



Neutral Citation Number: [2014] EWHC 1146 (Fam)

Case number omitted

**IN THE HIGH COURT OF JUSTICE**  
**FAMILY DIVISION**  
**(In open court)**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 15 April 2014

**Before :**

**SIR JAMES MUNBY PRESIDENT OF THE FAMILY DIVISION**

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**In the matter of P (A Child)**

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The name of the applicants' representative is omitted in order to preserve P's privacy and confidentiality

Hearing date: 1 April 2014

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**Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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SIR JAMES MUNBY PRESIDENT OF THE FAMILY DIVISION

This judgment was delivered in open court, but **the reporting of this case is subject to a reporting restriction order the terms of which are annexed to the earlier judgment handed down on 17 December 2013: *Re P (A Child)* [2013] EWHC 4048 (Fam)**

**Sir James Munby, President of the Family Division :**

1. This is the final chapter in the litigation relating to Alessandra Pacchieri and her daughter P. The case has been the subject of much reporting and comment in the media, in this country, in Italy (of which the mother is a national) and indeed around the world. For that reason I am giving this judgment in open court.
2. On 17 December 2013 I gave a judgment, also in open court, in which I described events down to that date in some detail: *Re P (A Child)* [2013] EWHC 4048 (Fam), paras 2-32. There is no need for me to repeat it here. It suffices to recall that P was born in this country on 24 August 2012; that on 1 February 2013 His Honour Judge Newton sitting in the Chelmsford County Court made both a care order and a placement order in respect of P; that the mother's last contact with P was on 22 May 2013; that on 25 October 2013 Judge Newton made an order giving the local authority, Essex County Council, leave to place P for adoption; and that not long after, in fact on 19 November 2013, P was placed with prospective adopters. She has remained with them ever since. I shall refer to them as Mr and Mrs X.
3. Before moving on there is one other matter I should refer to. I can best do so by repeating what I said in my earlier judgment (paras 19-20):

“According to reports in the media the mother has English solicitors acting for her. It is also a fact that other solicitors, Dawson Cornwell, have been instructed by the Italian government ... Be all that as it may, the fact is that, as at the date of the hearing before me on 13 December 2013, no application of any kind had been made on behalf of either the mother or the Italian authorities, whether to the Court of Protection, the Chelmsford County Court or the Family Division, nor had any application been made to the Court of Appeal ... This, so far as I am aware, remains the position as of this morning, 17 December 2013.”

I went on (para 29) to refer to letters dated 6 and 13 December 2013 written to the court by Dawson Cornwell. I commented (para 30) that “The Italian authorities must take such steps (if any) as they may be advised.”

4. On 23 December 2013 a firm of solicitors, Brendan Fleming, wrote the following letter to my clerk:

“We confirm that we are instructed to act for Alessandra Pacchieri in respect of the above matter.

We have instructions to prepare and lodge an Appeal in this matter. Those papers are being prepared by the legal team we have secured which is ...

Unfortunately there has been a delay as a result of funding problems for this proposed action. We are working very hard to resolve this problem.

We confirm that we have corresponded with the Local Authority in this matter and have sent copies of our correspondence to ... at Dawson Cornwell who has been instructed by the Italian Government.”

5. I am not privy to whatever correspondence there may have been between Brendan Fleming and Dawson Cornwell, but at the hearing before me on 1 April 2014 (see below) Essex County Council showed me certain correspondence it had had with both firms in December 2013. The most recent letter from Dawson Cornwell was dated 9 December 2013. The most recent letter from Brendan Fleming was dated 13 December 2013. It said that the writer had spoken “at length” with the mother on 11 and 12 December 2013. It enclosed what was described as a notice of acting “in respect of proposed proceedings concerning” P, though without elaborating further. I am told that Essex County Council has received no further correspondence from either firm since.
6. On 3 February 2014 Mr and Mrs X applied for an adoption order in respect of P. The matter has since proceeded as a serial number case. On 13 February 2014 a District Judge of the Principal Registry of the Family Division directed that the matter be listed before me on 1 April 2014. In accordance with directions given by the District Judge, both the mother and P’s father (who does not have parental responsibility) were sent written notice by the court and, on 7 March 2014, emailed notice by Essex County Council of the hearing fixed for 1 April 2014. The notice, dated 5 March 2014, contained the warning, drawn to their attention, that “Failure to attend my result in an order being made in your absence.” There has been no response from P’s father who, it should be noted, has never seen P.
7. The confidential Annex A report is dated 26 March 2014.
8. At the hearing before me on 1 April 2014 Mr and Mrs X were represented by their solicitor. Social workers from Essex County Council were present. P’s mother and father were neither present nor represented.
9. It is appropriate at this point to set out in some detail certain email exchanges between the mother and Essex County Council. (I set out the exact text of the emails, without seeking to correct either the spelling or punctuation.)
10. I start with an email the mother sent to Essex County Council on 8 November 2013:

“Hello Sue,

I would like to know how my daughter is doing first and than if you have any outcome of the court hearing. you know they emailed me the evening before the court hearing sending me an attachment with the details of the hearing with a password. when they sent me the password it was not correct therefore i could not open the document till the next day when they informed me that was not a capitol a as they wrote. i am so disappointed. i informed my attorney in italy about all that cause i wanted to attend the hearing but they made it impossible for me. Do you know anything about all that?

Thank you”

The social worker replied by email on 11 November 2013:

“Hi Alessandra,

I understand that [P] is continuing to do well and she is making good progress.

The court has now given permission for the Local Authority to place [P], in line with her Care Plan, with the adoptive family identified and introductions are starting today.

There will be a further application for an Adoption Order and therefore you must ensure that the Local Authority has an up to date address for you so that you are notified and have an opportunity to respond.

There may be an opportunity for you to meet with [P]’s adoptive parents however this will be explored at a later date.

Please continue to liaise with your legal representative who will be able to explain the process to you.

Please accept my best regards to you and your family during this difficult time.

Kind regards,

Sue”

The mother responded by email on 14 November 2013:

“Hello Sue,

It s really sad for me but i pray God everyday that she will gonna be fine and that i will see her again. I would love to meet with her adoptive parents and have a chat with them so please make that happen for us.

i am moving therefore use this address [address]

thank you

Kind Regards

Alessandra”

11. On 11 December 2013 a social worker spoke to the mother by telephone. The mother is reported as having said she “wishes my daughter the best” and asked how she was doing “with her new family.”

12. The email notifying the mother of the hearing was sent to her on 7 March 2014. A follow up email was sent on 12 March 2014. The mother responded by email later the same day:

“Dear Lynne thank you for your email I don’t have an advocate and unfortunately I will not be able to attend Court, I received all the paperwork that you mailed to the address. Thank you very much”

Essex County Council replied by email on 13 March 2014:

“Many thanks Alessandra.

Would you wish to express your view via an email which we can present to the Court on your behalf?

Lynne”

There was no response, so Essex County Council emailed again on 27 March 2014:

“Alessandra – I just wish to remind you that the hearing in respect of [P] will be on Tuesday 1<sup>st</sup> April.

I know that you are unable to attend the hearing, but as previously stated, if there is anything that you wish the Court to know about your views on the proposed adoption then please email me by Monday 3 p.m. so I can ensure your views are available to the Court.””

The final email from the mother arrived on 28 March 2014:

“Dear Lynne

I wish for my daughter the best. Me personally I am trying to forget this bad experience I had in England. I love my daughter with all my heart and I pray to see her one day again.”

13. As of 1 April 2014 the position remained as it had been on 17 December 2013. Despite what had been said in the correspondence from Brendan Fleming and Dawson Cornwell in December 2013, no application of any kind had been made on behalf of either the mother or the Italian authorities, whether to the Court of Protection, the Chelmsford County Court or the Family Division, nor had any application been made to the Court of Appeal. In particular, it is to be noted, neither the mother, nor for that matter the father, had made any application in accordance with section 47(5) of the Adoption and Children Act 2002 for leave to oppose the making of an adoption order.
14. In these circumstances the submission made on behalf of Mr and Mrs X by their solicitor was simple and compelling. The Annex A report was understood to be wholly positive about P’s placement with Mr and Mrs X – as indeed it is – and it being clear that the mother was fully aware of the hearing and had not indicated any intention to seek leave to oppose the making of the order, I should make an adoption

order. I had no hesitation in do so. Accordingly on 1 April 2014 I made the adoption order.

15. The Annex A report is a long, detailed and impressive document, running to some 70 pages. It is, of course, confidential to the court. I therefore say little about its contents. Two passages should, however, be highlighted. The first focuses on P:

“[P] is not of an age where she can fully express her wishes and feelings; however, through observation it is observed that [P] has a strong and positive bond with both her prospective adoptive parents. There is warmth and care in their relationship which is reciprocated from both prospective adoptive parents and [P]. They are very nurturing towards [P] and show her affection.

[P] presents as a very happy and content little girl who is very affectionate towards both her prospective adoptive parents. Although she is unable to verbally communicate [P] expresses very cheerful and happy emotions.”

16. The other summarises the recommendation of the two social workers who prepared the report. They “warmly and whole heartedly support” the application by Mr and Mrs X to adopt. Having carefully read the report I can only agree.
17. Mr and Mrs X are good and loving people. They are admirably equipped to meet P’s needs now and into the future. P is obviously thriving in their care and doing very well. In all the circumstances, and having regard to the ‘welfare checklist’ in section 1(4) of the 2002 Act, P’s welfare throughout her life requires – demands – that she be adopted. Nothing else will do.