



Neutral Citation Number: [2021] EWHC 3806 (Fam)

Case No: LN21C00436

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 01/12/2021

Before :

MRS JUSTICE LIEVEN

Between :

A LOCAL AUTHORITY

Applicant

and

THE FATHER

First Respondent

and

BC

(a child, through his Children's Guardian)

Second Respondent

Ms Judy Claxton (instructed by **the local authority**) for the **Applicant**
Ms Alison Hunt (instructed by **Sills & Betteridge Solicitors**) for the **First Respondent**
Ms Hari Kaur (instructed by **Ringrose Law**) for the **Second Respondent**

Hearing dates: **1 December 2021**

Approved Judgment

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MRS JUSTICE LIEVEN

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.

Mrs Justice Lieven DBE :

1. This case concerns a 16-month-old child called BC. BC was made subject of care proceedings but the applications which are currently before me are for BC to be made subject to a Special Guardianship Order in respect of his Maternal Grandparents; that there be an order that BC spends no time and has no indirect contact with his father, thirdly that the Father ceases to have parental responsibility for BC and fourthly that BC's surname be changed, and his middle name be removed.
2. The background to this case is the Father is charged with multiple offences including the murder of both the mother and of her older son. The Father is currently on remand in prison awaiting trial. My understanding is the Father has pleaded not guilty. He has been subject to a psychiatric report, and I believe his criminal team have told the court that they may raise fitness to plead. That psychiatric report has not been produced. There is however, as I understand it, having read two statements from the Father, no dispute that the Father killed both the mother the son.
3. Given that the main substantive orders are not opposed, I don't need to rehearse the history in any great detail, save to say that there was a history of domestic abuse, the mother having contacted the police on more than one occasion to raise concerns and she had obtained a non-molestation order or restraining order on at least one occasion.
4. Since the death of his mother and his sibling, BC has been living with the Maternal Grandparents and they have been positively assessed by the Local Authority ('LA') to care for him. I am pleased that BC has been doing very well with them; he has met his various developmental milestones and although there is some evidence of him showing signs of trauma from his experiences, overall, he's doing very well. The Maternal Grandparents are plainly caring for him excellently.
5. The evidence does however show that the Maternal Grandparents, both of whom are attending this hearing, have unsurprisingly been deeply traumatised by events and are very distressed about what happened and very worried about court ensuring that they can care for BC in the long term. They are very worried about any contact with the Father and the wider family.
6. I should note at this stage that the LA throughout this case has acted impeccably in the support they've given to the Maternal Grandparents and the offers of support going forward. I note in this judgment that it is in my view highly likely that the Maternal Grandparents will need professional help in the future not least around life story work with BC, and how and when to tell him both about the tragic events of his early childhood and his paternal family.
7. The plan going forward is that the Maternal Grandparents be appointed as special guardians. BC will remain a child in need under a child in need plan which will allow the Maternal Grandparents access to more support. There be no contact with the Father.
8. The position of the LA is to support those orders and to support the change of surname. The guardian also supports those orders.

9. My conclusions are that it is plainly appropriate to make a special guardianship order. The Maternal Grandparents are in an excellent position to care for BC; they are already doing so.
10. In terms of the order for no contact with the Father; *Re Q* [2016] 2 FLR 287 makes clear that this is an extreme order and should only be made in an exceptional case and that it must be in the interests of the child to have no contact. Caselaw makes clear that it is almost always in the interests of the child to have contact with a parent, however sadly this is a tragically exceptional case. In my view it is strongly in BC's interest to be settled with the Maternal Grandparents and for them to feel as secure as possible in their role and to achieve that end, then it is necessary, in my view, that the Father should have no contact whether direct or indirect. I have no hesitation in making that order, and it is not opposed by the Father.
11. I note at this point that the Father having initially in these proceedings put in a very distressing witness statement that was very hurtful towards the Maternal Grandparents, his second statement appears far more insightful, and child focused, and he has today taken a both realistic but also most importantly, a child focused approach to the case.
12. In respect of the no contact order, I want to insert a note of caution, which is BC is going to have to know in the future what happened in his childhood, and he's likely to be curious about his father and his paternal family. This is very much just a thought for the future for the Maternal Grandparents to have when after the trial matters are far more settled, but it will be much better if they think through in advance how to tell BC and discuss that with the professionals than if it becomes a point of conflict in future years.
13. Secondly, an order is sought under s.4(2A) Children Act 1989 that the Father ceases to have parental responsibility. In considering this matter, the paramount consideration is BC's welfare. In *DW* [2013] EWHC 854 the court said in cases where the court would likely not to have made an order for parental responsibility in the first place, it may be appropriate to terminate parental responsibility. In my view there can be no question that the test is met here. It is very important that the Maternal Grandparents can exercise parental responsibility under the Special Guardianship Order without worrying about the position of the Father.
14. The third issue is BC's name. The Maternal Grandparents want to change his surname to match theirs. They find his current name understandably very distressing, and they doubtless want to strengthen the public facing bond between them and BC and also BC's mother.
15. The Father said in his statement he would prefer a more neutral name, suggesting the name of Smith. However, I accept that both because it makes the relationship with the Maternal Grandparents publicly clear, but also because of the relationship with the mother, that it is appropriate to change his name to match that of the Maternal Grandparents.
16. There is also an issue around BC's middle name. His middle name is X. That was the name of the Father's Grandfather and the Father does wish BC to retain that name. The Maternal Grandparents had originally asked that the name be changed to XX, as a way of remembering their other grandchild who is so sadly deceased.

17. The Children's Guardian supports the removal of X, although only on balance. With some hesitation I understand why it is difficult for the grandparents to accept the name X, and although technically at school it won't be used, there are various moments where one has to fill in all the names and I can see that it's distressing for the Maternal Grandparents. I will therefore agree to the removal of the name X.
18. I was exceedingly unhappy and concerned about imposing the name XX on BC. BC is going to have a terrible burden growing up as being the survivor of this tragic incident, and I didn't feel that putting the burden of his dead sibling's name on him was going to help him at all in the future. Happily, having expressed those views early in the hearing, the Maternal Grandparents have communicated that they are happy not to pursue that application, and I have to say I think that is the right decision.
19. Everybody needs to focus on bringing BC up to be as happy and normalised a child as possible, and not let these awful events change the trajectory of his life more than they have to, so I will agree to those parts of the order.