

ROYAL COURT
(Samedi Division)

126.

23rd June, 1994

Before: The Bailiff, and
Jurats Orchard and Gruchy

Adoption (Jersey) Law, 1961.

re B, an infant.

Application for Adoption.

Mr. and Mrs. B. First Respondents (under Rule 13(a) of the
Adoption (Jersey) Rules, 1962).

The Education Committee Second Respondents ((1) under Rule
of the States of Jersey. 13(d) of the said Rules; and
(2) as the fit person, to whose care
the infant B was committed under
Articles 28 and 31 of the
Children (Jersey) Law, 1969).

Application by the Second Respondent for an Order under Article 5 of
the Adoption (Jersey) Law, 1961, dispensing with the consent required
by Article 4(1)(a) of the said Law of the First Respondents, on the
ground that such consent was being unreasonably withheld.

The First Respondents in person.
The Solicitor General for the Second Respondent.
The Applicants did not appear.

JUDGMENT

THE BAILIFF: This is an application by the Education Committee asking the Court to dispense with the mother's consent to the proposed adoption of C. on one of the grounds provided by Article 5 of the Adoption (Jersey) Law, 1961: that she is withholding her consent unreasonably.

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The Court has listened to the child's mother and her present husband, who is not the child's father, and both appear not to oppose an adoption as such; it seems therefore a question of who should have the child and both Mr. and Mrs. B. have asked that the grandparents of the child, the natural father's parents, both of whom live in Scotland, should be considered. The first thing that has to be said is that we know nothing about these grandparents; we have nothing before us to indicate whether they themselves would be interested. It is quite true that this is the first time the matter has actually come before the Court, except on a formal occasion last week, but nevertheless there are three persons who have to be considered: the child, the adopter, and, of course, the legal mother in this case. Because there is no objection to the adoption as such, we are asked to say that it would be fair to put off this case to allow the grandparents to be heard. We do not think that is at all practical.

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To begin with this Court has no power to make an adoption order unless the putative person adopting has been in the Island for three months and we think that is therefore totally impractical.

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Secondly, even if we were minded to put it off, what would be the effect? The effect would be sending C., who is now nearly four, as the Solicitor General has said, to people whom he does not know and to a country with whom he has absolutely no ties. He is a child born in this Island and is growing up in this Island and we think the Court would have to think very carefully before it severed those natural ties.

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It is no doubt true that the welfare of the child is of ever increasing importance but in addition to that there is some indication that the Courts in England are considering, at least, that the persons with whom the child has been placed and who have undertaken responsibilities have a right to be heard and their views considered and they have expressed those views by wishing to adopt the child.

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Lastly there was a formal consent signed only a few days after the child had been placed in care with the proposed adopters; as I say a formal consent signed by the mother in the presence with her advocate. Although she says she was bullied into accepting the fact of the adoption, we find that difficult to accept inasmuch as she was independently advised at the time and it is unlikely that any influence - if influence there was (which

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again we doubt of the Children's Department) - could continue in the presence of her legal adviser who could have questioned it.

5 Under all the circumstances, Mr. and Mrs. B., the Court has listened to you very carefully and has noted that you do not object to adoption as such but the Court is going to dispense with both your consents as the law entitles us to do.

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Authorities

Clarke Hall & Morrison on Children: Binder 2: p.p. 3/41-3/62.

Re H (infant) (adoption - parental consent) (1977) 2 All ER
339 C.A.

In re B, an infant (7th October, 1992) Jersey Unreported.

Re W, an infant (1971) 2 All ER 49 H.L.

O'Connor & Anor. -v- A & B [1971] 2 All ER 1230 H.L.

Re F (a minor) (adoption - parental consent) (1982) 1 All ER
321 C.A.

Adoption (Jersey) Law, 1961.

Adoption (Jersey) Rules, 1962.