having contact with them. In reality, the likelihood of him having a significant relationship with either of them in the future were he not to be adopted is very low.
18. So, looking at the options for P, I do agree that the right thing for him is for him to be adopted. I am satisfied that the local authority's final care plan for P is the best thing for him and is proportionate. That includes the plan for future contact. **I therefore make a care order and a placement order**, dispensing with M's consent.

19. There is one further direction I wish to make. I think it is hugely important for children who are adopted that they have information available to them, through their carers, 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 P's adopters so that it is available to him when he is older. That however is on the basis that they should keep it private so apart from looking at it themselves they may only show it to any medical or therapeutic staff working with the child or family.** It is very important therefore that the judgment is passed on to the Adoption Team to give to them. I have written this not for the benefit of the grown-ups but for P and I wish to be sure it reaches him.
20. I also remind myself, judges are often told that a willingness by adoptive parents to talk about a child's birth history, even maybe if appropriate to have contact in some form with birth relatives, can show children that their adoptive parents understand and accept them and their birth families as part of who they are. It can help children feel that their identity with their adoptive parents and their birth identity are not separate but part of a whole. Children, we are told, may need explicit reminders that their adoptive families accept and embrace their histories as part of who they are now. They need to know that they can ask questions and talk about their birth family as part of coming to terms with what they have experienced. Obviously ultimately that comes down to the adopters found for P; all I can do is pass on what I have been told.

THRESHOLD CRITERIA AS FOUND BY THE COURT

The court is satisfied that at the time the applicant local authority commenced proceedings on 7th September 2020, the child P was at risk of suffering significant harm and the harm and likelihood of harm is attributable to the care likely to be given to him if an order were not made, not being what it is reasonable to expect a parent to give to him.

The categories of harm include physical harm and emotional harm and neglect, more particularly: -

1. M experienced extensive social work involvement with her older two children due to her chaotic lifestyle, concerns around domestic violence in the family home and alcohol and substance misuse which impacted on her ability to provide them with consistent safe care. On (date removed) M's older children were removed from her care and made the subject of Interim Care Orders in favour of the local authority. The children were subject to CP planning in July 2018 and subject to the PLO process however M was unable to adhere to a contract of expectations placing the children at risk of significant emotional and physical harm and neglect. Should P be placed in the care of M it is likely he will experience the same neglectful parenting as his siblings.
2. M has a history of entering into abusive relationships. M associated with two very risky males during her pregnancy placing P at risk of harm. In particular:
 - a. (date edited) M was assaulted by F at her home following an argument. F is reported to have stamped all over her and stabbed her in the elbow causing significant injuries.
 - b. (date edited) F attended M's property with a knife which he then used to slash up most of the furniture in the property, M and P's belongings. F also smashed all the windows leaving the property uninhabitable due to the damage.
 - c. M's ex-partner sent her stalking and harassing letters from prison. On (date edited) during a police interview about the letters he sent to M he made threats to harm her and kill then unborn P.All these incidents place P at risk of significant physical and emotional harm in the care of the mother.
3. M prioritised her own needs above P's needs for safety and protection by failing to engage with support services and move into a refuge or emergency accommodation despite being aware of the risks posed to her and P by F and her ex-partner. M also failed to consistently engage with professionals and social care during the proceedings cancelling appointments and not attending contact.
4. On (date edited) the crisis team along with the police, ambulance service and a midwife attended M's property after the midwife raised significant concerns regarding M's emotional presentation. Concerns raised during this period were around M's agitated state, her making threats to run away, and her making threats to end her own and the baby's life. M's poor mental health impacts on

her ability to care for P placing him at risk of significant neglect and emotional harm.

5. M failed to show any evidence of positive change since her older children were removed from her care. As a result should P be returned to her care it is likely that he will suffer similar neglect and emotional harm as his siblings.
6. M has a history of substance and alcohol misuse which impacts on her parenting ability. P will be at risk of neglect, physical and emotional harm and is likely to experience uncertainty and fear if his mother was under the influence of substances and alcohol whilst caring for him.
7. F has convictions for drug related offences, possession of firearms and violence. F is a high risk domestic abuse perpetrator. F is serving a prison sentence for an assault on M. Domestic violence places P at risk of significant physical and emotional harm.