Neutral Citation Number: [2024] EWHC 3260 (Fam)

Case No: FD24P00668

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17 November 2024

Before:

Mr Justice Trowell

- -

Between:

Ms A	**Applicant**
- and -	
R Local Authority	**First Respondent**
- and –	
T Local Authority	**Second Respondent**

- -

- -

Ms A represented herself

Paul im Thurn (instructed by R Local Authority) for the **First Respondent**

Helen Crowell (instructed by T Local Authority) for the **Second Respondent**

Hearing date: 13 November 2024

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Judgment Approved by the court for handing down

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published. Nobody may be identified by name or location. The anonymity of everyone other than the lawyers must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

Mr Justice Trowell:

1. This matter is listed before me on multiple applications. In this judgment I shall deal with three of them: an application to set aside adoption orders and two applications for contact orders (or more accurately permission to apply for contact orders).

2. The applicant is Ms A, she is the birth mother of two children who have been adopted: L, a girl, who is now 12 years old and P, a boy, who is now 6 years old. L was placed with her adopters over 5½ years ago in January 2019. P was place with his adopters in November 2018, some 6 years ago. I shall refer to her as Ms A.

3. The respondents are R Local Authority who were the local authority responsible for L and T Local Authority who were the local authority responsible for P.

4. Ms A represented herself. R Local Authority were represented by Paul im Thum and T Local Authority by Helen Crowell.

5. The hearing took place over the entirety of the day such that (a) this judgment needs to be delivered in writing and (b) the other applications listed before me, including an application for a civil restraint order, were put over to the 29 November 2024. I am sending this written judgment out in draft the day after the hearing and will hand it down on the 18 November 2024.

6. It was a hearing on the basis of submissions. It was heard remotely by Microsoft Teams. A large part of the day of submissions was spent on Ms A setting out her case to me and then answering the brief submissions of counsel for the local authorities.

7. I took care at the beginning of the hearing to explain to Ms A how the hearing would work: first we would consider which applications we were dealing with, then I would hear her set out her case, then I would hear from the local authorities and then she could reply. This was, as matters turned out, slightly complicated by needing to deal with her application to join the Home Office as a preliminary issue, as I shall record below.

8. Further I explained to her that:

a. An application to set aside or revoke the adoption orders had been dealt with by HHJ Singleton KC sitting as a Deputy High Court Judge just before she made this application.

b. I could not hear an appeal from HHJ Singleton KC – so what I needed to know was what arguments she had that were not put before HHJ Singleton KC which might cause me to set aside the adoption orders.

c. That the only written argument I had from her, which had accompanied her application, was dated the 18 June 2024 and that was the day before judgment of HHJ Singleton KC and appeared to be written submissions to that judge.

9. After sorting out which applications we were dealing with I heard as a preliminary issue an application from Ms A to join the Home Office as a party to these proceedings. It was accepted that would lead to an adjournment. I rejected that application for the reasons I gave at the time. I advised Ms A that she could make an application to appeal me, or she could wait till I delivered judgment before making a decision on that issue. She chose to wait.

10. During the course of Ms A's submissions she made an application for both local authorities to set out on a piece of A4 how they contended the threshold criteria were met, authorising them to take her children away. I said that I would expect that the threshold criteria were set out in the judgments for care orders and placement for adoption, but I would ask them to deal with the issue in their oral submissions. Ms A did not accept that. I told her again that she could make an application to appeal my decision. Again, she chose to wait.

11. During the course of submissions by both local authorities Ms A repeatedly interrupted them. I asked her to stop on the basis that she could take a note of any point she wished to make and address me on it when she replied. When she did not stop I asked the court associate to mute her link.

12. During Ms A's reply I asked questions of her in order to help me understand her case. She objected to me interrupting her, saying that she was neurodivergent, and my interruptions were difficult for her to deal with. I broadly remained silent thereafter.

13. I am not going to deal with each and every point raised by Ms A in this judgment. I shall set out the matters that I consider relevant to my decision and explain why I have reached the decision that I have reached.

14. Before launching further into this judgment, I want to make clear a number of matters.

    a. I join with counsel in acknowledging that Ms A has had some awful experiences. She was subject to human trafficking. She has had her children taken away.

    b. I found her intelligent and articulate in her submissions to me.

    c. I found her passionate in her submissions to me, and do not take any offence at that. I understand her strength of feeling.

Background

15. This is set out in a Case Summary prepared for me by T Local Authority and I can find it in the recent judgment of HHJ Singleton KC sitting as a Deputy High Court Judge.

16. On the 25 May 2018 orders were made by HHJ Woodward in the Family Court sitting at Manchester for Care Orders, Placement Orders and Permission to Refuse Contact Orders in relation to both children.

17. Those orders were appealed by Ms A and the appeal was dismissed by Peter Jackson LJ on the 5 September 2018.

18. On the 16 September 2019 Ms A application to oppose adoption orders was dismissed by HHJ Woodward in relation to both children.

19. Those orders were appealed by Ms A and on the 7 November 2019 the appeals were dismissed by King LJ, as being totally without merit.

20. On the 8 November 2019 Adoption orders were granted in respect of both children by HHJ Woodward.

21. On the 24 April 2020 Ms A application for permission to apply for post adoption contact was refused by HHJ Woodward.

22. On the 23 January 2024 Ms A made an application to revoke the adoption orders. That was dismissed by HHJ Singleton KC sitting as a Deputy High Court Judge on the 19 June 2024. Ms A made an oral application to appeal that decision. That was refused. She did not renew that application to the Court of Appeal.

23. Instead, she made on the 23 July 2024 a further application to set aside the adoption orders (and if the application is read) the order of HHJ Singelton KC. That is a little over one month later.

24. Further, she made an application for permission to apply for judicial review of the decision of HHJ Singleton on the 16 September 2024. That was dismissed as totally without merit by Fordham J on the 21 October 2024. She had made a further application to renew her application for permission on the 25 October 2024.

25. Gwynneth Knowles J gave directions on the 7 August 2024 that both local authorities should file and serve position statements, and the matter should come to court on 16 August 2024.

26. On the 16 August Gwynneth Knowles J directed short statements from each local authority and a short statement from Ms A in response. The local authorities have filed statements. Ms A has not done so. Skeleton arguments were directed by the 8 November, in advance of this hearing. I received skeleton arguments from the local authorities. I did not from Ms A.

27. For the hearing I received a bundle of 329 pages. This was directed by Gwynneth Knowles J. I have read this. Ms A sent a number of further applications which I have read. She also required during the hearing that I read a Judicial Review bundle of 440 pages. I made clear that I was not dealing with the Judicial Review, and I was not going to read that bundle. I have read the case summary in that bundle.

28. Following the hearing (yesterday) my clerk has received a further 6 emails from Ms A containing further written submissions. I have asked that these are sent to the other parties. I have looked at them (save for one which contains a further 502 pages in relation to a Judicial Review), but I have held in mind that they were sent after the hearing and there is no obvious opportunity for the other parties to respond to them.

The Legal Context of the Set Aside Application

29. I am advised by counsel, and Ms A has not argued to the contrary, that the law in relation to set aside applications is dealt with fairly by HHJ Singleton KC. (I note that the post hearing submissions do contain references to many cases – the names of some of which were mentioned by Ms A without any reference to the text of them or any point being drawn from them during the hearing - but I still do not see any argument that the law is other than as stated by HHJ Singleton KC.)

30. In short there are two competing relatively recent High Court decisions. One of Theis J, *AX v BX* [2021] EWHC 1121, and one of Lieven J, X *v Y* [2024] EWHC 1059.

31. There is heavy emphasis on not merely the finality of litigation but the different standing that an adoption order has from other orders. Applying that to the facts of this case I reflect that the children ceased to be Ms A children and became other people's children some 6 years ago. (I say this notwithstanding that I am aware that Ms A would not accept this as an account of what has happened.) Setting aside the order will have a profound effect.

32. Theis J says that the jurisdiction can only be exercised in highly exceptional and very particular circumstances.

33. Lieven J says there is power to revoke but only in cases involving fundamental procedural irregularity and that does not extend to welfare grounds.

34. It is not appropriate for me to embark on any further analysis of the law in the context of this case. Authorities have not been put in front of me and there has been no argument in court on the law.

Ms A's case on the set aside application

35. Ms A made the points which follow which she said should cause both HHJ Singleton's order to be set aside as well as the adoption orders. I set them out with my response to them. I note that it is my understanding that it is agreed that, save for one, they were points made in one form or another to HHJ Singleton. If I am wrong in that then my response should deal with any issue arising.

a. The adoption was made under duress. *It was clearly not voluntary but that is no reason to set it aside.*

b. The adoption order was social engineering. *This allegation was not particularised in a way which could give ground to set it aside. Adoption orders take place in accordance with statute.*

c. That adoption as run by these local authorities was a form of child trafficking. *I repeat that adoption orders take place in accordance with statute.*

d. The court process was informed by racism. This was said to explain remarks said to be derogatory by HHJ Singleton KC. These alleged remarks included referring to her arguments as 'gibberish' or 'legal gibberish' and 'nonsense' and 'the most unattractive things you can say'. *I am not the forum to deal with an appeal from HHJ Singleton KC. I have not therefore conducted any enquiry as to whether these things were said, or, if said, the context in which they were said. It does appear to me however that the remarks even if they were made are the remarks of a frustrated judge attempting to understand the case being put to her. They are not racist.* Further, it was said that the local authorities were worried about the welfare of the children because Ms A was a young black woman and she was in a relationship with an old white man. *It is right that the relationship was considered to give rise to risks to the children. I see no reason to take the view that consideration was informed by racism.*

e. Fraud, in particular, that there was a forgery of L birth certificate. *I was shown as evidence of this that there was an email in which R Local Authority had called for a copy. I had nothing to demonstrate that the copy before the court was a forgery, or, if it were, an explanation of how a true birth certificate would have made any difference to the proceedings.*

f. There was a judicial conflict of interest and a conflict of interest with an expert witness at the hearing, Dr Hellin. *I will return to this below.*

g. The welfare of the children was not properly considered because the siblings were separated. *It is manifest from the decisions that I have seen that the welfare of the children was considered.*

h. The impact of a number of pieces of legislation were not taken into account. These include The Mental Health Act 1983, The Mental Capacity Act 2005, The Modern Slavery Act 2015, The Human Rights Act 1988, The Care Act 2014, and The Equality Act 2010. *In reality, these submissions were made to reflect Ms A argument that she should have had more support rather than her children taken away. Given the position that this court is in now it is easy to have sympathy with her. Having children taken away is awful. She is right to point out that as a victim of human trafficking she was damaged and likely to need help. She is right to point to the fact that she asked the local authority for help. She is right to point out that P was taken from her shortly after birth and I do not doubt her when she says she was still haemorrhaging. I must bear in mind however that the court that made these orders had to deal with her as she was then, and did so on contemporaneous evidence, and most importantly had to protect the children then. The provision of assistance to Ms A then and whether that provided an alternative to adoption for the children was considered at that time. I do bear in mind that Jackson LJ in his comments on refusing permission to appeal said Judge Woodward was right to raise the issue of Ms A litigation capacity but having carefully reviewed the matter in all aspects she was entitled to find that the presumption of capacity was not displaced.*

i. That she did not have a fair trial – that there was not natural justice. *This is for the most part another way of dealing with the point referred to at (e). Insofar as it goes further it relates to decisions that the court made as to what expert evidence to hear. Ms A complains that her treating health care professionals were not allowed to give evidence. This is a complaint about the manner in which the courts have decided to regulate expert evidence not a reason to set aside the order.*

j. That there was an omission of evidence in that there was a failure to show how the threshold criteria were crossed. *This is expressly dealt with by Peter Jackson LJ. He rejects this as a ground of appeal saying, that the judgments are models of legal accuracy and methodical evaluation of the facts. And that the judge was fully entitled to make the findings that she did on the basis of*

clear evidence and to conclude that the risks inherent in Ms A parenting were such that nothing less than placement of the children for adoption was required.

The conflict-of-interest point

36. Ms A's argument on this point first surfaced on the 25 June 2024. That is 6 days after the hearing before HHJ Singelton KC. It could, had Ms A chosen to, have been deployed in an application to appeal the dismissal of her application. It was not. As I have said I am not the appropriate forum for such an appeal. The argument however goes beyond that hearing and to the decisions of HHJ Woodward so I will consider it.

37. Ms A's argument is that there is at the very least an appearance of bias in that in 2024 (and she assumes earlier, i.e., at the time of the adoption orders) HHJ Woodward, HHJ Singelton KC, Dr Kate Hellin (a psychologist who was an expert witness in her proceedings) and Julie Doyle (who had been a barrister in the proceedings) were all associated with a charity called Child Concern. In 2024 HHJ Woodward was the chair and frequent guest speaker, HHJ Singleton KC was a patron, and Dr Hellin was the treasurer.

38. Ms A refers me to the case of *R v Bow Street Magistrate ex parte Pinochet* (No. 2) [2000] 1 AC 119. That case was not provided to me during the hearing, but I have looked at it subsequently. I note that in his speech Lord Browne Wilkinson says as follows (p. 136):

It is important not to overstate what is being decided. It was suggested in argument that a decision setting aside the order of 25 November 1998 would lead to a position where judges would be unable to sit on cases involving charities in whose work they are involved. It is suggested that, because of such involvement, a judge would be disqualified. That is not correct.

39. Ms Crowell invited me to consider the website of the charity, Child Concern, which I have done. She submitted the charity does not advance any particular policy in relation to adoption. It offers continual development training for professionals involved in children proceedings. It is, she says, more directly comparable to an Inn

of Court or a professional organisation such as the FLBA then a campaigning organisation that had expressed a view as to the outcome of proceedings. She referred me to a recent decision of Baker LJ *H (A Child: Recusal)* [2003] EWCA Civ 860 from which she drew the following test, that it is necessary to consider bias on the more general level of whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the person would not receive a fair trial.

40. I cannot see that involvement in the charity Child Concern of any of the people named can give me reason to believe that Ms A would not receive a fair trial.

Conclusion on the set aside application

41. I have no hesitation for the reasons expressed above in rejecting the application of Ms A to set aside the adoption orders.

Post adoption contact

42. In a way which has not been detailed Ms A seeks contact with her children.

43. It was her case that the children were reaching out to her. She relied on an email she had received by letter box contact from L adopters saying that L had some questions for her about her favourite food when she was in Uganda and the names of her friends in Uganda.

44. I was not shown any reply to that email. I was told that there had not been much use of the letter box facility.

45. Both local authorities oppose an order for contact. Mr im Thurn tells me that the appropriate first step would be an approach to social services, and this has not happened. Ms A disputes that. He and Ms Crowell both point me to section 51A of the Adoption and Children Act 2002 as setting out the statutory framework for contact after adoption. Ms A would require leave to make an application. The factors I need to consider for granting leave are set out in s. 51A (5). My attention is drawn in particular to s. 51A (5) (a), namely, the risk there might be of the proposed application disrupting the child's life to such an extent that he or she would be harmed by it (within the meaning of the 1989 Act).

46. Both submit to me that the application that I have just heard, and the history of the litigation that I have rehearsed make it absolutely clear that Ms A does not accept the adoption and will act so as to undermine the placement of the children. That they say will cause them harm. I agree with that submission. The risk outweighs any advantage which might otherwise arise from satisfying the natural curiosity of the children as to their biological heritage.

47. As if to make the point even stronger Ms A agreed in her reply that she had previously said to one of the children that adopters kill the children they adopt. She said that factually that was right, and this did on occasion happen. She said that it was unsurprising that she was worried about that.

48. There can be no doubt as things stand an application for contact between Ms A and the children will pose a risk to them. Accordingly, I refuse her permission to bring an application for an order for contact. I will not bar such letter box contact as is already in place but would urge that messages be reviewed before being passed on.

Conclusion

49. I ask counsel to draw an order to reflect these decisions. I will see the parties again on the 29 November to deal with the outstanding applications and any further applications arising from this judgment. I remind Ms A that she can make an application to appeal this decision.

Addendum – following circulation of draft judgment

50. Ms A has asked for a note of my oral judgment on her joinder application dealt with as a preliminary issue. I have asked counsel to agree a note of that judgment and submit it to me for approval.

51. CWCC have asked whether I am intending to certify any of these applications as totally without merit. I note that the applications have proceeded to a hearing, albeit only on submissions. I do consider, however, that the two applications for leave to bring a contact application in circumstances where (1) Ms A is applying to set aside the adoption orders and (2) considers it appropriate to say to the children that adopters

kill children, are so ill founded as to be totally without merit. On drawing the order I will certify the dismissal of those two applications to that effect.

Mr Justice Trowell