

Neutral citation Number [2022] EWFC 194

IN THE SHEFFIELD FAMILY COURT

Case No. SE22C50021

Courtroom No. 1

The Law Courts

48 West Bar

Sheffield

S3 8PH

Tuesday, 23rd August 2022

Before:

HER HONOUR JUDGE PEMBERTON

Re L (Care and Placement Order)

MR A DINNES appeared on behalf of the Applicant

MR D HORNE (instructed by MKB Solicitors LLP) appeared on behalf of the Respondent
Mother

MS R HUGHES (instructed by GWB Harthills Solicitors LLP) appeared on behalf of the
Respondent Father

MS H WALKER (instructed by Taylor & Emmett Solicitors LLP) appeared on behalf of the Child through the Guardian

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.

HHJ PEMBERTON:

1. I am concerned, today, with an application in respect of L who is 7 months old. L's mother is present in court via the telephone link and is represented by Mr Horne. She was also personally present in court yesterday. L's father is represented in court today by Ms Hughes. He has not attended this final hearing. There were difficulties yesterday as he had been in custody and was due to be released and there was uncertainty as to what time he would be released. At his request, I therefore, adjourned to today to enable him to attend to make any representations or to produce any evidence that he wished to produce. He had told Ms Hughes that there was a great deal of evidence that he wished to put before the Court. Sadly, he has now decided not to attend court nor has he prepared or provided any evidence. Effectively, on his behalf, then, the evidence before the Court is unchallenged. L is represented by Ms Walker through his Children's Guardian, Ms Jones.
2. This is the Local Authority's application for a care and placement order. L has an older brother who is called G. G was the subject of court proceedings which concluded only in February 2022 with the making of a special guardianship order for G to be cared for by his maternal grandparents. During the course of G's proceedings, there was a psychological assessment of both parents and an independent social work assessment of the mother.

Unfortunately, both of those assessments were negative, which led to the final order being made for G that he should live with his maternal grandparents. I understand that, at the conclusion of those proceedings, those orders were not actively opposed by the parents. Within these proceedings, there has been an updated independent social work assessment following the PAMs model by the independent social worker who conducted the original assessment. Sadly, again, for this mother, that assessment concludes negatively.

3. This hearing was set up for a two-day final hearing to enable both parents to challenge the assessments and the evidence on the basis that they each wished to put forward a case, as I understand it, that L should be placed with the mother. Yesterday, the mother had lengthy discussions with her counsel, and I was informed partway through the morning that she had reached the very, very difficult decision that she was not in a position to actively challenge the Local Authority evidence and the assessments of her. She, instead, chose to deal with the case by way of submissions but understood that that meant that the evidence was effectively unchallenged. I have already dealt with the father's position. I was told yesterday that he wished to attend in order to present his case and to challenge the Local Authority evidence, but he has chosen not to attend and not to provide any further evidence.
4. Turning, then, to the issues in this case, this is a very sad case. The mother is clearly extremely isolated. She has been in a relationship with the father for several years, (approximately 10 years) and that relationship has been characterised in the more latter years by domestic abuse and violence. There is dispute as to the extent of that abuse and violence but the mother, when she met with the psychologist in the previous proceedings, gave a fairly candid description of what her life was like with the father, particularly when he had been drinking. He has had longstanding problems with drinking (which may or may not have arisen following the death of his grandparents) that have clearly impacted on the way in which he behaves.
5. He also has a long history of criminal offending and periods of incarceration and, indeed, these proceedings have, to some extent, been impacted by his period of incarceration and the way in which that has restricted the ability for him to be fully assessed. However, I am satisfied that no further assessment of him is necessary. There is plenty of information in

respect of the father before this Court and it is clear to me that he has a number of difficulties in relation to his ability to manage his emotions and manage his anger which he would need to address before he was in a position to care for any child but, particularly, to care for L who is clearly a young and vulnerable, by virtue of his age, child.

6. Another difficulty for the father when I read the papers is that he simply does not accept that there are problems. He does not accept that there is anything within his behaviour that needs to change. Sadly, that means that the prognosis for any change is very limited indeed.
7. I have already referred to some of the mother's vulnerabilities and the fact that she has been in a longstanding relationship with the father which has been abusive. Sadly, during the course of the proceedings in relation to G and the placement of G within the maternal family, it appears that the family relationships have broken down very badly, and the papers are clear that the mother is now extremely isolated. She is in a very difficult position indeed, because the only real support she has had has been from the father, who is abusive towards her.
8. The Independent Social Worker, in her updated assessment concluded that the mother had been unable to make sufficient changes to enable her to care for L. Whilst she may be able to manage many of the practical matters, there remained a problem in terms of her commitment and relationship with the father. The mother has told the Court, on several occasions, that that relationship is at an end and she has no intention of resuming it, and that is her position today. However, yesterday, she disclosed that she is, indeed, once again, pregnant to the father so, it is apparent that there has been some ongoing contact between the couple. The other issue that this information raises is how difficult it is for professionals and for the Court to rely on what the mother says at face value.

The evidence, in this case, is clear, however, that this mother has never intentionally harmed L or G. She does not pose a direct risk in that way. The risks to L arise out of her relationship with the father and the abusive nature of that relationship, and, also, the impact on the mother's mental health of her situation. She has suffered with mental health difficulties for a number of years, and

those appear to arise, not surprisingly, when she is having particular difficulties in her personal life,. However, they have arisen on a number of occasions and there is no evidence to suggest that those are now under control.

9. When I look, then, at the proposed threshold criteria that the Local Authority have drafted, it refers to the relationship between the parents and the fact that it is characterised by domestic abuse and violence, the mother's low mental health, the fact that G was subject to care proceedings and findings were made within those proceedings about neglect of his needs, the lack of honesty from the parents in terms of their relationship and the difficulties that professionals have in relying upon what the parents say, and the lack of insight shown by the parents in relation to the concerns. The lack of insight was certainly an issue at the time these proceedings were issued but I am heartened that the mother appears to be reflecting on some of the issues and appears to be at a stage where she is beginning to understand and accept some of the reasons why the professionals are concerned. I hope that is a state of mind that she is able to work on further to increase her understanding as to why her relationship with the father is not only extremely harmful to her but harmful to any child who is exposed to it, whether or not they are directly exposed to the domestic abuse and violence.

10. I am entirely satisfied that the threshold criteria, as drafted by the Local Authority, is crossed on, basically, unchallenged evidence before me. The fact that the threshold criteria is met is a gateway to the making of public law orders but it does not automatically mean that public law orders should follow. I must and do look at L's welfare and the range of options available to the Court. Whether he could be cared for within his birth family, whether long-term foster care is an option for L or whether the Local Authority, supported by the Guardian, are right that the only real option for L now that would meet his welfare needs throughout his life is one of adoption. A further option is that I adjourn the proceedings to enable there to be further assessment of the mother to see whether she is able to manage and sustain the changes that would enable her to care for L. I am conscious that adoption is always a last resort for any child, that children usually do better if they are brought up within their birth family if that is at all possible and if they can be protected from harm within their birth family. Also, I can and must consider all of the support that could be provided to a parent to enable them to care for the child.

11. Further assessment of the mother would not, I think, lead to a different conclusion. The relationship with the father is longstanding and entrenched, and I think she will need to undertake a lot of personal work to enable her to separate from the father. Whilst there is no absolute separation between these parents, I think the risks to the mother and to any child in her care will remain. I hope the mother will seek out support to enable her to separate from the father and to give her the best possible chance to care for her unborn baby. However, in terms of L, the timescales for her to separate and demonstrate such separation, given that she is now six weeks pregnant with the father's child, are simply outside of L's timescales.
12. The mother would need to prove a negative. This is always very difficult but she would need to be able to show that she remains separated from the father and that there is no emotional connection. That would take time and L needs his future determined now. If there was a better prognosis for change, "better" in the case that the mother had now emotionally separated from the father, then that delay may be justified. However, I am afraid, that evidence simply is not there, and, in fact, the evidence points the other way to suggest that the relationship is, very much, still ongoing and entrenched. I, therefore, do not find that any further assessment of the mother is either necessary or proportionate.
13. The assessments in relation to both parents are negative and placement within the birth family is not an option that is available to L. Long-term foster care is an option that would enable him to maintain a relationship with his parents and to develop a relationship with his brother. However, long-term foster care does not give the sense of belonging and endurance to a child, particularly a child as young as L. Children need to feel a sense of being a part of a family. They need to feel that they can rely on that family to be there as a permanent fixture. Foster placements often can and do come to an end, and sometimes with little or no notice. The reality is that foster carers simply cannot and do not give the same level of commitment to a child as an adoptive placement. Also, in long-term foster care, L will be subject to frequent social work visits and would always be different to his peers because social workers would be involved and the Local Authority would retain parental responsibility. I do not see that as an option that meets his welfare needs given the length of time that he needs parenting.

14. Adoption is not always a positive outcome for children, and I accept and recognise that adoptive placements can and do come to an end. However, with a child as young as L, the prognosis is usually much more positive. I accept that adoption would mean an interference in the family life of L and of his parents and that I must be satisfied that such interference would be proportionate to his needs. When I look at L's welfare throughout his life, I am satisfied that that is the outcome that best meets his welfare needs. I am satisfied that the Local Authority and the Guardian are right that this is, sadly, one of those cases in which nothing else will do. I am satisfied that the mother loves L very much indeed, and I have already referred to the fact that I do not think that she would ever do anything to deliberately harm L. The mother, however, has a number of unmet needs of her own, and I hope she is able to find the help and support to address those moving forward. If love was all that L needed, I am sure she could give it in abundance but L, as with any other child of his age, has many other needs that, sadly, I find the mother would not be able to meet due to her own difficulties and circumstances.
15. For all of those reasons, I make the care order that the Local Authority invites me to make and I also dispense with the mother's consent to the making of a placement order, satisfied as I am that that is the only order that will do, in this case. There are no support services that could manage the risks, which arise out of the parents' relationship and out of the mother's fluctuating mental health. L's welfare, throughout his life, requires that he becomes an adopted person. I, therefore, make the placement order. I approve the Local authority plan in relation to letterbox contact between L and his parents. There are too many risks involved with direct contact.

End of Judgment.

Transcript of a recording by Ubiquis
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