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Neutral Citation number: [2023] EWFC 222

IN THE FAMILY COURT AT OXFORD IN THE MATTER OF THE CHILDREN

ACT 1989 AND IN THE MATTER OF [A]

Date: 14 September 2022.

Before : HHJ Vincent sitting as a s9 judge

Between :

READING BOROUGH COUNCIL

Applicant

and

MS A

Respondent mother

and

MR S

Second Respondent father

and

A

(a child by his children's guardian GINNY DAVIES)

Third Respondent child

Sara Granshaw, instructed by Reading Borough Council
Elisabeth Hudson, instructed by Passmores, solicitors for the Respondent mother
Edmund Cofie, instructed by Sinclairs Law, solicitors for the Second Respondent father
Rebecca Mitchell, instructed by Royds Withy King, solicitors for the child

Hearing dates: 5, 6, 7, 8, 9 and 14 September 2022

JUDGMENT

This judgment is linked to Re A (foreign adoption) [2023] EWFC 221

Short judgment

1. A is a fourteen-month old baby boy. He is a handsome and happy baby. Everybody who knows him loves him.
2. A was taken away from his parents when he was a day old. This is because A's mother had sexually abused two of her older children - her fourteen year old son and her three year old daughter. She served time in prison for those offences.

Ms A

3. Ms A has done some therapy in prison. She has worked well with her probation officer since her release from prison. She has never caused any harm to A.
4. However, Ms A has been assessed by a lot of different professionals. All of the assessments concluded that it would not be safe for her to look after A, or any child.
5. These are the main reasons that it is not safe for her to look after a child:
 - She is on the sex offenders' register for life and there is a Sexual Harm Prevention order against her. These orders make it almost impossible for her to have a child in her care;
 - She does not have a good understanding that what she did to her own children was very wrong. It was wrong because it was against our laws. It was wrong because parents should care for their children, not abuse them. It was wrong because it hurt her children badly. They are likely to suffer emotionally for all their lives as a result of what she did to them;
 - If she does not understand why what she did was wrong, and that it caused harm to her children, there is a risk that she will offend again, and cause harm again;
 - She has not been open and honest with Mr S or with professionals about what she did and the reasons for it. That makes it difficult for A's carers and professionals to protect him. They can't protect him if they can't trust her to tell them the truth. They

can't protect him if they don't know the signs to look for in Ms A to spot if there is a danger of offending again.

6. Ms A has good times with A in contact, and is warm and loving towards him. But this does not stop her being a risk to him. She looked after her other children when they were babies, but this did not stop her abusing them when they were older.
7. There is a risk to A of her having virtual contact with him. That is because a part of her offending involved the taking and storing of indecent digital images of her children.
8. So far, any risk towards A has been managed by contact being supervised.

Mr S

9. Mr S has never caused any harm to A and does not pose a direct risk of harm to A.
10. However, Mr S has also been assessed by professionals. All the assessments concluded that he is not able to protect A from Ms A, or from other people who might want to harm A.
11. It is not safe for A to live with Mr S because Mr S cannot protect A. These are the main reasons that he cannot protect A:
 - when he found out about what Ms A had done to her children, Mr S believed her excuse that she was pressured into offending, or that it was because her mental health was not good. He was wrong to accept what she said. He should have asked questions to find out what happened and why.
 - If he always accepts what people say without asking questions, then there is a risk that they could harm A, and Mr S would not be able to protect him.
 - Parents should be aware of the risks of harm to their children. Mr S does not seem to understand for himself that what Ms A did caused serious harm to her children. He only separated from her because other people told him to, not because he saw the risks for himself.

- A parent has to put their child's safety first. In the past Mr S has been more worried about saving his relationship with Ms A, and looking after her feelings, than he has been worried about protecting A. If he cannot put A's safety first, he cannot protect him.

Judge's decision

- 12.A needs his future to be decided now.
- 13.A's parents cannot look after him and keep him safe. They are not able to make changes in time for A.
- 14.A should be adopted by another family.
- 15.The best option for A is to go to Canada to live with Mr and Mrs H.
- 16.They will be his foster carers to start with. There will be more assessments of them as potential adoptive parents for A. If the assessments are positive, then the local authority will help them to apply to adopt A. It is very likely that the adoption assessments will be positive, because Mr and Mrs H have already been thoroughly assessed, and all the assessments have been positive so far.
- 17.Mr and Mrs H know A well already because they came to England in the summer and have had contact with him since then. They are committed to him for the rest of his life.
- 18.It will be hard for A to leave his foster carer who he loves. But it will be good for him to go and live with members of his own family, to be brought up in his family culture, learning his family's language of origin, and knowing his aunts, uncles, grandmother and cousins.

Why not placement with A's foster carer?

- 19.A's foster carer loves A. If A did not have family to care for him, she might offer to care for him in the long-term.
- 20.The judge agrees with the plan to place A with his family in Canada as the first option. The judge does not think that leaving A with his foster carer is a good plan for the following reasons:

- A's foster carer is lovely, but she is not his own family. Foster carers do not care for a child for their whole life. Foster carers are not a parent, the local authority is the child's parent. For a child of A's age, being brought up in a family is generally better than having the local authority as your parent.
- A's foster carer thinks that placement with his own family is best. She would only put herself forward as his carer if placement with his uncle and aunt is not possible.
- A plan for A's foster carer to adopt A in the future has lots of uncertainty. She is not approved as a prospective adopter. There are other adopters in this country who might be a better match for A. Waiting for her to apply to be his adopter would take a long time and cause delay. A needs decisions about his future to be made now. He has already waited fourteen months for this case to finish. He cannot wait to see if his foster carer might be able to adopt him.

21.If A cannot be adopted by his family in Canada, the judge considers the local authority should place him with other adopters. It may be at that time that his foster carer has been assessed as a good match, but there may be other adopters who are a better match, or who can provide a placement for A sooner.

22.That is a decision for the future and will depend on all the circumstances at the time. But on the information before the Court today, the right orders for A are a care order and an order authorising the local authority to place him for adoption.

Contact

23.Ms A's and Mr S's contact with A will reduce after a care order is made.

24.It is not certain that A will have contact with either his mother or father after A has been placed for adoption.

25.That will depend on all the circumstances at the time. The most important factor will be whether it is safe for A and whether it is in his interests to have contact with either of his parents.

26. Ms A's contact with A will depend on the risk assessments of her, not the type of placement A is in. It does not make a difference if A is in Canada, England, adopted or in a family placement. Because she presents a risk of harm to A, any contact would have to be risk-assessed and carefully managed.
27. When A is living with Mr and Mrs H he may have more contact with his father than with his mother.
28. That is because his mother has caused serious direct harm to her own children in the past and there is a risk that she would do it again. Mr S has not caused harm. There is still a worry about his ability to protect A, but Mr and Mrs H are more likely to be able to manage this risk than they are able to manage contact between A and his mother.
29. If they wish to have contact with A in the future, both Ms A and Mr S will need to work well with the local authority, to be honest and open with them, and always to put A's needs first.

HHJ Joanna Vincent
14th September 2022
Family Court, Oxford

Long judgment

Introduction

1. I am concerned with A, a boy who is fourteen months old.
2. His mother is [Ms A], his father is [Mr S]. A is the mother's fifth child, and the father's first child.
3. In June 2016 Ms A was convicted of serious sexual offences against her fourteen-year-old son and her three-year old daughter. Following a guilty plea, she received a five-year prison sentence. Care orders in respect of her four older children were made in November 2016.
4. She is on the Sex Offenders' Register for life. At the time of her conviction, she was made subject to an indefinite Sexual Harm Prevention Order. This prevents her from living in the same household, or having any unsupervised contact with a child under the age of sixteen without the express approval of social services. The order imposes restrictions on her internet and phone use. She is required to report changes in her circumstances to the police, and submit to inspections by them of her phone and internet at their request.
5. She was released from prison on licence at the end of November 2018. She made contact with A's father Mr S on an Asian marriage website in January 2019, they met in person in February 2019, and by April 2019 had taken part in an Islamic marriage.
6. It is not entirely clear when Mr S found out about mother's convictions and what he understood about them. She was living in a probation hostel when they first met, but gave him only the sketchiest details of why she was there. After she had a miscarriage at the end of 2019, her probation officer told her she had to tell him. Her evidence to me was that in February 2020 she told Mr S that she had a conviction for sexual abuse of her son, and for distributing indecent images of her daughter to a cousin, but didn't give any further details. She told me she didn't feel comfortable to tell him the extent of the offences, and did not want to go over things that were in the past. The probation officer separately made contact with Mr S. He told me this was just a very brief five minute conversation. Other reports are of it being longer, about half an hour, and that Mr S told the probation officer he already knew everything there was to know.
7. Later that year Ms A became pregnant with A. A referral was made to children's services in January 2021. Unborn A was made subject to a child protection plan. Ms A's probation officer assessed her as presenting a high risk to any child. The local authority commissioned Sheila Sidhu, an independent social worker, to carry out parenting assessments of Ms A and Mr S, and Professor Wilcox to carry out a psychological assessment of mother. In the course of her meetings with Mr S, Ms Sidhu gave him much more detail about the mother's offences. In her oral evidence to me, Ms A still showed anger with Ms Sidhu

about this, complaining that disclosing all the details affected her relationship and led to her and the father separating for a time.

8. Despite being informed about the nature of the offences, and that the outcome of all these assessments gave rise to serious concerns about the risk the mother posed to any child, the father continued his relationship with the mother. He told me that initially this was because she didn't tell him properly what had happened, but he does not dispute that later he was given more information. He said that Ms A had told him she '*was under somebody's pressure*' to do what she had done. He said he thought that as she had served her time in prison '*things had finished*', she had changed, and that the past could be left in the past.
9. Mr S maintained his relationship with Ms A and before A was born, made it clear that he intended to raise their child together with Ms A as a family.
10. A was born on 8 July 2021. The local authority commenced proceedings and an emergency protection order was made on 9 July 2021. A has remained in foster care since then, but has had regular contact with his parents throughout these proceedings.
11. The parents separated in around November 2021, which was the time that they were both the subject of further parenting assessments by Blossom Francis, and shortly after Professor Wilcox had seen mother again to prepare an updated report within these proceedings.
12. By March 2022 they had reunited and were again presenting as a couple. They separated for the final time around May 2022.

Parties' positions at final hearing

Local authority

13. The mother and father have been comprehensively assessed within these proceedings. All the assessments are negative. The mother is assessed to pose a continuing and high risk to any child. The father is assessed as unable to protect and safeguard the welfare of a child in his care.
14. The father has two older sisters who live in Canada. One of those sisters and her husband, Mr and Mrs H, have been thoroughly and positively assessed. If A were to move to live with them, his long-term placement could only be secured by them adopting him because that is the only way that his immigration status could be secured. The local authority has obtained advice from Mr Fraser Gordon, a Canadian solicitor specialising in family law as to the options for short-term and long-term placement with these relatives, the legal framework and application process.
15. The local authority considers that, regardless of immigration status, A's welfare needs can only be secured by an adoptive placement.

16. Given the positive assessments of Mr and Mrs H so far, and their willingness to put themselves forward as prospective adopters, the local authority's care plan is for them to adopt A. It is envisaged they would in due course make an application for adoption pursuant to the 1993 Hague Convention. A Convention adoption is made where the child and adopters are habitually resident in different countries, both of which are contracting States to the 1993 Convention and the adoption is effected under the Convention.
17. Mr and Mrs H cannot be assessed as adopters unless and until A has lived with them for ten weeks (section 42(2) of the Adoption and Children Act 2002.) It is now well established that this can take place out of the jurisdiction.
18. In accordance with the advice of Mr Gordon and a now well-established approach taken by Keehan J in RO v A Local Authority and others (No 2) [2013] EWHC 97 (Fam), and Pauffley J in Re A (a child) [2013] 3 WLR 1454, among other cases, the local authority invites the Court to make:
 - (i) a care order;
 - (ii) a placement order, authorising the local authority to place A with prospective adopters;
 - (iii) an order permitting the local authority to remove A from the jurisdiction to spend time with his uncle and aunt (for a period of up to six months). They would be A's foster carers (for which they have been approved) and the local authority would retain parental responsibility for A, monitoring and supporting the placement. The assessment of them as potential adopters would take place while A was in Canada.
19. The process for a Convention adoption is governed by chapter 2 of Part 3 of the Adoptions with a Foreign Element Regulations 2005 in conjunction with the 1993 Hague Convention. That process is in summary as follows:
 - a. The [*name of state redacted*] Central Authority is requested to give permission for a home study report to be prepared in relation to Mr and Mrs H in Canada. Once prepared, the [*name of state redacted*] Central Authority will consider it and if satisfied, will send the report and an Article 15 letter to the UK central authority.
 - b. The UK central authority upon receipt, if satisfied with the report, will instruct the local authority to complete a child study report to be sent to the UK central authority which, if satisfactory, will then be sent to the [*name of state redacted*] Central Authority pursuant to Article 16.
 - c. If satisfied with that report, the [*name of state redacted*] Central Authority then issues an Article 17 letter of agreement to the applicants and immigration authorities, so that the appropriate application can be made for the child to enter Canada permanently, and the adoption application can be made in this jurisdiction.

20. The local authority has provisionally made arrangements for the Article 15 report to be undertaken in Canada by an adoption agency known as Adoption Options and is due to be completed within 12 weeks.
21. It has some confidence that this assessment process will be successful because Mr and Mrs H have already been extensively and positively assessed within these proceedings. The local authority would then propose to formally place A with the Hs as prospective adopters and would support their application for a Convention adoption.
22. If for whatever reason adoption by the Hs does not progress, the local authority is likely to bring A back to this jurisdiction. It has agreed to approach A's current foster carer to explore whether she might be willing to put herself forward as a prospective adopter, but otherwise they would look to place him for adoption into a new family.
23. The local authority says this care plan avoids delay for A, and recognises that there is no realistic prospect of either of his parents being positively assessed within A's time frame.
24. The local authority has provided assurances that if, for whatever reason, the proposed placement with the Hs does not work out, it will inform the parties and the parents of the change in A's circumstances. This would give them an opportunity to consider whether or not to make an application for revocation of the placement order.

Mother's position

25. The mother's position has changed over time. At the hearing on 13 June 2022 and again last week at the pre-trial review before me, she wanted A to return to her care, once she had completed some further therapy, and suggested that she could be assessed with A living with her.
26. At the outset of the final hearing it was conceded on her behalf that she could not realistically put herself forward as a carer for A at this time. She opposed the plan for adoption by the Hs, and suggested he could remain in this jurisdiction in long-term foster care. She still expressed willingness to undergo therapy, and hoped this may enable her in the future to progress her relationship with A further.
27. By the end of the final hearing, she conceded that she would not be able to make changes within A's timescale. She continues to oppose the local authority's plan to place A in Canada.
28. She asks the Court to make an order that would leave A with his current foster carer in the long term. She would not oppose a placement order if the plan was for this foster carer to adopt, but her preference would be that A remained with her as his foster carer. She would be opposed to A being adopted by strangers.

The father

29. The father supports the local authority's plan for placement of A with his sister and her husband. He supports the idea of them becoming A's adoptive parents and hopes that this can happen as soon as possible.
30. If the proposed placement in Canada does not work out, he said he would like the chance to be further assessed as a potential carer for A himself. He has said that he would not like A to be adopted by strangers. However, he does not actively oppose the making of a care and placement order.

The guardian

31. The guardian had an initial concern that if the local authority were granted placement orders, it could prioritise faster, 'easier' adoption of A in this country by strangers, over placement within his paternal family network. Having reflected on all the evidence she has heard and read, she endorses the local authority's plan, satisfied that all possible steps will be taken to secure A's placement for adoption within his paternal family network in the first instance.
32. She supports the local authority's applications for care and placement orders as well as the application for temporary removal from the jurisdiction.

The law

33. I must first consider whether the threshold for making any orders as set out at section 31 of the Children Act 1989 is crossed. In this case the parties agree that threshold is crossed (there is a dispute about one paragraph which I deal with below), and the Court therefore has jurisdiction to consider whether or not to make public law orders.
34. I must then consider what orders should be made, having regard to all the circumstances of the case, with particular reference to the factors set out at section 1(3) of the Children Act 1989.
35. Whenever a court is coming to a decision relating to the adoption of a child, the Court must also have regard to section 1 of the Adoption and Children Act 2002, in particular the factors set out at the checklist at section 1(4) of that Act.
36. With respect to the application for a placement order, section 21 of the Adoption and Children Act 2002 states that the Court can only make a placement order against parental consent where it is satisfied that consent should be dispensed with.
37. In reaching my decision A's welfare is paramount, and his welfare has been at the forefront of my mind throughout this case.
38. The court should not make any orders unless it is satisfied that they would be both necessary and proportionate to secure his welfare – the Court must take the least interventionist approach.

39. I have regard in particular to the case of Re B [2013] UKSC 33 in which the justices of the Supreme Court considered the approach the Court should take where the local authority's application is for adoption. Lord Neuberger said at paragraph 104 of his judgment:

'... adoption of a child against her parents' wishes should only be contemplated as a last resort – when all else fails. Although the child's interests in an adoption case are 'paramount' (in the UK legislation and under article 21 of UNCRC) a court must never lose sight of the fact that those interests include being brought up by her natural family, ideally her natural parents, or at least one of them.'

40. Baroness Hale said at paragraph 198 of Re B:

'Intervention in the family must be proportionate, but the aim should be to reunite the family where the circumstances enable that, and the effort should be devoted towards that end. Cutting off all contact and ending the relationship between the child and their family is only justified by the overriding necessity of the interests of the child.'

The evidence

41. I have read the documents in the Court bundle. This includes police disclosure relating to mother's offences, probation reports, documents in respect of the care proceedings concerning her older children, the pre-proceedings assessments for A, minutes of professionals' meetings, medical records, as well as all the statements and reports filed during these proceedings. I have been provided with all records of supervised contact.

42. I heard oral evidence from Professor Wilcox, psychologist, from Blossom Francis, independent social worker, A's social worker EO, each of the parents and A's guardian Ginny Davies.

43. **Professor Wilcox** has prepared three reports, based on lengthy interviews with the mother, psychometric assessments, and thorough reading of all relevant documents. He gave evidence clearly and with authority, explaining clearly the reasons for the conclusions he had arrived at, and the evidence upon which he had relied. In cross-examination there was some exploration of, but no real challenge to, his conclusions which I accept.

44. **Blossom Francis's** reports were based on a number of meetings with each of the parents, observations of contact, and thorough exploration of the case history through reading documents, including previous parenting assessments, and speaking to relevant professionals. She is a PAMS assessor. Her conclusions are sound, and founded on a thorough, fair and balanced assessment. Her oral evidence was clear, consistent with her report and the overwhelming weight of the evidence.

45. **EO** was assigned to be A's social worker in April 2022. He has a thorough grasp of the relevant history, the dynamics of the parents' relationship and the various professional assessments. He explained clearly in both his written and oral evidence the reasons why he considers that A needs permanence, stability and security now. He is clear that the local authority's plan is for adoption, and that if the Hs were not in Canada he would still be advocating adoption for A, rather than a lesser order. In his statement, he has set out the relevant factors to consider in planning for A's needs throughout his life, and put forward a balanced analysis of the realistic options for him.
46. He was asked a number of questions about post-adoption contact. I found that his desire to be fair to the parties, in particular the mother, may have caused him to move in cross-examination to a place that goes further than his original care plan. However, he was ultimately clear that to his mind, post-adoption contact between A and his mother was something that would be subject to assessment, based on a review of A's needs, mother's ability to co-operate with the local authority, and above all, would depend whether this was something the adoptive parents were able to support. EO's final position was that should the adoptive parents seek support with contact, then the local authority would be prepared to consider it and to offer its support, taking these factors into account.
47. **Ms A** presented just as she was described by the various professionals who have worked with her and assessed her. She was generally open and willing to answer questions, but the answers she gave left me very concerned about the risk she continues to present to her son.
48. Ms A can acknowledge that her offences were wrong, but not in any way that conveys any sense of understanding of why they were wrong. This came through strongly throughout the evidence - from what she said to me in Court, in the evidence from previous criminal and Family Court proceedings, from her interactions with professionals, and in the detailed reports and assessments, including the probation report, psychological and parenting assessments.
49. She went some way to acknowledging the severity of the offences, in the sense of recognising that the criminal justice system and society as a whole regarded them as serious. However, she spoke about them in quite a dismissive and disconnected way, which led me to conclude that her acknowledgment of what she has done is superficial. She has acknowledged the consequences of what she has done, but I am not sure that she has been able to acknowledge to herself the harm that she caused, and to take responsibility for her actions.
50. When asked to reflect upon the circumstances that led to her committing the offences, she tended to shut down, saying it was not comfortable to talk about, or she gave generalised answers about having been subject to domestic abuse, to pressure from a male relative, or that she wasn't in a good place, and had poor mental health at the time. This was consistent with Professor Wilcox's description of how she presented to him. He observed Ms A tended to use the issue of her mental health as a way to avoid providing any kind of explanation for what led her to act as she did.

51. Professor Wilcox noted that Ms A had a number of opportunities to protect her son from her male relative, but did nothing. He noted that she perpetrated the abuse on her son and daughter by herself, took photos of her daughter herself, got her son to film the abuse of him, and stored these digital images and videos. She was not apparently under any duress at the time she committed these offences. Professor Wilcox concluded that her actions were more consistent with something internal, something intrinsic to her way of thinking, rather than her acting in response to external pressure. In his opinion, she was more likely to have been acting out of a willingness to engage in sexual activity with her children and a lack of appreciation that this was wrong, than being forced to act by her relative.
52. Professor Wilcox's evidence to me was that this mindset made the mother *'much more impervious to change'*. He credited her with at least acknowledging that she has done wrong in the past, but does not consider there is any evidence of any deeper understanding about what was wrong about her behaviour. If she does not really understand why what she has done is wrong, it is harder for her to change her behaviour in the future.
53. There is some discussion within the assessments about Ms A being raised in an environment where marriage between cousins was accepted, but that is no explanation for the breakdown of sexual boundaries of parent and child that happened here. Ms A was very clear that a relationship between her and her nephew would be quite wrong. She was clear that sending indecent images of herself to her nephew would be inappropriate and not right, because she was his aunty. It remains unknown why she did not have those instincts in relation to the abuse of her own children.
54. Ms A did accept that without an understanding of her motivations and what prompted her to act as she did, it is difficult to assess the risk that she might act like that again in the future. However, she has been very vague about what led to her offending, and although she has worked with a number of therapists, she accepted frankly that as well as Professor Wilcox, they remained unable to understand from her the reasons that she had offended.
55. The lack of clear information from her about how she went about committing the offences is a further concern. Without understanding the pattern of her behaviour, it is harder to spot whether she is in danger of falling back into similar patterns, and thus presenting as a risk to children.
56. In general terms she has said that she had been in touch with her nephew for about a year before the offences, and from about January 2016 he *'started making requests'* of her. In May she gave in to his requests. She is reported by the probation officer to have said that her nephew had asked her to have sex with her son and to film it and send the footage to him. She denied being coerced. She is reported to have, *'expressed neither surprise nor dismay at the nature of his request.'* No context is given for how she persuaded her son that she could masturbate him, give him oral sex, have penetrative sex with him, let alone get him to record it on his phone. This is highly unlikely to have begun and ended on one day – a 'one off' as mother seems to suggest. There could

have been coercion, but equally there could have been grooming, a build-up of trust over time, or some mixture of both.

57. Ms A has not shared how it was that she went about taking the images of her three-year-old daughter. She did not, as she initially told the father, only distribute indecent images of her three-year-old daughter. That minimises the nature of the abuse. She was the one who took the photographs. She was not under duress from her relative to do so at the time she committed these offences. Her explanation that she was mentally ill or under pressure does not tell us how it was she was able to cross the boundary from parent to abuser with her child.
58. For these reasons, the fact that Ms A's interactions with A in supervised contact are warm and positive does not give me any reassurance that she presents at this time as any less of a risk to him than she did to her other children.
59. She had a very limited capacity to see things from her children's point of view. When asked about the consequences of her actions, she focused upon the impact to herself, of going to prison, not seeing her children, and the burden upon her of the orders now in force relating to her. She has in the past suggested that her fourteen-year-old son could have stopped her or said no to her. This places him as willing participant rather than victim. She is blaming him for the offences which she committed against him.
60. Ms A's probation officer was concerned about her total lack of understanding in respect of the damage and long-term problems she had caused to her victims and their siblings. Ms A is reported as having said that *'she would not have committed the offence if she had known she would end up in prison'*. What did not come across in her evidence to me was any sense of regret as to the harm that she had caused her children.
61. If she is not able to see things from her children's perspective, she is unable to see how they might be caused harm by her actions or someone else's, and she would not be able to act protectively.
62. The Court received further evidence about Ms A's failure to protect in respect of the threshold finding relating to her older daughter. She was exposed to the mother's sexual abuse of her younger brother because she was the one who found the video on the phone. The mother accepted in evidence that she overheard her daughter telling a friend that she (the daughter) had been sexually abused by her father, but Ms A discussed it with her own mother and decided to take no action at all to protect her daughter.
63. Ms A remained equivocal about accepting whether she still presented a risk of harm to children. She has repeatedly said that she has learned her lesson, and will not offend again, but she isn't able to describe what it is that has changed for her. She does recognise that she is seen by others as still presenting a risk, but said this was, *'because of the convictions'*:

'yes that is what everyone is saying - because of my convictions and my offence ... the risk is still there even if I've done my sentence and anything everybody

keeps saying that I'm at risk – I know if I'm a risk or not but that's what everyone keeps saying.'

64. This way of framing things identifies her risk as a label put on her by other people, but does not acknowledge the *reasons* that she presents as a risk to children. Ms A presents a risk not because of the *convictions*, but because of the *offending* that led to the convictions.
65. She is not able to reflect on the concerns expressed about her in the various assessments. She suggested that the reasons that both Ms Sidhu's report and Ms Blossom's parenting assessments of her were negative were because she had argued with them both about them speaking to the father behind her back and sharing information with her. She similarly said she did not get on with Professor Wilcox. She seemed to prefer to think that all their negative assessments were because these professionals had taken against her personally, rather than exercise their professional judgment based on the evidence they had obtained.
66. When giving oral evidence Ms A was still angry that Ms Sidhu and Ms Blossom had discussed details of her offences with Mr S. She seemed more focused on how that had caused difficulties in their relationship and was resentful for this. She appears then, and still now, to be a long way from recognising that of course professionals would have had to share and discuss this information with Mr S in order to enable him and them to understand any risk to A and how to protect him. In this instance, she was putting her interests in keeping the relationship going before A's interests.
67. She has in the past minimised her offences, given only sketchy details, or misleading justifications. This leads to a risk that in the future she might not be open and honest with professionals or those caring for a child who would need information from her to enable them to protect him or her.
68. If she does not accept, understand or have insight into the concerns of professionals, she is not in a position to understand how she might go about making the changes necessary so that she did not present as a risk to children.
69. Professor Wilcox recommends therapy for Ms A, but he was absolutely clear in his evidence that this treatment would be to help her to develop some insight for her own benefit, an understanding herself that the sexual acts she perpetrated on her children are wrong, and cause harm to children. She needs *'to develop some internal processes to look at her behaviour in the future, to not reoffend in the future – to not simply be responding to the pressures of society that mandate that this behaviour is wholly unacceptable.'* The therapy would be directed to reducing the risk of reoffending, to safeguarding the community and giving her a better sense of personal accountability, but Professor Wilcox was emphatic that there are no circumstances in which he envisaged therapy could be addressed to rehabilitation of her son to her care.
70. From the outset of her relationship with **Mr S**, Ms A misled him by not telling him about her offences. When she did tell him, she gave him a very sketchy

version of events that was designed to make him think she had not done very much, and that it was not her fault.

71. Mr S's lack of curiosity even at this point is baffling, but once he knew more, it is quite extraordinary that he did not follow up conversations with the probation officer, nor with Ms A. Ms A said she did not wish to revisit any kind of conversations about her past offending because it made her feel uncomfortable. Mr S seems to have adopted her line that it was all in the past, the circumstances that existed then were no longer present, and there was no longer a risk.
72. Mr S did his best to give straightforward answers to the questions that were put to him in Court, and was not trying to divert, mislead or deviate. However, on a basic level he does not appear to have grasped why what the mother has done to her own children is so troubling. He does not seem to see for himself that she is a person who continues to pose a risk of serious sexual abuse to any child.
73. He repeated a number of times that his understanding about Ms A's offences was that, *'the past is the past'*; she had served her time in prison, and it *'was over'*. He was asked why he stayed with Ms A even after he knew about her offences and replied that he had no idea that the local authority would have removed his children. He seemed to suggest that the local authority had misled him and had allowed him to believe that he and Ms A would be able to raise their child together. Whether he has been manipulated by the mother, or whether he is just hopelessly naïve I do not know, but repeatedly when confronted with the facts, he has not been able to haul them in. This was noted by the guardian in her report:

'Mr S has throughout these proceedings prioritised Ms A's needs and appears to have wholesale accepted her views and explanations. He has never in conversations with me expressed any concerns or revulsion about her offences and has never appeared curious about them. He has always seemed anxious about saying anything which she may not agree with. It has been difficult to fully understand the nature of Mr S and Ms A's relationship as they have separated and reconciled throughout.'

74. Even if one accepts his evidence, which is to an extent corroborated by the mother, that she *'did not tell him properly'* about the circumstances of the offences in the early stages of their relationship, since at least May 2021 when he met with Ms Sidhu, he had the full facts. He did separate from the mother a number of times, but this has always been at the instigation of others – Ms Sidhu, Ms Francis, and then more recently his sister when she came over to stay in the summer. It has been made clear to him that if he separated from Ms A, then he might be able to care for A on his own, not just by these professionals, but by social workers and the guardian. But he has not so far ever been able to maintain his separation from A's mother for more than a few months. Still in his oral evidence before me appeared bewildered about why the local authority did remove A from his and Ms A's care at birth. The current separation has been since around May, so four months, but given the history, it is too early to confidently predict that this is permanent.

75. A's guardian **Ginny Davies** gave oral evidence on the last day of the hearing. She has been A's guardian throughout proceedings. She said A is a handsome baby, *'everybody loves A, they just fall in love with him when they see him'*. She said he is quite cheeky, is developing as he should, in fact he is advanced for his age. He has been in the care of an experienced foster carer, who has given him consistent, loving and attuned care since he was discharged from hospital at birth. She has also built up a good relationship with each of the parents, and promoted A's relationship with them in contact, which has continued throughout these proceedings.
76. Ms Davies' final report demonstrates a thorough knowledge of the history in this case, a good understanding of all the various professional assessments, and Ms Davies' own observations of A and each of his parents in her various meetings with them. Her analysis is well-reasoned, fair and balanced. In her oral evidence she was clear about her position and explained the reasons for it well. In her professional opinion, A's needs would best be met by him being placed with his family in Canada in an adoptive placement. She is concerned to avoid any unnecessary delay for him and regards his need for permanence as pressing.

Analysis

Threshold

77. It is not disputed that the threshold for making public law orders as set out at section 31 of the Children Act 1989 is crossed. The findings are agreed, save for the following paragraph:

Ms A poses a significant risk to A as:

- (i) she lacks insight into her offending behaviour and the motivation for it, attributing it solely to external factors such as mental health (depression) and pressure from her nephew.*
 - (ii) she has limited insight into the long-term emotional impact of her offending behaviour on her children.*
 - (iii) There are significant inconsistencies in the accounts Ms A has given to professionals about the circumstances of and reasons for her offending behaviour. Her lack of openness and trustworthiness about this would undermine the effectiveness of therapeutic work.*
78. Based on the evidence I have read and heard, I am in no doubt that each of these sub-paragraphs has been established by the local authority. The evidence is overwhelming, and was only reinforced by the oral evidence given by Ms A herself.
79. This paragraph and the remainder of the threshold findings are set out as an annex to this judgment.

Welfare

80. The Court then must consider what orders, if any, to make in order to secure A's welfare. I have regard to all the circumstances, with particular regard to the welfare checklists set out at section 1(3) of the Children Act 1989 and section 1(4) of the Adoption and Children Act 2002, but with A's welfare my paramount consideration.

The ascertainable wishes and feelings of the child (s1(3)(a)/s1(4)(a))

The physical emotional and educational needs of the child (s1(3)(b))/the child's particular needs (s1(4)(b));

Age, sex, background and other relevant circumstances, child's characteristics which are relevant (s1(3)(c)/s1(4)(d))

81. I deal with these factors together.

82. A is a happy baby boy of [redacted] descent who is thriving in the care of his foster carer. Currently his needs are the same as those of any baby of his age. He needs consistent, loving and attuned care, for all his daily needs to be met, twenty-four hours a day, to be kept safe from harm, and to be encouraged in all areas of his physical, emotional and educational development. He needs to be kept safe from harm and to grow up feeling safe and protected.

83. After being removed from his parents' care at a day old and placed in foster care for over fourteen months, he now needs permanence, stability and security.

84. He enjoys the time he spends with his parents in contact. It can be assumed that he would wish to grow up continuing to be a member of his birth family, and maintaining some connection to his parents if it were safe for him to do so. It will help his sense of cultural heritage and identity to grow up with knowledge of [redacted] language, culture, and custom.

85. He may have additional needs as a result of his early life experiences, being removed from his parents at birth and placed with a foster carer. In time he is likely to need some support to understand the reasons that he is not being raised by his mother or father. As part of this life story work, he will learn of his half-siblings and he may need support to consider what kind of relationship he may wish to have with them and how that might be managed.

Harm or risk of harm (s1(3)(d)/s1(4)(e))

Capability of the parents and relevant others (s1(3)(f))

86. A's parents love him and have shown their commitment to him by attending regular contact with him.

87. Nevertheless, the weight of the evidence is overwhelming that he would be at significant risk of harm were he to return to the care of either his mother or his

father. I have regard to each of the threshold findings, set out below, as well as the evidence of the parents themselves, and the extensive range of professional assessments.

88. At this time the mother's perspective seems to be very much one that focuses on the barriers that others are putting up to prevent her having care with her son, she seems to feel unfairly judged and stigmatised because of the fact of her convictions, but she does not seem to recognise at all that the barriers are there because she is a person that poses a risk of harm to any child.
89. She has not shown any insight or understanding of what triggered her offending against her own children, and is almost dismissive about it in the way she refers to it. Right up to the outset of the final hearing she was maintaining that there could be a way for A to be placed in her care, and for her to be further assessed at the same time. This is wholly unrealistic, not just because of the professional assessments of her, but because her placement on the sex offenders register and the restrictions imposed by the sexual harm prevention order would make it virtually impossible for her to have a child in her care or come into contact with other children. A would be at risk of being identified as the child of a sex offender and stigmatised as a result.
90. The fact that she can manage A's daily care well and be loving and gentle with him in contact does not lessen the risk of her becoming a perpetrator of abuse upon him later. Because she has not been able to open up in the many and various therapy sessions she has had, there remains little understanding of how she coerced both her three year old daughter and her fourteen year old son to take part in the sexual activity that she was eventually convicted for. The abuse was compounded by her recording and storing digital images which she intended to distribute. In the circumstances, any contact she has with any child by digital means must be very carefully risk-assessed in the future.
91. Ms A was indignant at the idea of being treated differently from the father so far as contact was concerned. She thinks it would be unfair to her if A gets to spend time with his father and not her. She became quite heightened in her emotions to think about how she might be excluded:

'If I have contact with him next Tuesday – or they say internet not working or aunt not well – this is highly likely – it's going to happen they will slowly say he's uncomfortable or upset and unsettled afterwards – not in his best interest – but his father can have contact any time of day or night – he can visit – he can pick up the phone – and have video call – she will let him – if he can have contact – she won't make excuses – I don't want that to happen to me . I will be taking action and coming back to court. I'm not having that – if father can have unlimited contact with his son any time of the day I should have it too'

I know they won't tell A who his mum is – his sister said he won't want to know who his half siblings are – they won't tell him who his mum is ... he will not know who his mother is – he will ask questions – they will say why do you want to know - she's done this.'

92. If A is placed with Mr and Mrs H there is likely to be an imbalance in terms of the contact. Not because Ms A is not their relation, but because Ms A continues to present a risk to A of serious sexual abuse. His father does not pose any risk of direct harm, and so his contact would be approached differently.
93. However, there are still concerns about Mr S. The weight of professional evidence, overwhelmingly confirmed by Mr S's own evidence to the Court, is that he lacks the understanding and insight that would enable him to take care of A, and to protect him from harm.
94. Despite being told about her offending history, by Ms A, her probation officer, Ms Sidhu, Ms Blossom, Professor Wilcox and various health and social work professionals having explained the child protection concerns and risks, Mr S maintained a baffling lack of curiosity or concern about it. His evidence at the hearing only served to confirm his lack of insight and understanding.
95. He readily accepted Ms A's version of events (he told Professor Wilcox):
- 'I want to be a family man with Ms A. She's been to prison already. She has changed. She explained that there was domestic violence, depression and influence from the guy in [redacted]. There was constant pressure.'*
96. He did not seek to make any enquiries for himself – of her, or anyone else. He was described by the guardian as being *'unable to resist her more dominant personality'*. That is evidently the case.
97. This lack of curiosity or insight makes him vulnerable to encountering people in the future who might pose a risk to a child. If A were to have been placed in his care, the Court could not have confidence that he would be able to understand risks that other people present to A.
98. He would not be able to prioritise A's needs. By continuing his relationship with Ms A, he prioritised his relationship with her above the needs of his son. He has repeated to a number of professionals and to the Court, that he did not separate from Ms A initially because he was worried about how that would affect her, and her mental health, the loss of her partner and her child would be too much for her. His concern for Ms A at these times was greater than his concern for A.
99. He appears only to have separated from Ms A as a result of external pressure; from professionals or family members, not because he himself genuinely believed her to pose a risk. Even now he seems not to have understood for himself the risk that she presents to any child, and what he would need to do to be able to care for A himself and keep him safe. At the final hearing he still seemed confused and unsure as to why it was that the local authority had sought to remove A from his and Ms A's care.
100. There remains a risk that they may get back together, or, whether in a relationship or not, she may continue to seek to be in contact with him, particularly if he is having contact with A and she is not. She may regard him

as a potential source of information about or access to A in the future. Contact between him and A will need to be carefully monitored to guard against this risk, and consideration given to putting rules in place about taking and sharing of photographs for example.

101. Mr S did not like to reflect in any way upon Ms A's offences and repeated that he simply thought she was no longer a risk as she had served her sentence. This is an example of the concrete thinking described by Professor Wilcox. It mirrors Ms A's repeated assertions in these proceedings and previously, that she has learned her lesson, and the past should be left in the past. Mr S seemed to have developed a fixed idea that children should be brought up by both parents, and could not compute that for A, being brought up in a house with his mother put him at a wholly unacceptable risk of harm.
102. His suggestions for how he might protect A were wholly unrealistic. For example, he suggested he could supervise Ms A twenty-four hours a day, but had not thought about how he would go to work.

Likely effect of any change in circumstances s1(3)(e)

103. A is living with his current foster carers on a temporary basis. By the conclusion of the final hearing, both parents had accepted that placement with him in either of their care is not a realistic option.
104. A is only fourteen months old. The plan to send him to Canada would represent a very significant upheaval for him, as he has only ever known his foster carer as his main carer. However, his uncle and aunt are experienced parents, have been extensively assessed within these proceedings as positive carers for A, and they are not strangers to him. They came over to England in the summer, spent time with A, and have continued to have virtual contact with him since their return.
105. Ms A would like A to remain in the care of his current foster carer. This would represent no change in the short-term for A.
106. The Court cannot make decisions based on the identity of a particular foster carer, but must decide what type of placement would best meet A's needs. But even if Ms A's plan that A remained with his foster carer could be guaranteed, it would bring with it uncertainty.
107. If his current carer were to remain his foster carer, the local authority would remain his corporate parent for all his childhood. This would be a significant intrusion in his life, and he is likely to have a number of different social workers. The foster carer's circumstances may change such that she was no longer able to be his carer, and he would be at risk of having a number of placement moves throughout his childhood. He is not guaranteed care from his foster family beyond the age of eighteen.
108. There is a possibility that A could be placed with his current foster carer as a prospective adopter, but it is by no means certain that she would be

approved as a match for him. She is not at the moment on the local authority's list of prospective adopters and would have to go through a lengthy assessment process to be considered. She is evidently a loving and highly experienced carer, but she would not be able to support A in developing his cultural identity as well as his placement with paternal family.

109. Ms A's case in favour of placement with A's foster carer rests on an assumption that she is more likely to be afforded regular contact with A than if he were with his paternal family. This is misconceived. There would inevitably be a change in circumstances for A at the end of these proceedings, as the arrangements for contact between A and each of his parents will change. As already discussed, any difference in contact arrangements between Ms A and Mr S will be about an assessment of the risks that each of them poses directly and indirectly to A. It will not be determined by the type of placement, nor the identity of A's long term carers.

110. I do not regard it as more likely that A would have more regular contact with his mother were he to stay in this jurisdiction, than if he were to move to Canada to live with his relatives. In any event, this is a consideration that puts his mother's wishes and feelings first, whereas I must have regard to A's welfare as my paramount consideration.

111. I now turn to the additional factors that appear at section 1(4) of the Adoption and Children Act 2002.

The likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person (s1(4)(c))

112. Even if placed in a loving and stable placement, the making of a care order with a plan for adoption is likely to have a profound effect on A throughout his childhood and adulthood. That would be mitigated if he were able to grow up within his own extended family.

The relationship the child has with relatives or other relevant persons including (i) the likelihood of any such relationship continuing and the value to the child of its doing so, (ii) the ability and willingness of the child's relatives or other relevant persons to provide the child with a secure environment in which the child can develop otherwise to meet the child's needs and (iii) the wishes and feelings of the child's relatives regarding the child (s1(4)(f)).

113. The local authority's plan preserves A's relationship with his paternal family. Mr and Mrs H have been assessed in the first instance as carers who would be able to provide A with a loving and secure home and are committed to him throughout his life. He would grow up knowing his other uncle and aunt, his grandmother, cousins, and his relationship with his birth father would be maintained through regular contact.

114. His relationship with his mother would not be on the same footing. At the moment he has no knowledge of his half-siblings. She has no contact with

her parents or sister, so he would not in any event get to know his extended family through her. All this would of course be a loss to him, but this loss has to be balanced against the risks to him of the relationship with his mother.

115. It is arguable that A's present foster carer is '*a person in relation to whom the court considers the relationship to be relevant*' within the meaning of section 1(4) of the Adoption and Children Act 2002. A has flourished in her care, made huge progress in all aspects of his development. He has developed a bond with her and she has enabled him to maintain links with his birth family. In the short term staying with his foster carer would represent stability, but in the longer-term he is likely to suffer a much greater loss if he were to have been deprived of the chance of growing up in his family of origin. The plan for the Hs to adopt has been extensively thought about and prepared for. A plan to keep A with his foster carer would bring much more uncertainty and delay for him.

The range of orders available to the Court (CA1989 s1(3)(g)/ACA2002 s1(6))

116. Having regard to all the evidence in the case, the welfare checklists and both A's and his parents' article 6 and article 8 rights, I am satisfied in all the circumstances that A's welfare requires the protection of a care order, and his continued separation from his parents. The parents have bravely acknowledged this to be the case.

117. I accept the analysis of EO and the professional assessment of the children's guardian. Both have formed their own independent view, but have also drawn on a wealth of material including the extensive expert assessments, which all point clearly in the same direction.

118. A's welfare requires that he is placed for adoption. I am satisfied that nothing short of adoption will do to meet his welfare needs, and that it is necessary and a proportionate intervention in this family's life.

119. The disadvantages of a long-term foster placement for a child of his age are the risk of placement breakdown, and subsequent moves, that the local authority would be his corporate parent which represents an intrusion in his life and the potential for further instability in that he is likely to have a number of different social workers throughout his life. Foster care ends at the end of childhood, adoption is for life.

120. It has been argued on behalf of A's mother that his needs would better be met by placement in England either with foster carers or adopters who might be more willing to promote contact between A and his mother than she perceives and expects Mr and Mrs H would do. I reject this argument for the following reasons:

- (i) contact between A and his birth mother must be risk-assessed. There is highly likely to be a difference between the contact that A has with his father than his mother. This is not just because A is to be placed with

his paternal family, but because Ms A presents a high level of risk to any child, including her own son;

- (ii) there will inevitably be a change in contact once care proceedings are over, and likely again once A has been placed with prospective adopters. There can be no presumption that A's placement within this jurisdiction would make it more likely that she has direct contact with A;
- (iii) for reasons set out within this judgment, I have concerns about the risk that the mother would pose to A throughout his life. The fact that she has been loving and caring towards him in contact does not necessarily mitigate against that risk, given the circumstances of her previous offending. I have in mind in particular the questions around the means by which she persuaded or coerced her children to enter into sexual activity, and that she took and stored digital images of them.
- (iv) if contact is assessed as safe and in A's welfare interests, Mr and Mrs H have indicated that they will follow the advice of professionals where it comes to life story work with A and promoting contact between him and his birth mother or half-siblings.

121. Adoption will provide A with security, stability and placement with carers who are committed to caring for him and embracing him as a member of their family for all his life.

122. I endorse the local authority's plan to place A with his paternal family in the first instance. Of course success of the plan cannot be guaranteed, but the local authority has done all it reasonably can to satisfy itself and the Court that this plan will work. Mr and Mrs H have been extensively assessed, shown their commitment to A by spending time in England this summer, and have established a relationship with him. The local authority has obtained appropriate legal advice and put in train all the steps necessary towards achieving permanence for A as soon as reasonably practicable, via the route of a Convention adoption. Holding off the making of a placement order until Mr and Mrs H have been confirmed as prospective adopters would build in unnecessary delay for A, and is not justified on the evidence.

123. It will be a wrench for A to leave the care of his foster carer, but the benefits to him of being placed in a long-term adoptive placement outweigh the immediate disruption that he will experience as a result of the move.

124. If for whatever reason, placement of A in Canada does not come to pass, then I consider from the evidence as it stands at the moment that A should then be placed with alternative prospective adopters. No doubt the local authority will review all the circumstances at that time, and if placement for adoption is no longer appropriate than an application to discharge the placement order can be made. I am not against an approach being made to his foster carer at that time, but, like the guardian, would be concerned if there were further unnecessary delay at that stage, or that this foster carer were prioritised before better matches.

125. Placement orders cannot be subject to conditions by the Court. I make my decision based on all the circumstances as they are now. The theoretical possibility that a placement order might no longer be required in the future is not a reason for refusing to make it at this stage.
126. With respect to the application for a placement order, section 21 of the Adoption and Children Act 2002 states that the Court can only make a placement order against parental consent where it is satisfied that consent should be dispensed with.
127. I am satisfied that A's welfare needs require that he is placed for adoption, and that the consent of his parents to a placement order should be dispensed with.
128. I give permission for the local authority to remove A from the jurisdiction on a temporary basis for a period of up to six months.

Contact

129. I have set out within this judgment my concerns as to the continuation of contact between A and his mother if he were to be adopted. It is of course of benefit to him to have life story work, to understand the make up of his family of origin, the reasons that he has not grown up in the care of his parents, and maybe in time to know that he has older half-siblings in [redacted]. It will be important for him to know who his mother is. I am not at this point sure that continuing regular virtual contact with his mother will add benefits over and above this life story work, compared to the potential risks to him of that contact. However, I accept that this will be a matter for the local authority to consider further, and keep under review. In the event that an application is made to the Court for an adoption order, it is a matter the Court must address before any order is made.
130. Ms A's position on contact seems to come from a desire to be given the same access to her son as Mr S is expected to have. However, she must appreciate that they are in different categories, because of the risk she presents to her son and other children. Mr S does not pose a direct risk of harm, but there remain serious concerns about his ability to protect A from harm. Contact between him and his son will also need careful monitoring and management, so that there can be confidence that he is not sharing information about A with his mother, or otherwise exposing him to risk of harm.
131. Subject to these observations, I approve the local authority's proposals for contact.

HHJ Joanna Vincent
14th September 2022
Family Court, Oxford

Annex 1: Threshold findings

DELETED BEFORE PUBLICATION TO THE NATIONAL ARCHIVE. THE DOCUMENT CONTAINED DETAILS OF DATES OF CONVICTIONS AND NATURE OF SEXUAL OFFENCES