



Neutral Citation Number: [2013] EWHC 2129 (Fam)

Case No: FD29/13 & FD13P00283

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
IN THE MATTER OF THE ADOPTION AND CHILDREN ACT 2002
AND IN THE MATTER OF THE HUMAN RIGHTS ACT 1998

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 16/07/2013

Before :

THE HONOURABLE MR JUSTICE COBB

Between :

RCW

Applicant

- and -

A Local Authority

Respondents

And

SB (by CAFCASS her Guardian)

Robin Barda (instructed by **Hudsons**) for the Applicant
Susan Quinn (instructed by **Local Authority Solicitor**) for the Local Authority
Gill Honeyman (instructed by **CAFCASS High Court Team**) for the child

Hearing date: 16 July 2013

Approved Judgment (2)

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 HON. MR. JUSTICE COBB

This judgment is being handed down in private on 16th July 2013 It consists of 7 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.

(2)

The Honourable Mr Justice Cobb :

1. On 8 February 2013, I granted an injunction under the *Human Rights Act 1998*, restraining a Local Authority (“LBX”) from removing a baby girl (“SB”), then aged just 12 months, from her proposed adoptive mother (“RCW”).
2. The circumstances in which the application for an injunction came to be made, and the order granted, are set out in full in the judgment which I delivered on 12 February 2013: see *RCW v A Local Authority* [2013] EWHC 235 (Fam).
3. In summary, within a few months of the placement for adoption of SB, her prospective adopter (RCW) developed a brain tumour. Emergency surgery was required to remove the tumour in January 2013; while the tumour was successfully removed, unfortunately the surgery has left RCW without sight. Within days of the operation, LBX informed RCW that it intended to remove SB from her care. By my injunction, their plan was (at least temporarily) halted.
4. Further to that injunction, I gave directions for the listing of RCW’s application (dated 5 February 2013) for an adoption order, providing also for consideration, at the same hearing, of LBX’s notice of intention under *section 35 Adoption and Children Act 2002* (albeit not the subject of a formal application) to remove SB from her adoptive placement. I joined SB to the litigation, and invited a member of the CAFCASS High Court Team to represent her.
5. At a directions hearing in the following month, I authorised an assessment of RCW and SB by the Great Ormond Street Hospital Child Care Consultation Team (a team within the Department of Child and Adolescent Mental Health); this assessment was commissioned jointly by LBX and SB’s Guardian. At that hearing, I further specifically encouraged LBX to pursue enquiries with a specialist Occupational Health Agency called Focal Point UK. Focal Point UK specialises in visual impairment training, vision rehabilitation training, and support services; LBX wished to ascertain whether that organisation could support and train RCW in her parenting of SB, having regard to her visual disability.
6. The happy position in which I find myself now is being invited to make a full adoption order in respect of SB in favour of RCW, an outcome which is now supported by LBX. The application is further supported by SB’s Guardian.
7. The background history is sufficiently covered in my previous judgment (see in particular [2013] EWHC 235 (Fam) §[5]-[12]), which should be read alongside this. At the point at which the decision to remove SB from RCW’s care was made, I found it hard to identify ([2013] EWHC 235 Fam §[30]):

“on what material LBX could truly contend that it had reached a proper welfare-based evaluation; there had been limited direct observation and assessment by that time, no apparent discussions with the friends and supporters, and little knowledge of RCW's condition or, more pertinently, its likely prognosis”.

8. In the period since that hearing, full welfare-based evaluations have now been undertaken. As all parties acknowledge, a very positive picture has emerged.
9. In this short judgment, I propose to do no more than provide an overview of the key events since 12 February, to review briefly the expert opinion, and to declare my decision on the application.

Events since 12 February 2013

10. Sadly there has been no improvement in RCW's vision; she remains blind, regaining no visual facility since the operation on 8 January 2013. She reports occasional pin-point peripheral flashes of light, but no more than that. The prognosis for her future vision is at best uncertain; RCW has been advised by her treating consultants that it may take 18-24 months before repair to the optic nerve is complete. While this leaves her hopeful of some restoration of sight, RCW appears realistic about (or at least accepting of) the prospect that this will not happen. The plans for SB's future have been predicated on the basis that RCW will remain significantly visually impaired.
11. As I mentioned in my earlier judgment ([2013] EWHC 235 (Fam) §[5]) SB was born in February 2012 with a cleft palate; in late May 2013 she underwent surgery to repair this. The operation, I am pleased to say, has been successful restoring greater functionality to SB, endowing her with an expanded repertoire of babble and chatter (much to the obvious delight of those who care for her). RCW stayed with SB in hospital over the period of the operation, sleeping in a bed by her, appropriately able to offer SB comfort and re-assurance.
12. Having found ([2013] EWHC 235 (Fam) §[37]) that *“LBX's decision to remove SB was reached on an incomplete assessment of the current situation, and in a manner which was unfair to RCW”*, it is to LBX's credit that the social workers swiftly confirmed at the directions hearing in March 2013 that the authority would pay the greater part of the cost of a comprehensive assessment of RCW's ability to meet SB's needs by the specialist multi-disciplinary team at Great Ormond Street Hospital.
13. This assessment took place over several weeks, and concluded favourably, with the team at Great Ormond Street reporting positively of the *“strong emotional bond”* between SB and RCW. Importantly the team, impressed by RCW's motivation and spirit, confirmed that *“there is no evidence that RCW's visual disability is having a negative effect on [SB]'s growing attachment to her. ... a secure attachment is developing”*. The Great Ormond Street team emphasised in its detailed report the importance of a sustained package of practical support for RCW going forward, very

strongly favouring the ongoing involvement of Focal Point UK. Indeed in performing its overall review of the progress of the placement, the two teams (i.e. Great Ormond Street and Focal Point UK) “concluded that there are probably very few situations where visual impairment would significantly compromise a parent’s responses” provided that the parent has learned strategies to compensate. The Great Ormond Street team encouraged me to make an adoption order in this case in favour of RCW, on the basis that I am satisfied that appropriate supports for RCW are in place.

14. The Great Ormond Street assessment was complemented by assessment, training and support provided by Focal Point UK (see §5 above); this was also helpfully commissioned and funded by LBX. Focal Point UK has performed invaluable work in assisting RCW to develop new skills, and manage care tasks for SB, given her sudden sight loss. Having undertaken 11 sessions with RCW, Focal Point UK reports that RCW has been “highly motivated”, and swift to learn new aptitudes as a blind parent providing safe care for, and in the home of, a small child; they comment most favourably on RCW’s overall ability to care for SB with her disability. Their final report concludes that:

“[RCW] has made huge progress in a short period of time, in her ability to manage her sight loss and continue to be able to look after and care for [SB].”

15. Focal Point UK believes that such is the rate of current progress in RCW establishing increasing independence, they believe that RCW will be able to expand her ability to care and look after SB alone during the nights, as well as by day, by March 2014, without difficulty.

16. Mr. M (Consultant Social Worker) whose evidence had been laid before the court in February 2013 in an attempt to justify the proposed removal of SB (see [2013] EWHC 235 (Fam) §[3]) has filed further evidence for this final hearing. In his more recent statement, he honourably acknowledges that the local authority “should have managed this delicate and emotive matter differently” [C25]. His statement contains descriptions of his recent visits to RCW and SB, indicating that at no time in the period since I granted the injunction has he had concerns about the standard of care offered to SB “who has consistently presented as being a happy and contented child”. He comments that:

“[RCW] has been able to increasingly undertake the primary care tasks with [SB], including feeding her, changing her nappies, and more recently preparing food for her. She interacts through music and talk, as well as cuddling and holding [SB], who nestles in her arms.” [C26]

He adds that the LBX is satisfied that RCW:

“has demonstrated a good capacity to parent [SB] as her primary carer even in the face of her sudden sight loss, and that [SB] is developing a secure attachment with [RCW].”

And later:

“[RCW] has shown herself to be an intelligent, resilient, resourceful and adaptive person through all the challenges she has had to face in the last six months. Her strong capacity for self-reliance is a valuable quality in successfully managing as a single parent.”

17. LBX has funded counselling for RCW with its post-adoption centre, which I am told RCW has found “*extremely helpful*”.
18. For several months, practical assistance for RCW in caring for SB has been offered to RCW by a number of her friends; their moral and practical support has been “*unstinting*” (per RCW), given generously “*not for financial gain or glory*” but because they believe that “*SB and I are a team worth fighting for*” (ibid.). Since 19 May 2013, that support has largely been replaced by professional carers; RCW has welcomed this, and a good working relationship has been established. Further specific support and assistance will be required to facilitate RCW’s mobilisation outside of the home, cooking and overnight support.
19. For the immediate and medium-term future, RCW will plainly need support in parenting SB. The professional advice (Great Ormond Street, Focal Point UK and LBX) is that RCW should continue to receive full-time live-in support for the next 12 months or so. RCW had hoped to be able to reduce this level of support within a shorter period, but now acknowledges the wisdom of the professional advice; she is planning a change in the supportive arrangements to introduce a live-in housekeeper/nanny (in place of the current 24/7 care) starting in March 2014.
20. The financial burden on RCW of the professional supports, and legal fees, has not been inconsiderable. Even though LBX proposes to assist with the funding of further involvement of Focal Point UK for the next 12 months, the critical illness policy and sick pay arrangements of her current employer only go some way to meet the burgeoning costs. RCW is hoping to be able to return to work within a year from now, and has been in discussions with her employer to achieve this; her employer plainly values RCW highly, and has enthusiastically accepted the need to make reasonable adjustments and flexible working in order to achieve RCW’s return to the work place. This will coincide with SB’s more regular attendance at nursery.

21. I am required, in determining this application, to give paramount consideration to SB's best interests. Through the documents filed for this hearing, I have come to know SB as "*a happy, sociable, engaging child*", who is meeting her developmental milestones (per Guardian). The Great Ormond Street team describe her as a "*sociable child with a good sense of humour*"; these views, and many in a similar vein, resonate throughout the assessments.
22. Just as the Great Ormond Street team refer to RCW as SB's "*mother*", so too does RCW refer to SB as her "*daughter*". It is apparent from all that I have read that in the months since October they are now to each other as true mother and daughter; SB has been "*developing a secure attachment to her mother (i.e. RCW) who is sensitively attuned to [SB]'s verbal signals*" (Great Ormond Street); a "*warmth and spontaneity in (RCW)'s interactions with [SB]*" (ibid.) is acknowledged.
23. Notwithstanding RCW's visual impairment it was particularly notable to see that Great Ormond Street assessors believe that RCW is "*sensitively aware of [SB]'s cues.*"

Conclusion

24. The history of events since February 2013 abundantly bears out my earlier assessment that "*[v]isual impairment does not of itself disqualify an adult from being a capable loving parent*" ([2013] EWHC 235 Fam §[35]). Far from it. RCW is proof of this.
25. Indeed, in common with many visually impaired parents, RCW can reasonably now be expected to undertake many parenting tasks herself, even though (and particularly for the immediate future) she will require a reasonable level of practical support.
26. RCW has demonstrated, in my judgment, an outstanding ability to manage the stresses of sudden disability, to make substantial practical adjustments to her life, and to weather the acute anxiety of the court process. She has further had to support SB through her own operative treatment in recent weeks. In short, she has had to overcome (what she described as) the "*dreadful ordeal*" of many aspects of the year thus far. Throughout this difficult period, I am satisfied that she has demonstrated that she can conscientiously prioritise the needs of her infant charge, providing obviously nurturing and loving care to a very high standard for SB.
27. As indicated above, in determining the application for an adoption order, I am required to satisfy myself that adoption by RCW is in SB's best interests now, and for the balance of her childhood. Having reviewed the professional assessments, and the lay evidence, and having received the advice from SB's guardian, I can confirm that I am wholly satisfied that the plans for SB's future care in the home of RCW will meet her needs.

28. In my judgment, SB is in the best possible home, receiving high quality care from her adoptive mother; she is plainly settled and thriving.
29. It has been agreed between the parties (and this will be rehearsed on the face of the order) that:
- i) RCW will continue to seek support from Focal Point UK for the next 12 months, and will continue to seek their advice about the necessary and appropriate support to ensure [SB]'s safety and well-being;
- and
- ii) LBX agrees to reimburse RCW for the majority of the cost of that intervention (£10,000), and will pay for a further six sessions of post-adoption counselling for RCW.
30. With those specific re-assurances in place, and in all the circumstances, I am satisfied that adoption by RCW is in SB's best interests; I am delighted to be able to make the adoption order sought.

[end]