



Neutral Citation Number: [2013] EWHC 3404 (Fam)

Case No: FD12P02113 AND FD12C00524

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 04/11/2013

Before :

THE HONOURABLE MR JUSTICE BAKER

Between :

SURREY COUNTY COUNCIL	<u>Applicant</u>
- and -	
ZAINAB AL-HILLI (1)	<u>Respondents</u>
-and-	
ZEENA AL-HILLI (2)	
<i>(both through their Children's Guardian)</i>	
-and-	
FADWA AL-SAFFAR (3)	
-and-	
AHMED MAHMOOD	
-and-	
THE CHIEF CONSTABLE OF SURREY (5)	

Sarah Morgan Q.C. and Sharon Segal (instructed by Local Authority Solicitor) for the Applicant

Melanie Carew (instructed by CAFCASS) for the 1st and 2nd Respondents

James Turner Q.C. and Jane DeZonie (instructed by Gordon Dadds LLP) for the 3rd and 4th Respondents

Robert Cohen (instructed by the force solicitor, Surrey Police) for the 5th Respondent

Hearing dates: 4th November 2013

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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THE HONOURABLE MR JUSTICE BAKER

This judgment was delivered in private on 4th November. It consists of 5 pages and has been signed and dated by the judge. The judge hereby gives leave for it to be reported.

The judgment is being distributed on the strict understanding that in any report no person other than the advocates or the solicitors instructing them (and other persons identified by name in the judgment itself) may be identified by name or location and that in particular the anonymity of the children and the adult members of their family must be strictly preserved, **save that all information within this judgment may be published.**

The Honourable Mr. Justice Baker :

1. This is the final hearing in court proceedings involving the two girls – Zainab, aged 8 and Zeena, aged 5, who were involved in the tragic shootings in the French Alps in September 2012 in which four people, including their parents and maternal grandmother, were killed and Zainab herself seriously injured. The case has received worldwide publicity. The police investigation involving forces from several countries is still ongoing.
2. This court is not directly concerned with that investigation but, while rather, with the future of the two girls. Reporting of these proceedings is restricted but, pursuant to the power conferred by section 97(4) of the Children Act 1989, I authorise publication of this short judgment today. I am taking this step because there is understandably great interest in the welfare of the girls and it is therefore appropriate for the public to know in general terms about the decisions made for their future. Reporting of further details of the circumstances of the girls, and of the arrangements for their future care, treatment and education, remains prohibited, both under the general rules in the Administration of Justice Act 1960 and the Family Procedure Rules 2010, and also under a reporting restricting order which has been made in an amended form today.
3. In an earlier judgment dated 26th July 2013, a summary of which has been published with the court's permission, I concluded that it would be in the best interests of the girls to go to live with their maternal aunt, uncle and cousin. At that stage, however, I did not have sufficient information to make a final decision as to the legal basis on which the girls should live with their aunt and uncle. I therefore adjourned that question until today and renewed the interim orders under which the girls have been living in the care of the local authority since shortly after the tragedy occurred.
4. There are, in theory, a number of legal routes by which the objective of placing the girls with their uncle and aunt could be achieved – a residence order, a care order with a plan for such a placement, a special guardianship order or an adoption order. In the end, however, the three main parties to the proceedings – the local authority, the aunt and uncle and the children's guardian on behalf of the children – are all agreed that the best option is a special guardianship order. The other parties to the proceedings, the Chief Constable for Surrey, who has been joined as a party because of the exceptional circumstances of this case, also supports this outcome. The aunt and uncle have filed an application for a special guardianship order, a special guardianship assessment has taken place as required under the rules in which the assessor recommends that such an order should be made, the local authority has accepted that recommendation, and the guardian has carried out his own assessment and reached the same conclusion.
5. In deciding what order to make for the future of the children, it is their welfare that is my paramount consideration. Section 1(3) of the 1989 Act lists the factors which the court is required to take into account, and in this case the key factors seem to me to be the ascertainable wishes and feelings of the children; their physical, emotional and educational needs; their background; the harm they have suffered and are at risk of suffering in future; the capacity of the aunt and uncle to meet their needs and the range of powers available to the court. With regard to this last factor, the Court of Appeal has recently emphasised the importance of the court considering all options, and looking at the advantages and disadvantages of each. I make it clear that,

notwithstanding the agreement between the parties, I have considered all options. In the end, I have come to the same conclusion as the parties, namely that a special guardianship order is the right outcome in this case.

6. A special guardianship order is an order appointing one or more individual to be a child's "special guardian". The effect of the order is to give the special guardians exclusive power to exercise parental responsibility for the child. A special guardianship order provides a degree of permanents and security for the child. Such orders are particularly suitable for children who require a greater degree of permanence and stability than is provided by an ordinary residence order, but for whom adoption is not suitable. A support plan can be provided by the local authority to help children subject to a special guardianship order.
7. It is in the interests of Zainab and Zeena to retain their existing family links and their identity as the children of their tragically deceased parents. Accordingly, and rightly, no party has proposed adoption as the appropriate outcome in this case. Manifestly, however, given their traumatic experiences, they do require an order which gives them a higher degree of stability and permanence and in my judgment a special guardianship order meets that requirement.
8. Accordingly I make special guardianship orders appointed the aunt and uncle to be special guardians of the girls.
9. The local authority will provide support for the girls as set out in the plans set before the court.
10. In conclusion, I make five further observations.
11. First, I commend the aunt and uncle for the dedication that have shown to the girls. They have without hesitation taken on the responsibility of caring for their nieces and welcomed them into their home. They have, of course, had to do this whilst addressing their own grief and sense of loss. They have had to withstand the intrusion of professionals coming to carry out assessments and other enquiries and the inevitable media attention. I commend them for all that they have done, and all that they are going to do in future, for the benefit of the girls. In addition, I acknowledge, as Miss Morgan QC has done on behalf of the local authority the way in which the aunt and uncle have cooperated and worked with the professionals to achieve the best solution for the girls.
12. Secondly, I wish to say a word about immigration matters. The aunt and uncle are making an application which would enable them to live permanently in this country. I emphasise that this is not a matter for me but, rather for the immigration authorities. It is, however, appropriate for me to state that it would manifestly be in the best interests of the girls for a way to be found for them to continue to live in this country with their aunt and uncle. I will give leave for the disclosure to their immigration lawyers, and thereafter to the immigration authorities, of the transcript of this judgment and the order I make today. I will give the aunt and uncle liberty to apply for further disclosure to the immigration authorities if so required.
13. Thirdly, I wish to acknowledge the very great care and skill which has been shown by all the professionals in this case – the local authority social workers, the guardian, the

lawyers and the police. They have all worked tirelessly to ensure that the outcome for the girls is the best that can be achieved in these tragic circumstances. Inevitably, there have been occasional difficulties and disagreements, only to be expected in a complex case, particularly given the specific risks arising here. But the difficulties and disagreements have been addressed and overcome.

14. Fourthly, I would like to thank the press and broadcasting and media for the responsible and sensitive way in which they have respected the court's orders and the girls' welfare in the way they have reported this matter. It is good to see the family courts and the media working together to ensure that the right to freedom of expression, and the right of the girls to private and family life, are both respected.
15. Finally, I send my very best wishes to the girls. In the last few weeks, they have moved to live with their aunt and uncle and have started their new schools. I am sorry it has taken so long to sort things out, but I am pleased that finally they are back with their family. I hope it will not be necessary to have any more court hearings, but the court is always ready to give any further support and help they require.