# RE S (APPEAL: PREPARATION OF SKELETON ARGUMENT)
# [2015] EWCA Civ 1015

Court of Appeal

Jackson, Ryder and Bean LJJ

13 August 2015

*Care proceedings – Procedure – Appeal – Skeleton argument – Litigant in person – Counsel proceeded without filing an undated skeleton argument*

Care proceedings were initiated in respect of the 5-year-old child as a result of concerns that he was at risk of emotional abuse due to the domestic violence in his parents' relationship. He was alleged to suffer from extreme emotional, behavioural and attachment difficulties associated with severe attachment disorder. The local authority claimed that the parents had been unable to manage his extreme behaviour and that they took no responsibility for their own conduct and its effect on the child. The local authority care plan, opposed by the parents, was for him to remain in long-term foster care. The father sacked his counsel during the final hearing of the care proceedings. A final care order was made and the father appealed making several allegations regarding the judge's handling of the evidence and his reasoning. The father obtained counsel for the substantive appeal hearing but the arguments presented orally were not reflected in an updated skeleton argument despite requests from the other parties to do so.

**Held** – dismissing the appeal –

(1) Where counsel took over a case formerly handled by a litigant in person the proper course was for counsel to prepare a single composite skeleton argument which incorporated all the submissions which counsel proposed to advance. The single composite skeleton argument must comply with PD 52A, section v and PD 52C, para 31 (see para [56]).

(2) Permission would be needed to file and serve a substituted skeleton argument in place of that originally drafted by the litigant in person. In the general run of cases where a qualified advocate was instructed to represent someone who had hitherto been acting in person, such permission was likely to be granted (see para [57]).

(3) In this case it was not appropriate for the appellant to ambush the court or the respondents by the wealth of detail to which the court was taken in oral submissions without a replacement written skeleton argument or reading list. The requests for a replacement skeleton argument in time for the hearing should have been responded to. The appeal was presented in a disproportionate way and without adequate notice to the court or the other parties of most of the material that was to be relied upon. That must not happen again (see para [52]).

(4) There were no real merits in the appeal. The judge came to the conclusion that the father was to be excluded as a carer for his son after setting out all of the options for the child and taking each option in turn. The judge analysed the father's case by reference to the factors in s 1(3) of the Children Act 1989, namely the welfare checklist. He explained why he preferred the local authority plan over that of the father or the mother and he undertook a very full welfare examination, which incorporated a clear understanding of the Art 8 proportionality implications for the child and his parents (see paras [9], [45], [46]).

**Statutory provisions considered**

Children Act 1989, ss 1(3), 31(2), 38(2)

Civil Procedure Rules 1998 (SI 1998/3132), PD 52A, PD 52C

European Convention for the Protection of Human Rights and Fundamental Freedoms 1950, Art 8

*Maureen Obi-Ezekpazu* for the father
The mother appeared in person
*Ronan O'Donovan* and *Ewan Murray* for the local authority

*Cur adv vult*

**RYDER LJ:**

**[1]** This is an appeal by a father in relation to his 5-year-old son, who I shall call L.

**[2]** On 2 January 2015 His Honour Judge Hughes granted a care order in respect of L on the application of the local authority, Buckinghamshire County Council. The local authority's plan for L is long-term foster care. That is opposed by L's father, who is supported in his opposition by L's mother. The local authority oppose this appeal and they are supported by L's children's guardian.

**[3]** The background is important to one of the grounds of appeal but can be shortly stated. L has four maternal half-siblings. None of them live with their mother. L was the subject of more than one child protection plan by more than one local authority on the footing that he was at risk of emotional abuse, given the allegations of his mother about her domestic abuse at the hands of his father. Despite that, it was L's father who first began private law children proceedings against the mother for a residence order in relation to L, making his own cross-allegations against the mother.

**[4]** These proceedings were rapidly overtaken by public law children proceedings issued by the local authority on 13 June 2014. Within the public law proceedings, out of which this appeal arises, L's father expressed his doubts as to L's paternity, leading to DNA tests which established L's parentage beyond any doubt. L remained in his mother's care under interim care orders during the case management of the proceedings, but is now in foster care.

**[5]** The allegations relied upon by the local authority to satisfy the threshold in s 31 of the Children Act 1989 (the 1989 Act) can be found in a perfected document in the court bundle, described as the 'final threshold'. In summary, the local authority alleged that both of L's parents had exposed him to their domestic violence; that is, their violent and abusive relationship. They each blamed the other, but the consequence is alleged to be that L suffers from extreme emotional, behavioural and attachment difficulties associated with severe attachment disorder. He was at one point in the evidence described by the expert, Dr Helps, as the most disturbed youngster she had seen in her professional practice. He was permanently excluded from school and nursery for his aggression and violence to staff and other children. It was alleged that L's parents had been unable to manage his extreme behaviour and that they did not take any responsibility for their own conduct and its effect on L. There are other allegations in the threshold of direct physical harm being caused to L during the parents' altercations which were not pursued at the hearing, and an allegation which on any basis is conceded by the father, that he used cannabis and cocaine throughout the relationship.

**[6]** The judgment contains a detailed and careful analysis of the evidence, but it is based on the premise that unless otherwise expressed, the contents of the final threshold were agreed or not disputed by the parents. The final hearing was accordingly a welfare analysis and evaluation of the parties' proposals and the options that existed for L in the context of a known factual circumstance. It is that proposition that is now disputed and which underscores the whole of this appeal.

**[7]** There are 10 grounds of appeal, settled by L's father as a litigant in person, but more recently elaborated on by counsel. Some of the grounds are so opaque on paper that it is difficult to understand whether there is a separate point or whether, in fairness to L's father, he is identifying things about which he is unhappy, reduced to writing to emphasise the extent of his complaint. Yesterday the father's counsel, Ms Obi-Ezekpazu, took the court through the father's grounds of appeal in extensive oral submissions without any significant written skeleton argument in support. That was frankly an unacceptable way of presenting the father's appeal.

**[8]** The grounds contain the following important assertions:

(i) the threshold was never conceded and is neither analysed by reference to nor capable of being satisfied on the evidence;

(ii) the father's plans for L were never disclosed into the proceedings, and accordingly his proposal was wrongly regarded as unrealistic. Further, the assessment and social work evidence failed to disclose or consider the positives that existed in the assessments or contemporaneous materials;

(iii) there was no comparative evaluation by the court of the plans that were available for L, nor any proportionality evaluation of the interference that the local authority's plan and the court's order represented to the Art 8 European Convention rights of those involved, in particular L and his parents; and

(iv) there were procedural irregularities which included discussions between the judge and the advocates out of the hearing of the father after he had sacked his barrister on the second day of the hearing, and the judge took a proportion of what he subsequently relied upon in judgment from the analyses of the local authority and the children's guardian in their opening statements, submissions and position statements.

**[9]** Insofar as they are capable of scrutiny, I shall take each of the grounds in turn, but I am compelled at the outset to observe that there are no real merits in this appeal and that significant resources have been exhausted investigating and answering the father's claims. That circumstance arises out of the fact that he sacked his then barrister during the hearing and has subsequently made assertions about his own case that are not correct. Some of those assertions led the single judge to grant permission. In my judgment it now appears there was an insufficient basis for permission to appeal to be granted.

**[10]** The first ground is the most important. As the local authority and the children's guardian correctly analyse, the appellant's submissions can be broken down into three parts as follows: (a) the appellant had not conceded

the threshold; (b) the judge had not conducted an independent evaluation of the threshold; and (c) the findings of the judge were not sufficient to establish that the threshold was met. Each submission is fundamentally wrong.

**[11]** As the orders drawn by the court record, both the mother and the father conceded the s 31 threshold on 28 August 2014 and at each subsequent stage of the proceedings for which an order was drawn. If they had only conceded the interim threshold in s 38(2) of the 1989 Act, necessary for the making of an interim order, the orders drawn could have said so. The orders record that a full concession was made. In any event, what was being conceded was the factual basis for the threshold.

**[12]** Ms Obi-Ezekpazu, who did not appear in the court below, has pointed out how the detail contained in the threshold documents was elaborated upon from the first time the threshold was filed by the local authority until a composite document allegedly reflecting the parents' concessions was drawn, and finally the document used during the final hearing, the final threshold, came into existence. She is able to submit that such concessions as the father made in his own response document were to the earliest interim threshold, which was not particularised as to the facts. In consequence, she submits it was wrong of the judge to have relied on the proposition that the threshold was agreed when the particulars were not.

**[13]** To argue that the appellant only conceded the interim threshold pursuant to s 38(2) of the 1989 Act does not assist the appellant. To make interim orders, the court has to be satisfied that there are reasonable grounds for believing that the circumstances with respect to the children are as mentioned in s 31(2) of the Act. That would at least require the court to have identified the prima facie evidence of the facts alleged. The court repeatedly recorded that those facts – that is, the s 31 facts – were conceded without reservation of any issues on the face of the order.

**[14]** Even if the court made an error in drawing its orders, though no such error was alleged at the time, it is a matter of record that by the time of the finding-of-fact hearing, the parents had made further factual concessions in their own written evidence. The local authority opening and closing submissions, which were reduced to writing, clearly indicated that the local authority believed that the facts in paras 1–5 inclusive of the final threshold document in the bundle were conceded, and the transcript of proceedings records a discussion between the judge and the mother's counsel in which the judge's understanding was that paras 1–5 inclusive of that threshold document were agreed. No one at the time suggested otherwise.

**[15]** I record the fact that the appellant father told the single judge who gave permission that he had not seen the threshold document until after he had sacked his barrister. That can of course only be correct in respect of the final threshold document.

**[16]** Let us assume for a moment that the assertion is true. It does not explain the factual concessions made by the father in his own materials, nor the concessions made during case management. For example, the father submitted a response to the threshold on 24 June 2014, signed by him with a statement of truth, which sets out the following:

> '(i) The matters recorded in para 1 of the final threshold statement are accepted in their entirety.

(ii) L was exposed to disputes between the parents, despite his efforts.
(iii) The parents have a toxic relationship and L witnessed his parents' violent relationship in the past, including an incident at L's nursery.
(iv) L should be removed from the mother's care due to the deterioration in his presentation.
(v) The father had contact with the mother against the advice of the local authority. This relates to para 4 of the final threshold statement.
(vi) The matters recorded in para 5 of the final threshold statement are accepted in their entirety.'

**[17]** In addition to those concessions which can be identified on the papers, other matters were obtained by way of concession from the father during the parenting assessment, namely: (a) that L had witnessed arguments between the parents; and (b) that the nursery had reported the father to the police for an altercation in front of L.

**[18]** Given the nature of the concessions made, the only evaluation of those facts that was necessary was as to the causative link between the same and the harm suffered by L. There are numerous references in the judgment to these matters. I do not propose to rehearse those matters in extenso given that the submission relating to them is manifestly wrong. I shall, however, cite one finding in the judgment, which comes from the evidence of Dr Helps, because it is a complete answer to this limb of ground one and also to the third limb, namely that the matters relied upon are not sufficient to pass the s 31 threshold. The judge set out Dr Helps' evidence, which he accepted in the following terms:

> '[Dr Helps had] never seen a child with such severe behavioural and attachment difficulties, notwithstanding that she sees several hundred children a year in her clinical practice. The main concern was the speed at which he moves to acting in a violent and aggressive and controlling manner. These arise out of L's severe attachment difficulties, which she believed were directly attributable to his previous experience of domestic violence and volatile adult relationships.'

**[19]** And:

> 'She [Dr Helps] was taken to the lengthy chronology of this case and the prolonged and worrying cycle of the toxicity of the relationship between the parents, and she was clear all these things had led to L being the way he is.'

**[20]** Ms Obi-Ezekpazu attempts to meet this conclusion by pointing out that the father disagreed with Dr Helps, inter alia, because she did not carry out a full assessment of him with his son. She is able to demonstrate that after dismissing his then legal team, the father made it clear to the judge that he wanted to recall Dr Helps and cross-examine her about what caused the

behaviours that his son exhibits. The judge formally ruled against that course. Strictly, I do not think that decision forms part of a ground of appeal, but I shall deal with it in any event.

**[21]** There are two problems with counsel's submission. The first is that Dr Helps' opinion stands firm, regardless of who was responsible for the abuse and aggression within the household. It is the child's exposure to a toxic relationship that is the cause, and the father has conceded that the relationship was toxic and that the behaviour is extreme; for example, after he sacked his barrister and in discussions with the judge. The mother concedes the toxicity of their relationship before this court today. Further cross-examination would not be likely to change that opinion.

**[22]** In any event, this court has not been taken to a transcript of the evidence of Dr Helps. The judge knew what she had said and about what she had and had not been questioned. In the absence of any material upon which this court could conclude the father had a case that was not put, or that there was evidence that the judge did not bring into the balance, the mere assertion that the father's case would have been different if Dr Helps had been recalled is hopeless.

**[23]** Ms Obi-Ezekpazu raised a number of other questions under this ground. She took the court to transcript references which she submits demonstrate that the judge regarded the facts in issue as needing to be proved. She submitted that that demonstrates that the judge knew the threshold was not agreed. The transcript references relate to an exchange between the judge and the father after he had sacked his barrister. In context, as I understand the references, the discussion arose out of allegations that did not need to be proved for the threshold to be satisfied, including allegations that the parents made against each other in the previous private law proceedings. The judge's comments about those facts needing to be proved, if they were to be relied upon, does not in any sense detract from his understanding that the parties had agreed at least a substantial part of the final threshold.

**[24]** Ms Obi-Ezekpazu then took the court to an example of the cross-examination of the father about a threshold allegation that was not pursued during the final hearing. It should, of course, have been removed from the threshold document, but in fairness to counsel who asked the question, he made it clear that the allegation was not pursued. Strictly, the judge should have intervened to prevent the question being asked, but the fact that the question was asked is not, in my judgment, indicative of the fact that the judge knew or should have realised that the threshold was not agreed, or more accurately, was no longer agreed by the father.

**[25]** All of these submissions are flatly contradicted by the judge's clear understanding that the threshold was agreed. He sets that out in the judgment at para [246]. It was opened and closed to him by the local authority without objection. It is beyond argument that that was the basis upon which the hearing was conducted, and the father's attempt before this court to deconstruct it has not, in my judgment, been successful.

**[26]** In summary, therefore, the threshold was amply crossed on the concessions of the mother and the father and the evidence of Dr Helps, and there is no merit in ground one of the appeal.

**[27]** Grounds two and five, which were taken together, involve an assertion that a family plan constructed by the father's extended family at a family

group conference was not put before the court. In fact, it appears that it was handed to the judge by the father at the end of the hearing, and it could have been part of the father's evidence at an earlier stage had he chosen to exhibit it to a statement. It could not have been commented upon by those who had conducted assessments because it was not a minuted document in existence until the assessments were complete, and no one on behalf of the father asked for an addendum assessment to be conducted on the basis of the context of the FGC minute.

**[28]** The judge did refer to the father's proposals arising out of the family group conference at para [207] of his judgment. At para [251](f) of the judgment, the judge concluded that the father had 'given very little thought to the practicality of caring for L'. That was the judge's conclusion in respect of the overall proposal. He concluded also that the father lacked insight into the reasons for L's difficulties.

**[29]** The judge's conclusions were open to him on the evidence, and cannot seriously be doubted. The judge reasoned why the father was incapable of providing L with good enough care. Those reasons were cogent. It cannot seriously be said in light of those conclusions that the father, supported or otherwise by his extended family, was a realistic care proposal for L.

**[30]** The father now says that he did not have his copy of the FGC plan, disclosed by the local authority in accordance with the case management order recital, until a date unknown during the hearing. He says that he received a copy from his sister who was present at the conference. He did not get a copy of his own. That assertion was only disclosed to this court in oral submissions yesterday afternoon. There is no way of checking truth of that assertion.

**[31]** In any event, it appears that the father had the document during or at the end of the hearing and chose to do nothing with it, save to give it to the judge. If the children's guardian and the social worker were cross-examined upon its contents, this court does not know what, if any, response there was. The court has been taken to the references in their written evidence to the FGC proposals. That at least establishes the proposition that extended family support for the father was available, and that the court knew of that, not least from the social work evidence.

**[32]** There is an additional answer to this ground of appeal. No matter how detailed the plan for extended family support, the judge decided, as he was entitled to, that the father had insufficient insight into the cause of his son's problems. Whether or not it is correct to comment on the insight of the other family members, it was certainly the local authority case, supported by the children's guardian, that the family plan did not assist because it could not protect against the cause of the child's behaviours, nor the father's lack of insight into the same.

**[33]** Although not pursued orally before us, this ground also included an assertion that the judge did not give sufficient weight to the father's proposal for a therapeutic residential school for his son. The proposal only arose during final submissions and so was not the subject of cross-examination by anyone. The judge considered it and rejected it at para [208] of his judgment. Given the emphasis on the child's need for parenting as well as therapy, the judge's conclusion in respect of this proposal is hardly surprising.

**[34]** Grounds three and six were taken together and they are allegations of procedural irregularity by the judge. The primary assertion is that on day 2, after the father's legal team had been dispensed with overnight, his former counsel attended court, as was appropriate and courteous, to explain that he had to withdraw. No objection can be taken to that circumstance.

**[35]** What appears to have happened is that the judge heard about that from counsel in the presence of the other advocates, but while the father was outside the courtroom. It is not clear why the father was not present, but even if he had chosen to stay outside, the judge should have investigated his absence and not proceeded to discuss any matters without him being there unless that was unavoidable. Accordingly it is necessary to carefully consider the content of the discussion which took place. There was a reference in the discussion to the threshold, but all that was said (even if it should not have been said) was that the father wanted to pursue his case. The reference to the threshold takes the matter no further.

**[36]** There was an issue that arose in that discussion about the father seeking to disclose matters to a national newspaper about the proceedings. That may have been a potential contempt, and the judge re-raised that question with the father immediately on his return to the courtroom. The judge granted an injunction on an application made in the face of the court by the local authority, which was therefore made without notice to the father and without any written evidence in support. It is not possible for this court to say whether he was right to have done so, or to have done so in the manner that he did. That order is not the subject of an appeal to this court, and so information about it has not been put before us for scrutiny. What is said is that the judge's attitude in granting the order is evidence of a predisposition against the father, and that we should take it as an example of an unfair trial process.

**[37]** Without investigating the appropriateness of the order made, it is not possible to come to any conclusion about the process or the effect of that decision on the ultimate decisions complained of. It was an ancillary interlocutory step that was not appealed and as such must be regarded as appropriate until proved otherwise; we have no material to suggest that it was not appropriate. In any event, the logic of the submission is that any adverse decision by a judge against a party without more renders the process unfair. That is manifestly wrong.

**[38]** Under this ground, there should be considered the complaint that the judge used some material in the 256 paragraphs of his judgment which were taken verbatim or near verbatim from the skeleton arguments and written materials placed before the court by the parties. Any serious analysis of the words used by the judge in his judgment would reveal that some of the words came from the opening submission of the local authority and the parties' subsequent submissions. At most, 20% of the material in the judgment came from the preparation of others, and none of that material has been demonstrated by the father to be wrong. This is most certainly not a judgment that falls foul of this court's condemnation of electronic plagiarism, or the cutting and pasting of materials. This is quite simply a make-weight allegation of no substance.

**[39]** Ground eight, relating to contact, is not pursued, and that brings me to grounds four and nine, which were again taken together. In essence, it is submitted that the judge rushed his decision, did not look at the options, and

closed his mind to whether the father's proposal was a realistic option to be considered alongside the local authority's proposal in a comparative welfare evaluation. In fact, the particulars relied upon by Ms Obi-Ezekpazu for these grounds are criticisms of the accuracy and detail of the social worker's and children's guardian's materials, and in particular their reference to the FGC plan. I have already dealt with the latter.

**[40]** Submissions about the former focused on differences that can be discerned upon a reading of the social work evidence and assessments and documents that were not before the judge which the father has obtained by making 'subject access' requests. Strictly speaking, these documents should have been the subject of an application to adduce additional evidence before this court, but we read them de bene esse. It is correct that documents in the supplementary bundle describe the father as behaving appropriately with his son during contact and setting appropriate rules for his son's behaviour and to mitigate circumstances of risk that had arisen. When that is translated into social work evidence, the facts are corrupted and wrongly recited so that the father is impliedly or overtly criticised.

**[41]** These are good cross-examination points, which if put to the social worker would no doubt have demonstrated that in some respects the social worker was not an accurate reporter or risk analyst. That said, there is quite insufficient in these examples or the written materials presented to this court by Ms Obi-Ezekpazu to dislodge the key conclusions of the social worker or those, including the judge and Dr Helps, who relied on them.

**[42]** The father also submits that the assessment reports prepared for the private law proceedings did not assess his parenting or observe his contact, and were not updated in accordance with an order of the court. The last complaint is wrong. Such updating as was ordered was overtly limited to the private law proceedings and was revoked on the face of the order if public law proceedings were commenced.

**[43]** I have read the reports in question. They are not in themselves inadequate or superficial, arguably quite the contrary, but any assertion that they were was for cross-examination, and this court does not have the transcripts of that evidence. It is submitted that because Dr Helps relied on these materials, she would have been misled by them. Again, that is no more than a bold assertion, in the absence of any materials which this court can scrutinise. In any event, as I have already remarked, the judge's conclusions and Dr Helps' opinions upon which he relied about the toxic relationship and the child's behaviours are not dependent on the fine detail of earlier assessments of the father.

**[44]** Turning then to the real import of these grounds, which is that the judge's treatment of the welfare analysis and proportionality evaluation was wrong, it is submitted that the judge rushed to a conclusion. I can find no support for this assertion. Insofar as the context is that the father suggested a further delay while he was assessed again in some further and more comprehensive manner, the judge dealt with that at paras [63] and [66] of his judgment. The judge concluded, for example, at para [136] of his judgment that the father had been fully assessed and no professional supported a further delay or the obvious consequence for the child, which would be another placement to await the delayed decision of the court.

**[45]** It is certainly the case that the judge came to the conclusion that the father was to be excluded as a carer for his son. He did so by setting out all of the options for the child from para [250] of his judgment onwards, and by taking each option in turn. The judge analysed the father's case by reference to the factors in s 1(3) of the 1989 Act, namely the welfare checklist. He explained why he preferred the local authority plan over that of the father or the mother.

**[46]** I do not accept that the judge ruled out the father without any adequate analysis. The judgment is a detailed critique of his case. I would be minded to accept that the judge's treatment of the father's case once he had analysed it was that it was unrealistic. If I am right, then that was an appropriate conclusion on the evidence that was before the court. Any more detailed comparative analysis was accordingly unnecessary. Even though further analysis was unnecessary in my judgment, the judge did undertake a very full welfare examination, which incorporated a clear understanding of the Art 8 proportionality implications for the child and his parents.

**[47]** Ground 10 was not particularised orally before us. Insofar as it might include the request for further assessment made by the father, I have dealt with that question.

**[48]** There was also the issue of the father's drug use, and the question of whether the father would benefit from therapy. I do not agree that the assessments that were undertaken have been demonstrated to be inadequate or insufficient. They were fit for the purposes for which they were intended, and the father has not made any serious inroads into their merits by his general complaints. I comment that a great deal of the material to which we have been taken relates to more than one ground of appeal, and even if that was not submitted to us, we have taken each of the particulars that we heard in oral submissions to be relevant to each ground of appeal and have considered those matters appropriately.

**[49]** Finally, the court had the advantage of reading written submissions by the mother in support of the father. The mother is a litigant in person before the court today, with the support of the PSU, to whom we are grateful. Her submission is that the barristers never showed her any threshold documents after the first, that the social worker had lied on oath in respect of a matter that can be identified from the transcript and accordingly her credibility must be in issue, and that the behavioural problems of her son might be inherent in the sense that investigations are being pursued in respect of those causative influences at the moment. She was non-committal about the other potential causes of the child's behaviours.

**[50]** In addition to her repetition of matters relied upon by the father, the mother in her documentation takes issue with a catalogue of factual reports and opinions that are contained in the court papers. She does not herself seek to appeal the court's orders, although she clearly disagrees with them. What she really seeks is a rehearing, during which she can re-raise all of her disagreements. This court cannot be sure whether she has already put her disagreements – that is, her case – or whether she now seeks to put a different case. This court does not have the transcript material to undertake that analysis. What can be said is that the catalogue of disagreements that the mother seeks to rely upon cannot themselves dislodge the judge's conclusions. They represent a serious disagreement with the judge and most,

if not all, of the professionals' opinions, but that is what the first instance court was there to decide. The fact of a disagreement is not sufficient to raise a realistic prospect of appeal.

**[51]** For the reasons I have described, I have come to the conclusion that I would dismiss this appeal.

**[52]** I wish to put on record that it was not appropriate for an appellant to ambush the court or the respondents by the wealth of detail to which this court was taken yesterday afternoon in oral submissions without a replacement written skeleton argument or reading list. Ms Obi-Ezekpazu should have responded to the requests that were made of her by the other parties for a replacement skeleton in time for this hearing. This appeal was presented in a disproportionate way and without adequate notice to the court or the other parties of most of the material that was in fact to be relied upon. That must not happen again.

**BEAN LJ:**

**[53]** I agree that for the reasons given by Ryder LJ the appeal must be dismissed. I also agree with his observations about the way in which the case of the appellant father was presented.

**JACKSON LJ:**

**[54]** I also agree and wish only to add a few words about skeleton arguments. It quite often happens that counsel steps into an appeal which has been lodged by a litigant in person. The incoming counsel will often inherit a skeleton argument which the appellant has drafted in his own words. This is what happened in the present case. The father drafted and filed a 20-page skeleton argument in support of his grounds of appeal. When counsel came on to the scene, she naturally prepared her own skeleton argument. The first paragraph of her skeleton reads:

> 'This skeleton argument is filed pursuant to CPR practice direction 52C para 21. Please note that the appellant does seek to rely upon the skeleton argument filed with the appellant notice. That document was prepared by the appellant as a litigant in person. This document is produced to further assist the court in its task of hearing the appeal and is supplemental to the original skeleton argument.'

**[55]** Thus the court had two parallel skeleton arguments covering the same ground in different ways.

**[56]** That is not a satisfactory approach. The proper course is for counsel to prepare a single composite skeleton argument which incorporates all the submissions which counsel actually proposes to advance. It goes without saying that that single composite skeleton argument must comply with PD 52A, section v and PD 52C, para 31.

**[57]** Counsel will, of course, need permission to file and serve a substituted skeleton argument in place of that originally drafted by the litigant in person. In the general run of cases where a qualified advocate is instructed to represent someone who has hitherto been acting in person, such permission is likely to be granted.

**[58]** Having dealt with that procedural matter, I return to the substantive case. This appeal is dismissed for the reasons stated by Ryder LJ.

*Order accordingly.*

Solicitors: *Burke-Niazi* for the father
*Local authority solicitor*

SAMANTHA BANGHAM
*Law Reporter*