

IMPORTANT NOTICE

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with.
Failure to do so will be a contempt of court.

Case No: WX26/2014 & WX27/2014

IN THE FAMILY COURT AT WREXHAM
IN THE MATTER OF THE ADOPTION AND CHILDREN ACT 2002
AND IN THE MATTER OF A AND F (CHILDREN)

Date: 14th May 2015

Before :

HIS HONOUR JUDGE GARETH JONES

Between :

C

Applicant

- and -

X LOCAL AUTHORITY

(1) **Respondent**

-and-

Z

(2) **Respondent**

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The Applicant was a Litigant in Person
Mr Robert Hornby appeared for the Local Authority

Hearing dates: 10th April 2015

JUDGMENT

JUDGMENT

HIS HONOUR JUDGE GARETH JONES:

1. This is a handed down judgment. I have before me an application by the birth mother (whom I shall identify as ‘the mother’ in this judgment) for permission to oppose the making of an Adoption Order pursuant to section 47(5) and (7) Adoption and Children Act 2002 in respect of two of her children.
2. The mother appears as a litigant in person and she was assisted by an Aunt who was present with her.
3. The children I shall identify as A and F for the purpose of this judgment, a male and a female child aged six and five respectively. The children are not automatic respondents under FPR 14.3(1), unless permission to oppose is granted or the other circumstances set out therein apply. They do not. The “special circumstances” under FPR 14.3(2) also do not apply.
4. The Adoption Agency X County Council is represented by Mr Hornby.
5. The adopters (Z) are not represented but have prepared an anonymised statement in response to the application.
6. The children’s birth father has been served with notification of these proceedings. No application has been received from him, he is not present nor represented.
7. The applications for adoption were issued in November 2014. It was apparent that the mother wished to oppose these applications from the outset, and the Court listed the applications for directions on 2nd March 2015 at the Family Court at Wrexham before me.
8. I have considered the following documents from the trial bundle:
 - (i) The mother’s statement in support of her application for permission;
 - (ii) The adopters’ statement, which is anonymised;
 - (iii) the Local Authority’s skeleton argument and statement;
 - (iv) the adoption reports; and
 - (v) the documents included in section E from the care and placement proceedings, which includes typed Threshold Criteria, the transcribed judgment of District Judge Shaw, the expert report of Dr Edwards and the Guardian’s report in those proceedings.
9. I have also heard the submissions made by the mother and by Mr Hornby on 10th April 2015.

The background to the case

10. In December 2012, A and F were removed from the mother’s care under a Police Protection Order and subsequently Emergency Protection and Interim Care Orders. The

family were at that time living in North Wales. Care Orders and Placement Orders were made by District Judge (MC) Shaw in June 2013, after a contested hearing, the mother being represented in those proceedings.

11. The mother's last direct contact with the children was in May 2013, pre-dating these final Orders due to the mother's conduct during contact. The children were placed for adoption in August 2014 and they have settled well in their new homes.
12. One of the most significant features of these proceedings has been the mother's extreme response to the removal and subsequent placement of her children away from her care. Her emotional response as a mother is understandable. Her opposition to the Local Authority and now the Adoption Agency's plans within court proceedings is legitimate, but the mother has taken her opposition outside the court arena.
13. An injunction was made by the Family Division Liaison Judge for Wales, Mr Justice Moore, in July, September and October 2013, preventing her from using the internet/social media to breach the confidentiality of these proceedings. There were committal proceedings in January 2014, which were ultimately withdrawn.
14. The mother has also been involved (as she told me) in a recent episode where the premises of Dr Edwards, the expert who reported in the Care proceedings, was located and the mother attended there.
15. These are serial number adoption applications and confidentiality is crucial. The mother is a resourceful individual who believes she has been persecuted and unfairly treated by public officials and by the Family Courts, who have "kidnapped" her children. If she believed that her ends could be achieved by extra-legal action, then she would not hesitate to act in such a manner.
16. During the course of this application (at the first directions hearing) she requested disclosure of the adoption reports to her. While the mother is a respondent under FPR 14.3 to the adoption applications, she is not entitled to receive a copy of the applications under PD 14A without Court direction. Similarly, the adoption reports and medicals are confidential under FPR 14.11(6) and 14.12(3) respectively, unless the Court directs otherwise under FPR 14.13(1).
17. These documents contain detailed information about the children, the adopters and their whereabouts. Even if such documents were extensively redacted, the risk involved to the confidentiality/security of the placement (in the circumstances of this case) would rule out disclosure. The mother would be tempted to achieve indirectly the termination of the placement to which she is adamantly opposed.
18. The mother in correspondence by email with the Court, has also sought disclosure of a CV of the Family Division Liaison Judge for Wales, Mr Justice Moore. She has done so, I believe, in order to identify his whereabouts. No such document is retained by the Court. Even if such a document was retained, disclosure of such information to the mother would not be justified on grounds of judicial security.
19. I should note by way of completeness that while the mother, of course, is entitled to seek permission to oppose the Adoption Orders, and pursuant to FPR 14.16(1) to "be heard on the question of whether an order should be made", if the Court refuses her application for permission to oppose, then she would not be entitled to be heard on the

question of whether an order should be made” under FPR 14.16(2). Her opposition would, in these circumstances, legally come to an end subject to any appeal.

20. I intend to proceed as outlined in *Re W [2014] 1FLR 1266* at paragraph 31. If permission is refused and any Adoption Orders made, they will be postponed (together with any consequential hearings) and issued by the Court twenty-one days hereafter, i.e. after the expiry of the appeal time limit under FPR 30.4. **I set this out clearly for the benefit of the mother because she does not have legal representation.**
21. This hearing proceeds on the basis recommended in *Re B-S [2014] 1FLR 1035* paragraph 74(v), i.e. following written evidence and submissions and without oral evidence.
22. The mother had asked for permission for family members to speak to me directly at page nine of her statement. This included a request on behalf of the subject children’s half-siblings. These family members, of course, are not respondents. I am aware that the maternal family share the mother’s opposition to these adoptions. They are not, however, the subject children whose welfare is paramount. Nothing would be gained by granting this request, which is refused.
23. There is another aspect which should be mentioned. The mother has indicated at page 17 of her statement (at paragraph four) that she pursued an appeal following the decision of District Judge Shaw in June 2013. That appeal to His Honour Judge Perry was unsuccessful, and there is an Order to that effect dated 15th July 2013.
24. The mother indicates in her statement that there was some other attempt by her to appeal out of time to the Court of Appeal, but no details are given.
25. It follows from this, that the judgment given at first instance by District Judge Shaw binds this Court. I mention this important aspect because the mother needs to understand that I am constrained by statutory provisions and appellate decisions which I am required to follow. I do not have a general discretion to revisit and review proceedings which have been concluded by District Judge Shaw and exercise my discretion afresh with regard to the Care and Placement Orders, after this lengthy passage of time. **The mother clearly is aggrieved at District Judge Shaw’s decision and she believes she is a victim of a miscarriage of justice. She complains inter alia of “disability discrimination, perjury, defamation, malfeasance in public office and kidnap”** (see page four, paragraph 11 and page six, paragraph two of her statement of evidence) and she also made these submissions to me orally.
26. **Indeed, the majority of the mother’s statement is concerned with the repetition and correction of perceived past wrongs sustained by her.** This was also the position with regard to her oral submissions. This means that inevitably she does not accept as a “starting point” District Judge Shaw’s decision nor his findings. As a matter of logic, therefore, **she finds it impossible to address the issue of “changes in circumstances” because broadly her parenting circumstances, when the children were removed, were perfectly acceptable and therefore no change is required.** Accordingly, an intellectual impasse results.

Legal provisions to be applied

27. There are three steps which the mother needs to surmount in this application:

Step One: she must establish a change of circumstances

Step Two: she must satisfy the Court that it would be right to grant permission and there must be solid grounds indicated. The Court will consider all the relevant circumstances and two inter-related aspects. Namely (a) the parent's ultimate prospect of success if permission is granted, and (b) the impact upon the children if the mother is or is not given leave to oppose, remembering that the children's welfare is paramount.

Step Three: the mother must, at the adoption hearing, after permission has been granted, persuade the Court that the Adoption Orders should be refused and the Court should reverse the direction in which the children's lives have travelled since the Care and Placement proceedings. The mother must realise that time has moved on for A and F, even if time has stood still for the mother herself.

28. These above steps were outlined in Re W [2011] 1FLR 2153, Re B-S [2014] 1FLR 1035 and Re W [2014] 1FLR 1266. The mother has referred to some of these decisions in her statement and the Local Authority also in its skeleton argument.
29. There is another aspect which should be mentioned. District Judge Shaw's decision pre-dated the decision of the Court of Appeal in Re B-S above. In these circumstances, I should consider whether his judgment engages with the essence of the case looked at as a whole, concentrating on substance rather than form. In short, were key answers provided for key questions? (See Re W [2014] 1FLR 1266 at paragraph 16).
30. Let me briefly amplify the steps outlined above.
31. In relation to Step One, any change in circumstances is an issue of fact. The test should not be unachievable. The changes must be relevant or material to the question of whether or not leave should be granted. The changes are not confined to those of a birth parent, but they may include a subject child (see Re T [2014] EWCA (Civ) 1369).
32. In relation to Step Two as identified, that is an issue of judicial evaluation or discretion. Paragraph 74(i) to (x) of Re B-S identifies the features to be weighed in the balance. I am well aware of the seriousness of adoption and the decision of the Supreme Court in the case of Re B [2013] 1WLR 1911. While it is resistance to the adoption rather than familial reunification which is key, the mother's case is put on the basis of reunification and not long-term foster care.
33. In Re L [2014] 2FLR 913 at paragraph 45, Lady Justice Black said this:

"When a judge considers a parent's prospect of success for the purposes of section 47(5), he is doing the best he can to forecast what decision the judge hearing the adoption application is going to make having the child's welfare throughout his life as his paramount consideration. What is ultimately going to be relevant to the decision whether to grant the adoption order or not must therefore also be material at the leave stage."

I have regard also to Lady Justice Black's observations at paragraph 58 of the same case.

The original decision

34. This is intended to be by way of summary only. The District Judge found the threshold criteria under section 31(2) Children Act 1989 to be established on the basis of the typed document at page E1 to E4 of the trial bundle. This is set out at internal pages 18 to 21 of his judgment. These features of "actual or likely significant harm" included the following:
 - (a) serious domestic violence;
 - (b) homelessness and unsettled home conditions;
 - (c) threatened physical harm;
 - (d) disclosed actual physical harm.
35. Additionally, there is reference to Dr Edwards' diagnosis of an untreated personality disorder with regard to the mother (see page 18 of the judgment). **This finding was supplemented by the District Judge's own impression of the mother's presentation and language during the five day contested hearing when she was represented by counsel. The judgment refers to the mother's "aggression, confrontation, threats and florid allegations which are inappropriate in every respect".** This included examples of her behaviour in Court (referred to at page 19 of District Judge Shaw's judgment). The mother's attitude of confrontation and non-cooperation were ingrained.
36. In relation to "welfare", the District Judge referred to the diagnosis of Ehlers-Danlos syndrome (an inherited condition affecting the connective tissue in the body) raised as an issue on the mother's behalf in relation to both her and her children. The District Judge at page 23 of the judgment referred to:
 - (i) past domestic violence;
 - (ii) illicit substance misuse;
 - (iii) the mother's poor choice of partners;
 - (iv) the absence of accommodation due to eviction and the unsettled nature of the children's upbringing with the mother as a result; and
 - (v) the mother's relationship with a man in the United States of America, she having indicated an intention to move there.
37. District Judge Shaw observed that the children had settled and then referred once more to Dr Edwards' report and the mother's personality disorder (see paragraph 2.18.25 of Dr Edwards' report).
38. Dr Edwards (at page 49 of her report) described some of the personality traits identified in the mother:

- (a) distrust and suspiciousness of others;
- (b) cognitive and perceptual distortions and eccentricities of behaviour;
- (c) instability of interpersonal relationships and self-image.

These traits were apparent in the content of the mother's oral submissions to me when she spoke for forty-five minutes without interruption in the courtroom.

39. At page 52, Dr Edwards concluded:

"It is my opinion that living with the mother is likely to be an intense, chaotic and anxiety-provoking experience. The intensity of her presentation is likely to fluctuate in response to environmental factors and life events and that when the mother feels personally well supported and feels she is being validated, that she is more settled. However, the underlying difficulties are unlikely to change significantly."

- 40. The District Judge did not perceive any change in the mother's presentation (see page 24 of the judgment). Indeed, he identified a deterioration, exemplified by the problems which had led to the suspension of contact. Treatment of the personality disorder would "take a long time" and he "did not believe that she (the mother) could or would engage in such a regime" (see page 24 of the judgment).
- 41. He accepted the opinion of Dr Edwards and the Guardian, who recommended the granting of Care and Placement applications in her carefully prepared report. The Orders were necessary and proportionate and designed for the protection of the children's welfare (see page 26 of the judgment).
- 42. Although I could not identify a reference to the Adoption and Children Act 2002 specifically in the transcribed judgment, the substance of the judgment clearly indicated that the overwhelming imperative of the children's safety (having regard to their poor care while with their mother) led the District Judge to make these Orders and to dispense with the mother's consent to the making of Placement Orders.
- 43. The mother's suspicion of professionals would (I believe) have a number of potential consequences:
 - (a) If reunited with the children and if her future parenting standards slipped, she would be unlikely to request assistance from professionals, fearing a further removal and being generally mistrustful of them. Concealment would be more likely;
 - (b) The prospect of therapeutic engagement by the mother would be limited.

The mother's application

- 44. The mother, at significant length, sets out both in her statement and in her oral submissions her family history. She also confirmed the opposition of the family to adoption, and she referred to the assistance received from campaigning networks which have supported her. She refers also to her educational history. She takes issue with District Judge Shaw's judgment and she maintains that there is no basis for his Orders (see page four and page five of her statement). The mother attacks the Local Authority

social workers and refers to “a paedophile ring within our Royals, Government, Courts, Children’s Services”. She has sustained a miscarriage of justice “that would warrant the arrest of [the] parties involved”.

45. At page eight to ten of her statement, under the heading “Background”, she amplifies her family history and she refers to her other children. Pages 11 to 15 of her statement appear to be the draft, or the actual grounds of appeal, previously deployed by her when she sought to appeal the original Orders. At pages 15 to 16, she refers to the statutory provisions under section 47 Adoption and Children Act 2002 and the relevant appellate decisions. At page 17 paragraph 7, she asks for permission to appeal my decision, in anticipation (presumably) of an adverse outcome. At page 18, she states as follows, and this probably encapsulates her position:

“As the grounds for removal are proven to be invalid, there are no change of circumstances required”.

Attached to the last page of her statement there is a newspaper cutting of the mother and her children under the headline “Benefit Britain”.

The children’s circumstances

46. From the adoption report and the adopters’ anonymised statement, it is clear that the children have settled well. This should be of some comfort to the mother. The loss of the children would “cause severe distress and anguish to them” (see page B21 of the adopters’ statement).
47. When District Judge Shaw considered the original applications, he could not be sure that:
- adoptive placements would be identified for the children together; and
 - that they would settle in their new home.

I have information, however, which confirms both of these key factors. The pre-adoption medicals do not indicate that the children’s health precludes any adoption.

Conclusion

48. As I have indicated already, because the mother remains fixated with the injustice of the original decision made by District Judge Shaw, she sees no reason for changing her circumstances. **Indeed, the mother provides little actual detail about her current circumstances.**
49. There is no indication that the mother has obtained any therapeutic assistance, as identified by Dr Edwards. The mother’s personality disorder therefore remains untreated.
50. The mother appears to be single; I have no idea about her future intentions. She has accommodation (she told me) with an Aunt, but little detail is provided.
51. The mother told me that she had seen a General Practitioner, without indicating to me why, nor what ensued as a result of such a visit. The mother remains hostile to any authority which has thwarted her or is likely to stand in her way.

52. She appears to believe that she could (very easily) resume her care of A and F despite the very significant changes in their lives, and appears to anticipate very little difficulty whatsoever.
53. **I believe the children A and F would suffer significant harm if their current home circumstances were dissolved. I am as certain as I can be in this case that the mother:**
- (a) **has not demonstrated a change in circumstances;**
 - (b) **that her ultimate prospect of success, if given leave to oppose, lacks the necessary degree of solidity; and**
 - (c) **that the impact on the children (if given leave to oppose) would be adverse.**
54. Accordingly, **I refuse** the mother's application for permission.
55. I am satisfied with regard to the identification of the applicants and the subject children. The Agency post-box arrangements for indirect contact are appropriate in this case. The second condition under section 47 of the Adoption and Children Act 2002 is satisfied.
56. Furthermore, I am satisfied under section 1(2) of the Adoption and Children Act 2002 that A and F's welfare throughout their respective lives and the 'checklist' provisions under section 1(4) of the Adoption and Children Act 2002 lead me to conclude that Adoption Orders are required in the case of both children.
57. The adoption reports and the statement of the adopters confirms A and F's happy and settled home circumstances as a prelude to a legally secure and hopefully stable adoptive placement, with carers able to nurture the children during their childhood, as a building block for a grounded future adult life. To dissolve this happy domestic environment would be harmful to both children.
58. Pursuant to FPR 14.16(8), there are special circumstances of security and confidentiality here for making Adoption Orders, without the personal attendance of the adopters. Accordingly, after twenty-one days, Adoption Orders will be made and issued - as set out above.
59. I propose to proceed as outlined in the case of *Re W* above at paragraph 31, and I will clarify with the mother, whether she intends to ask for permission to appeal as indicated in her statement where permission is requested.
60. This transcript has been provided at public expense and could be published on Bailii in anonymised form so the children and the adopters are not to be identified, because this is a serial number application. I will hear representations as to whether any party objects to this disclosure. **The mother, I suspect, will publish her own distorted version of events and the public may prefer to judge the truth for themselves.** The transcript will be retained for A and F on their adoption files and they may have access to my judgment as adults, so they can read for themselves what led to this decision.

61. Accordingly, the following Order will be made after the usual recitals:

Upon hearing the birth mother in person and counsel for the Adoption Agency and upon consideration of the documents filed herein, the Court orders that:

- (i) The mother's application for permission to oppose the Adoption Orders is refused;
 - (ii) Unless the mother within twenty-one days:
 - (a) Obtains a stay/extension of time;
 - (b) Obtains permission to appeal from the single judge of the Court of Appeal;
- The Court shall proceed to make and issue Adoption Orders for both children after [twenty-one days]. The mother shall be served with notification that the Orders have been made by the Court in the case of both children under FPR 14.26(1)(f).
- (iii) The transcript of today's judgment (handed down) is to be discharged from central funds.
 - (iv) Paragraphs (3) and (4) of the Order made on 10th April 2015 is discharged.

62. I will deal in a moment with the application (if the mother wishes to pursue it) for permission to appeal.

63. That concludes my judgment.