

IN THE FAMILY COURT AT STOKE-ON-TRENT

Stoke-on-Trent Combined Court
Bethesda Street
Hanley
Stoke-on-Trent
ST1 3BP

BEFORE:

RECORDER JACK

BETWEEN:

STAFFORDSHIRE COUNTY COUNCIL

APPLICANT

-and-

**HENRY, INGRID AND JULIA
(CHILDREN VIA THEIR GUARDIAN)**

- and -

K and L

RESPONDENTS

Legal Representation

Ms Sarah Nicklin (Barrister) on behalf of the Applicant Local Authority
Ms Emma Williamson (Barrister) on behalf of the Children via their Guardian
Ms Amina Ahmed (Barrister) on behalf of the Respondent Parents

Other Parties Present and their status

Ms Lucy Palmer - Guardian
Ms Sophia Shelton - Social Worker
Ms Kezia Mifflin - Team Leader

Judgment

Judgment date: 8 April 2022
(start and end times cannot be noted due to audio format)

Reporting Restrictions Applied: Yes

“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.”

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Recorder Jack:

1. This is an application for an interim Care Order in respect of three children. The eldest Henry, known as Harry, is 12, Ingrid is 9 and Julia is 7. All three children were adopted in 2016. As will be apparent, Ingrid and Julia, usually known as Inge and Julie have only known K and L as their parents.
2. Harry was slightly older when he was adopted and unfortunately the adoption has not been a success. There has not been any emotional connection between Harry and his parents, and the situation has got progressively worse as Harry has grown older. The situation has reached a point where his parents refuse to have him back into the house and it is going to be necessary for the Local Authority to house him.
3. Pausing there, there is no dispute that a Care Order needs to be made in respect of Harry and I will do so. What is contested is whether there ought to be a Care Order made in respect of Inge and Julie.
4. Here the situation is that both children have been affected, as one would expect, by the breakdown in relations between Harry and his parents. We have more information about Inge than Julie. In their position statement, the Local Authority say:

“9) The home situation has had an impact on Inge. Inge has said:

i) That she worries about Harry going to have to live with a foster care.

ii) She is worried she will return from school and Harry would not be there any more.

iii) She worries Harry might hurt K.”

5. When asked why Inge said:

“Mummy said Harry brought scissors to try and kill us from school.”

iv) Inge has said that L had given up.”

6. She said that she heard L say:

“I’m not going to tell you off, I’ve just given up now.”

7. Inge said she thinks that this means that they do not want us any more. They do not want to care for us, they do not want to speak to us and they have given up on us. Inge said she thinks the stress is from what Harry is doing, and her sometimes doing things which are annoying such as making sounds like a chicken and her dad finding that annoying.
8. v) L reported on 6 February 2022 to the Emergency Duty Team that there had been incidents over the weekend and that Inge has told her:

“I want to end my life mummy. Make it stop.”

9. vi) Inge told the social worker who was trying to reassure her that she was not responsible for her feelings of stress:

“I know it is all our fault because we never tidy up, never listen, never do what we are told.”

vii) Inge said it is in her head all the time and she worries about it at school which makes it hard in class. She said she has not told anyone. Inge has spoken about wanting to be from a “normal family”, not an adopted family.

...

x) The home situation has also had an impact on Julie. School reports that Julie has become increasingly clingy with her class teacher.

xi) The separation of the siblings as requested by K and L is likely to have a harmful effect on all three siblings.

10. The test I need to apply in considering whether to make an interim Care Order is that set out in section 38 of the Children Act 1989 which as far as the material says:

“(2) A Court shall not make an interim Care Order or interim Supervision Order under this section unless it is satisfied that there are reasonable grounds for believing that the circumstances with respect to the child are as mentioned in section 31(2).”

Section 31(2) of the Act says:

“A Court may only make a Care Order or Supervision Order if it is satisfied -

(a) that the child concerned is suffering, or is likely to suffer, significant harm: and

(b) that the harm, or likelihood of harm, is attributable to -

(i) the care given to the child, or likely to be given to him if an order were not made, not being what it would be reasonable to expect a parent to give him: or

(ii) the child’s being beyond parental control.”

11. In respect of Harry, the parents concede that the condition in section 31(2)(b)(ii) namely that Harry is beyond parental control, is made out. I do not need to consider whether in respect of Harry section 31(2)(b)(i) applies.
12. In my judgment however the only basis on which the Court could make an interim Care Order in respect of Inge and Julie is if it were satisfied that there were reasonable grounds for considering that section 31(2)(b)(i) applied. Here in my judgment the evidence that the harm to the children is caused by the care which is being given to Inge and Julie by their parents is lacking.¹
13. The passages of the position statement which I have read out are taken largely from the social worker’s statement at C22 and 23 of the bundle, which does not take matters very much further. There can be no doubt that having Harry in the household with the

¹ See Leicester CC v AB [2018] EWHC 1960 (Fam), [2019] 1 FLR 344 (Keehan J).

breakdown in relations between him and his parents puts an enormous stress on everyone in the household, including Inge and Julie, but I cannot see that there is any defect in the care which the parents are giving to Inge and Julie.

14. There is of course a psychological background to which Miss Williamson draws my attention. The child psychologist who was working with Harry suggests that Harry's mental health issues are not as grave as the parents consider them. That though, in my judgment, does not impact on the way the care which the parents are giving to Inge and Julie, and have been giving to Inge and Julie, has been carried out.
15. The evidence at the moment does not show that there is any defect in the care which the parents have been giving to Inge and Julie. Thus even though the Guardian and the Local Authority point to the damage which may be caused to Inge and Julie by their separation from their brother, nonetheless, unless the Local Authority can show that there are reasonable grounds for thinking that it is the parents' care which is causing the impact on Inge and Julie, then I simply have no jurisdiction to make an interim Care Order. For these reasons I refuse to make the interim Care Order in respect of Inge and Julie but I do make one in respect of Harry.

This Transcript has been approved by the Judge.

The Transcription Agency hereby certifies that the above is an accurate and complete recording of the proceedings or part thereof.

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