

## CASE SUMMARY

### *N (A local authority) v RK and another [2020] EWFC 25*

#### Summary

Care and placement orders made in respect of a baby during the Covid-19 pandemic and national lockdown. The national health emergency was not a reason for delaying the implementation of the placement proposal, nor for granting an adjournment to allow the parents opportunity for further assessment. This was the first successful full trial of care proceedings done remotely using Skype.

#### Background

This case concerned EK, a baby less than one year of age and the subject of an application for a care and placement order by the local authority, N.

The parents had a troubling background. At the age of 14, the mother was herself removed from her parents under a care order. She had two children prior to the birth of EK, one with EK's father, and both had been placed for adoption in 2016 and 2018 respectively. The first child was E, born in 2012 to a different father. The second child was R, born in 2016 to EK's parents. The father had mental health difficulties, was controlling and had difficulty maintaining long-term stable relationships. The parents' own relationship was deeply toxic. The father had been controlling and physically violent toward the mother. The mother had difficulty recognising abusive relationships.

In relation to EK, care proceedings were commenced the day after her birth in 2019. On 26 April 2019, an interim care order was made on the basis that the mother and EK would move to a mother and baby foster placement. They were later moved to supported accommodation on the basis that the mother and EK would keep away from the father. On 16 August 2019, it became known that the parents were in contact with each other and EK was removed from her mother's care.

A written agreement was entered into between the mother and the local authority in September 2019, the terms of which included an agreement that the mother would make EK available for contact with her father, strictly confined to a contact centre, and that the mother would not take

EK to stay anywhere overnight without agreement of the local authority. On this basis EK returned to her mother's care.

In breach of the written agreement, the mother took EK to the home of A and D and stayed there. The mother had met A online and formed an intimate relationship with him. A had deceived the mother, maintaining that he was a single person when in fact he was living with his partner, D, who was recently pregnant. Notwithstanding, the mother took EK to their home in order to conduct the relationship.

While residing with A and D, the mother neglected EK's health. In particular, EK's eczema, from which she had suffered since birth, worsened to such an extent that her skin was falling off and she was bleeding. EK was separated from her mother in November 2019 and she was placed into foster care.

The parental capacity assessments conducted by the social worker, NQ, concluded that neither parent had the capacity to raise EK safely. An independent social worker, LS, conducted an independent assessment of the father and reached the same conclusion.

### The Application

The local authority applied for a final care order and that EK be placed for adoption. This was opposed by both parents, each seeking a further chance to show they were fit to care for EK. The father also argued that, in light of the Covid-19 pandemic and likely delays to any adoption, proceedings should be adjourned for him to be further assessed.

### The Decision

The Court heard live evidence from the following:

- i. The professional witnesses LS, NQ and KS, who were all satisfied that nothing but adoption would do.
- ii. The mother, who was not able to explain why she had chosen to reside with A and D, nor why this led her to seriously neglect EK's health.
- iii. The father, who gave evidence as to the efforts he had taken in accessing courses to seek to improve his parenting ability.

Having heard the evidence, Mostyn J concluded that the parents were not able to demonstrate that they could safely raise EK and that it was “inconceivable that either of these parents could ever be trusted safely to bring up EK.” Material to Mostyn J’s decision was that the adoptive parents of E and R were willing to allow sibling contact with EK, subject to the consent of EK’s adoptive parents. Mostyn J further observed the inevitability, if EK were placed in the care of one parent, of the other parent having contact. This presented a risk of the parents rekindling their relationship, the judge not being satisfied that their “mutual infatuation” had finally come to an end. This risk was not one that could be countenanced.

Having been satisfied that EK’s welfare demanded it, the judge made a final care order and a placement order, dispensing with the consent of the parents. In his judgment, Mostyn J observes that “severing the bond between parent and child is a momentous thing. It has been said that since the abolition of capital punishment, it is arguably the most serious order that a judge in this country can make.”

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FOURTEEN

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