

IN THE BRIGHTON FAMILY COURT

Case No. SD23C50254

Neutral Citation Number: [2024] EWFC 344

William Street
Brighton
BN2 0RF

Wednesday, 14th August 2024

Before:
HIS HONOUR JUDGE BEDFORD
(sitting as s9 Judge)

B E T W E E N:

W S C C

and

Z & ANOR

MR G V BUTLER appeared on behalf of the Applicant
MS C CIBOROWSKA appeared on behalf of the Respondent Mother
NO APPEARANCE by or on behalf of the Respondent Father
MS K GOTTSCHLING appeared on behalf of the Child through the Guardian

JUDGMENT
(Approved)

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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.

HHJ BEDFORD:

1. Today I am able to conclude proceedings in respect of W who was born on 20 March 2018. The proceedings started in the Autumn of last year.
2. For today's purposes the applicant, West Sussex County Council, has been represented by Mr Butler. Mr Butler has been present for most of the hearings in these proceedings and I am extremely grateful for the way in which he has navigated what has been a complex situation which has presented various different challenges from time to time.
3. The first respondent is the mother, M B L, represented by Ms Ciborowska. Again, Ms Ciborowska has appeared on a number of occasions. In addition, she has been instructed by Lisa Ursell, who has gone beyond the norm in terms of providing what I consider to be an excellent service to the mother, who has remained in Mauritius throughout these proceedings.
4. It is testament to the professionalism of those representing the mother that we have been able to deal with proceedings in a completely fair and open way, notwithstanding that great distance. In addition, of course, the interpreters have played their part in that as well.
5. W's father has not played any part in the proceedings. W's interests have been represented through his children's Guardian, Ms Ingledeu and again, on a regular basis, Ms Gottschling has appeared on behalf of W.
6. There have been a number of issues which have required careful scrutiny by the Guardian and her lawyers, including W's immigration status. However, particularly, accessing W's wishes and feelings in a situation which in my experience, is unique.
7. Ms G has been an Intervenor in the proceedings and that has arisen in the context of W being in the UK and sadly, being the subject of proceedings.
8. On 3 February last year, the mother consented to her second cousin, Ms G, caring for W full time in the UK and that is how W came to be in the UK.
9. The threshold document which appears at A77 in the bundle before me, encapsulates the background in terms of W's experience whilst in the care of his mother in Mauritius and latterly, his perception of his experience in the care of Ms G, here in the UK.
10. The mother accepts the threshold document and that includes W not attending school when he should have been, and W being physically hurt by the stepfather. The mother also accepting one occasion when she hit W on the foot and W having witnessed domestic abuse towards his mother from his stepfather.
11. The mother does not dispute the findings sought by the Local Authority about W's experience whilst in the care of Ms G.
12. The situation is that Ms G has been present throughout the proceedings and carefully, at all stages, we have looked at her contribution to W's care, how he has come to be in care and what would be best for him going forward.
13. Following the issue as to how he was cared for by Ms G having been investigated carefully by the Local Authority and by this Court, the Local Authority's current final threshold document was put before the Court and that is not a document which Ms G seeks to challenge.
14. I am satisfied that the threshold criteria are made out as per that document and I come to that conclusion being satisfied that it is more likely than not, that what is said to have happened in each of those paragraphs is more than likely than not to be the case.
15. The parties come to Court today along with the Intervenor, to present an agreed position regarding the future for W.

16. He has been clear that he does not wish to go back to Mauritius, and he is also clear that he does not wish to be cared by Ms G nor does he wish to see her at this point in time.
17. The mother does not seek to have W back with her in Mauritius and positively wishes for him to remain in this country.
18. The Local Authority's plan is for him to be in foster care. That is a plan which his mother supports. In addition, whilst Ms G's status in these proceedings is that of Intervenor rather than party, she too, agrees with that way forward.
19. In terms of her own contact with W, she has said today that she is prepared to wait for that to rekindle as and when appropriate for W.
20. The Court finds itself in a situation where there is only one realistic option for W, and it is foster care. He has been fortunate to be cared for by a very experienced foster carer who is committed to looking after him until a long-term placement can be found. However, it is also clear that through a combination of their age and W's needs, they are not in a position to continue to care for him indefinitely.
21. That said, the foster carer has made clear that she would wish to offer respite care to W going forward.
22. I should be grateful if the Local Authority would ensure that the foster carer receives my thanks for the care and patience which has been shown to W in circumstances which have been challenging.
23. The Local Authority is clear that the cultural needs of W need to be recognised in terms of care planning going forward. It is not possible for the Local Authority to identify exactly what a placement will definitely be able to offer in terms of meeting those needs. However, it is sufficient that the Local Authority knows what it is looking for and is committed to those needs being reflected in the placement.
24. The Guardian's perspective is that, at the moment, W seems to be putting his own culture to one side and my understanding is that that might be explained by the circumstances in which he has come to be where he currently is.
25. However, it is important says the Guardian, that W's cultural needs are respected and reflected in the care that he receives going forward.
26. The Local Authority's plan is for there to be funded bi-annual contact, i.e. every two years with the mother from Mauritius. The Local Authority is also clear that if the mother is able, through her own finances, to visit more often, then that is something which they would seek to embrace. In addition, there are arrangements for indirect contact.
27. Today was listed as an issues resolution hearing ahead of the filing of the children's Guardian's report and final analysis. Given that all parties are in agreement as to the way forward, I am grateful to the children's Guardian for agreeing to give the live oral evidence today rather than submitting a final analysis which would have caused yet further delay and stress for the family. In addition, secondly but importantly, more expense to the public purse has been saved.
28. Ms Ingledeew's evidence has been helpful and clear. It has demonstrated the objectivity and independence that one expects from a Guardian. A Guardian who has taken the time to be with W and form her own independent views, albeit views which are consistent with those from the social work team in large part.
29. In all of the circumstances, I am satisfied that the order which is required by W's welfare, with his welfare as my paramount consideration, and viewing the issues through the lens of the Welfare Check List in the Children Act 1989 section 1 (3) which is the least interventionist order which is consistent with his welfare, is a care order. It is essential that the Local Authority shares parental responsibility and only a care order will give that to the Local Authority on an enduring basis.

30. I make the care order. I approve the care plan before the Court and ask that it be amended to reflect the willingness of the current foster care to offer respite going forward.

End of Judgment.

Transcript of a recording by Acolad UK Ltd
291-299 Borough High Street, London SE1 1JG
Tel: 020 7269 0370
legal@ubiquis.com

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This transcript has been approved by the judge.