

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
KINGSTON UPON HULL DISTRICT REGISTRY

Ref. U20170137

Lowgate
Kingston upon Hull

27th January 2017

Before

HIS HONOUR JUDGE JEREMY RICHARDSON QC

Sitting with

HER HONOUR JUDGE PEMBERTON

Both sitting as Judges of the High Court

IN RE X CHILDREN

HIGH COURT PROCEEDINGS SITTING IN PUBLIC

MISS JENKINS was in attendance together with other counsel and solicitors
representing the parties in the family litigation

HIGH COURT PROCEEDINGS
(9.33am to 9.52am)

Transcribed from the official recording by
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Edial Farm Cottage, Edial, Burntwood, Staffordshire, WS7 0HZ

27th January 2017

HIGH COURT PROCEEDINGS IN PUBLIC

JUDGE JEREMY RICHARDSON QC: Miss Jenkins, these proceedings are in the High Court. We are sitting in public. My Lady and I are sitting together in this unusual situation.

The first thing my Lady and I wish to say is this: the court was, and remains, deeply saddened by the news of the death of Miss Gascoigne. Her name is now in the public domain and I can refer to her by name as I would wish in these tragic circumstances. I re-emphasise that the court is deeply saddened by this news.

What I propose to do in a moment or two is to deliver a judgment as I indicated I would. Are there any developments that I need to know about before going further that can be mentioned in public?

MISS JENKINS: No, not at this point, my Lord, thank you.

JUDGE JEREMY RICHARDSON QC: Thank you very much indeed. I shall proceed, therefore, to give the judgment. What I propose to direct is that this judgment, indeed, the entire transcript of these proceedings, be immediately made available; that is to say as soon as possible. The transcript will be paid for at public expense.

APPROVED JUDGMENT

A JUDGE JEREMY RICHARDSON QC: The judgment I am about to give may
be publicly reported. This part of these family proceedings are in public. The
proceedings before Her Honour Judge Pemberton, yesterday, before yesterday, and
B hereafter are subject to the provisions of s.97 of the Children Act 1989. I expressly
lift that provision to enable this judgment to be reported, but no more. Any
application to lift any part of the wider embargo must be made to Judge Pemberton.

C The purpose of this judgment is to set out what the court did yesterday
afternoon and early evening. It is also designed to furnish reasons for why the
court granted the injunctive relief which expired at 9pm last night.

D There are ten preliminary matters I must cover.

(1) I am sitting as a judge of the High Court within the Family Division.
E These proceedings were transferred from the Family Court to the High Court
yesterday afternoon. The Family Division liaison judge assigned me to deal with
this matter as a matter of urgency together with Judge Pemberton.

(2) The three orders I made yesterday afternoon were orders of the High
F Court. Following this hearing, the matter will be restored to the Family Court.

(3) I am grateful to counsel for the help given to me yesterday afternoon and
early evening in truly difficult circumstances, indeed, very difficult circumstances.

G (4) Yesterday afternoon, the court was dealing with a highly unusual
situation in extremely pressured circumstances. There was almost no time for
reflection and certainly no time for extensive legal research.
H

A (5) In these proceedings, from beginning to end, the paramount concern of the court has been, and remains, the welfare of the children with whom it is concerned. All decisions I made yesterday afternoon and evening embraced that key principle.

B (6) This court accepts there are other considerations in this case, namely the public interest and the freedom of the press to report that which happens in public, providing always that reporting is within the confines of the law.

C (7) No one is more acutely aware of the tension between the public interest in maintaining, indeed supporting, the freedom of the press to report, set against private interests of legitimate confidentiality. These issues were brought into sharp D focus yesterday afternoon.

E (8) As these proceedings were transferred to the High Court, all the orders were made within the inherent jurisdiction of that court to buttress proceedings in that court and protect children, insofar as the court was able to do so, who were the subject of proceedings in the Family Court.

F (9) The extent of the order I made yesterday afternoon (initially at approximately 3.40pm, and renewed into a final order at approximately 5.30pm) was to prevent any publication of reports of the events that occurred in the public access areas of this court building yesterday afternoon, until 9pm last night.

G (10) I am aware that some news media organisations were carrying the story in the afternoon. I was eager to prevent wider coverage for reasons I shall come to H

explain. The order appears to have been respected and I am grateful to those news organisations and journalists who immediately circulated the terms of my order.

A I shall give a short narrative of events, but it must be remembered that there is an ongoing police enquiry and it may be the coroner will become involved. This court has no jurisdiction whatever over those matters.

B Court officials have cooperated, and will continue to cooperate, with the appropriate authorities.

C Shortly after 3pm yesterday afternoon, I was alerted to a major incident within the court building. I will not reveal all aspects of what I was told as that would encroach upon the territory of the family proceedings.

D It appears a young woman, namely Miss Gascoigne, who was the mother of children, who were the subject of family proceedings within a court in this building, collapsed in the public concourse in full view of everyone then present in that place.

E The information I received was that the proceedings had concluded for the day. I was told the young woman could not be resuscitated despite valiant efforts by court officials and others. An ambulance had been called. The paramedics were equally unsuccessful in resuscitation. The young woman was unresponsive and removed to hospital. It was believed she had died.

G Subsequently, I learned she had died.

Let me make it clear, that is a tragedy.

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A Let me also make it clear that the circumstances surrounding her death are
the subject of police investigation. I will not indulge in speculation, and nor should
anyone else.

B Her Honour Judge Pemberton, for entirely understandable
reasons, was unable to continue with the case yesterday afternoon. She contacted
the Family Division liaison judge and I immediately took over management of the
case and the unfolding events.

C I was eager to protect the children, given that by the time I
became involved, it appeared photographs of the deceased and the scene were in
public circulation and there were news reports.

D I immediately sat, and following assistance from counsel and a
journalist, Mr Dean, I made a temporary order banning reporting until 5pm to
enable more information to be gathered. I particularly needed to know whether the
E mother had indeed died.

F By 5pm, it was confirmed that Miss Gascoigne had died and I
sat again. Following submissions, I decided to grant an injunction prohibiting
reporting of the events until 9pm. It will be appreciated that during that hearing, I
was very alive to the competing interests of press freedom and the private welfare
interests of the children.

G I felt that an order which terminated at 9pm would be the
proportionate response and struck the right balance between these legitimate
H competing interests.

My reasoning was straightforward.

A (1) The identity of the children and the proceedings in the Family Court were and remain protected by operation of s.97.

B (2) What occurred in a public access space within this court building took place in public. It was a legitimate news story, albeit an utterly tragic one. The events could have occurred in any other public location. It just happened to occur within this court building.

C (3) The High Court harbours an inherent jurisdiction to grant injunctive relief. This judgment is not an appropriate vehicle in which to embark upon a jurisprudential journey through the relevant law. The inherent jurisdiction, D however, exists and is a very useful tool, but also a powerful tool, to be used with care by the court. It will robustly and unhesitatingly be used when needed. On E occasion, the court needs to act swiftly. It can do so when necessary. In this case, it was necessary, and the court responded rapidly, doing what it could to protect the welfare interests of the children in the case.

F (4) My concern was to protect the children and to enable them to be told of the tragedy in a sensible way by either family members or social G workers and not to learn of it by the blunt instrument of the internet or hearing or seeing it on the television or radio. It was in their welfare interests for this tragic and distressing news to be imparted to them sensitively and not bluntly. However, H I recognise there was a public dimension to this and a legitimate news story of someone dying at the court in tragic circumstances.

(5) Consequently, I invoked the inherent jurisdiction of the High Court to prevent publication until 9pm to enable the children to be told of the tragic news and not to find out from press stories. This was particularly so as the mother's name was in the public domain. My aim was to secure a cordon of time before this became a matter of public interest and attention. I believe that was successful and my aim was achieved.

I have a profound respect for the press and their search for the truth. Press freedom is a key part of a free society, but there are times when the court has to become involved to protect those who have a legitimate private interest that needs protection.

The events in public yesterday afternoon were, or may be, so closely connected to private, albeit public law, family proceedings that the court was entitled to act to buttress and protect its own proceedings and those who were the subject of those proceedings.

This case will be restored before her Honour Judge Pemberton. This case is now restored to the Family Court. In a short while, these High Court proceedings, which are a component of the overall case, are now over.

I hope this family will be permitted to grieve in private. I remind everyone of s.97 of the Children Act 1989. It is for these reasons I made the orders yesterday afternoon and early evening. Those orders expired at 9pm last night. I trust I achieved the right balance in a pressured and difficult situation. I, of course, take full responsibility for making those decisions.

A It was a highly unusual and truly tragic situation. I am grateful to all of those who tried to help Miss Gascoigne yesterday afternoon; and I am also grateful to all of those who sought to assist the court yesterday afternoon and evening.

B My final observation is this: It is a sad fact of life that tragedy hits all families from time to time. Children, of course, need to be protected, but cannot be completely immune from tragedy when it occurs.

C All the court can do, in the execution of its responsibilities, is to make decisions which promote the best welfare outcome that can be achieved in all the circumstances of the case. That is what this court endeavoured to do to the best of its ability yesterday afternoon and evening in respect of children who are the subject of these family proceedings.

E JUDGE JEREMY RICHARDSON QC: Miss Jenkins, I am not sure whether either you or any other advocates in this case wish to say anything at the moment apart from the fact I am confident that each and every one of you, including your F instructing solicitors, join with the condolences that I expressed at the outset of these proceedings.

G MISS JENKINS: Yes please. Thank you, my Lord.

JUDGE JEREMY RICHARDSON QC: Is there anything that either you or anybody else wishes to say?

H MISS JENKINS: Not at this stage, thank you very much, my Lord.

JUDGE JEREMY RICHARDSON QC: Very good. Well, the proceedings are now formally restored to the Family Court before Her Honour Judge Pemberton.

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Unless there is anything else, thank you all very much indeed.

We will rise.

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