

IMPORTANT NOTICE

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 child and members of his 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.

Case No: LS18C00472

IN THE FAMILY COURT SITTING IN LEEDS

IN THE MATTER OF THE CHILDREN ACT 1989 AND THE ADOPTION AND CHILDREN ACT 2002

AND IN THE MATTER OF X, A CHILD

Date: 19 December 2018

Before :

HHJ Lynch

Between :

Wakefield MDC

Applicant

- and -

A mother (1)

A father (2)

X (A child)

(through his Children's Guardian) (3)

Respondents

William Lindsay for the Applicant
Emma Brocklebank for the 1st Respondent
Rebecca Shenton for the 2nd Respondent
Joanne Whitehead for the Child

Hearing date: 19 December 2018

JUDGMENT

Introduction

1. These proceedings are about a little boy, X, who is under one. His parents are Y and Z and they both have parental responsibility for him. Y has had three other children, the youngest two of whom are also Z's children. All three of those children have been adopted, in two separate placements.
2. These proceedings began when X was born, because of the worries there had been about the older children. An interim care order was made shortly after his birth and since then X has lived with foster carers. The parents have had supervised contact three times a week during the court case, although Z has not attended as regularly as Y, particularly recently.

The Issues and the Evidence

3. In preparing for this hearing, given nobody was arguing about what I should do, I read just the key parts of the written evidence, and I know his case well because I have been responsible for it all the way through. Nobody has given evidence in court, but I have heard from the lawyers about what people want to happen. Y and Z do not agree with the plans for X, but they have made the very brave decision to leave it to me to decide. I am going to try to write this judgment in a way that will make sense to them, given they have some problems with understanding, so it may not sound as legal as some judgments.
4. The social worker says that X would not be safe if he lived with his parents, for the same reasons that the other children were removed. Both Y and Z had very bad experiences when they were children and those things have really affected them. Y's problems included her being injured by her mother's partner. Z as a young man committed crimes and became far too interested in fires. Neither of them had the sort of experiences as child which would have helped them to know how to bring up their own children.
5. In the court cases about the older children, people looked at Y and Z to see what kind of people they were inside, and that included a psychologist and a neuropsychologist who looked particularly at Y. The reports about Y said she could not look after a baby or child without an awful lot of support and training. It was said that any work with her would need people to be involved for years.
6. Another problem for both parents in the earlier court cases was them using cannabis, something which is still a problem.
7. When X's case began, people looked again Y and Z to see if anything had changed. A different psychologist met the parents, but he did not feel anything had changed. He said Y continued to have problems because of her injury

which would have an effect on the kind of parent she would be. In simple terms, he said that she would not be able to care for a child or keep a child safe. Y also could not see any problems in Z been the right kind of father, not seeing any problems with him being violent or using cannabis. Similarly, the psychologist did not think Z would be able to protect X from the many problems his mum had or be a good enough dad himself. Given that neither Y nor Z saw any reason to change, the psychologist said any work done with them was not likely to make a difference.

8. A social worker who specialises in working with parents who have learning difficulties met with Y and Z and she did a report for the court case. She too talked about the effect on Y and Z of the way they were brought up. Although she could see that they wanted to be good parents to X, she said they would struggle to even meet their own needs. She said the large amount of help they had already had had not made any difference. Her view was that they simply were not able to learn how to be the right kind of parents, not because they did not want to but because of their own problems inside.
9. During this court case both parents have had drug tests which show they are still using illegal drugs and Y and Z also spend time with people who use. Both parents have been affected by X being in foster care and have been depressed. Y has recently started taking medicine for this. Z has not yet seen a doctor to talk about his problems. Both parents have found it hard to deal with their feelings and at times this comes out in them being aggressive. Z was recently arrested for smashing up their home and Y has broken bones in her hand from punching the wall in anger.
10. Sadly, there is nobody in the family of either of the parents who would be able to care for X if he cannot live with his parents. Because in the social worker's view he cannot be with his parents, the social worker says X should be adopted. I am told that the couple who have adopted his older sisters would like to adopt X too and that is being assessed. The social worker says, if I agree that X should not live with his mum and dad, his contact with them should gradually reduce over the next four weeks and then after that continue once a month for two hours until there is a definite adoptive placement for him. His sisters see their older sibling twice a year, so X will be able to join in that contact if he was living with them.
11. The children's guardian agrees with the social worker's plans for X. I have read her final report where she goes through all the evidence she has read. She

agrees with the social worker and the expert witnesses that if X was living with his parents he would not be safe and there would be no way to make it safe for him.

12. Y and Z love their little boy very much and would like him to grow up living with them. They have both though made the very brave and difficult decision to accept how much evidence there is against them caring for him. Because of that they realise they cannot fight him being adopted, although they do not agree to it which is why I have had to make the decision. Z accepts that he and Y have not been able to do all the things they need to do, that there are still problems such as the state of their home, his health, and drug use. He also accepts that at times he has lost his temper which he knows scares Y. Y too has faced up to this and as she says in her statement “Despite what I wish to happen on a personal level, I must consider what is in X’s best long-term interests”, a thing that only a parent putting their child first could say. Both parents are very clear that if X cannot be with them then they would like him to grow up with his sisters and hope very much that he can be placed with them.
13. Y and Z want to go on seeing X for as long as they can. Z accepts he has not been as regular as Y in going to contact but he says he now wants to join her again. She has been extremely committed to contact, going three times a week even when Z has not gone with her, which shows how much she loves her little boy.
14. Y and Z have been able to agree the problems that there were at the time these proceedings began, what we call the threshold criteria. I have written out at the end of this judgment the words which they accept truthfully say how things were, although they are written as a lawyer would write them rather than how Y or Z would.

My Decision

15. I now turn to think about what orders if any are needed for X. Wherever possible, children should be brought up by their parents and if not by other members of their family, and a judge should only ever agree to a plan of adoption if that is absolutely necessary, where no other order would be good enough for the child, “when nothing else will do”. I know that X and his parents have a right to a private family life. And when I make my decision I

must remember that X's welfare throughout his life comes first in my thinking.

16. The social worker asks me to make a placement order in respect of X, the first step towards him being adopted. Given that Y and Z do not agree to X being adopted, I can only make that order if I am satisfied that I should get rid of the need for their consent. I know that I cannot do that unless X's welfare requires me to do so.
17. The only option I am being asked to think about is X being adopted. In my head though I have gone through all the possible outcomes for X and balanced up the pluses and minuses of each. When doing that, I have thought particularly about the list of things in what is called 'the welfare checklist' in the most important Act of Parliament about children's cases.
18. Because of the problems that Y and Z continue to have, the same ones that meant the three older children were adopted, I do believe that X would not be brought up properly and safely if he was living with them. As a lawyer would say, I accept he would suffer harm, although I know that that would not happen because his parents wanted it to. The problem is that they are not able to do what a parent needs to do, not through their own fault but because of what has happened to them in their lives. X is a tiny baby and needs parents who can do everything for him. Sadly, Y and Z simply cannot.
19. If X is adopted, it means he loses his relationship with his mum and dad. That is not a good thing for any child, but X needs a "forever family", somewhere he will be safe and looked after for the rest of his life. Given he cannot be with his mum and dad, it is more important that he is adopted than that he has a relationship with them. He is going to have changes because he will have to leave his foster carers. I know the social worker and her colleagues will work hard to make his move to his adoptive parents as good as it can be. A life story book will be put together for him, so he knows about his parents and about what happened to him before he went to live with his adopters. And if he can be with his sisters that would be brilliant, a huge plus.
20. So, looking at the options for X, I do agree that the right thing for him is for him to be adopted. I am satisfied that the local authority's final care plan for X is the best thing for him and is proportionate. **I therefore make a care order.** I am also satisfied that X's welfare requires me to dispense with the consent of his parents to him being placed for adoption. **I therefore make a placement order authorising the local authority to place X for adoption.**

21. There is one further direction I wish to make. I think it is hugely important for children who are adopted that they have information available to them, through their adoptive parents, so they can make sense of their early life. This judgment, in setting out what I have read and heard in court today, gives at least a summary of that start. I propose therefore to make a direction that **this judgment must be released by the Local Authority to X's adopters so that it is available to him when he is older. That release however is on the basis that it should not be disclosed beyond them or any medical or therapeutic staff working with the child or family.** It is very important therefore that the judgment is passed on to the Adoption Team to give to them. I have written this not for the benefit of the grown-ups but for X and I wish to be sure it reaches him.
22. Finally, I also make the **usual order about court costs** in this matter.

THRESHOLD CRITERIA
AS AGREED BY THE MOTHER (AND FATHER)
AND APPROVED BY THE COURT

- 1) The mother has had her three elder children removed from her care, all of whom have subsequently been adopted. The court found that the children were at significant risk of harm due to the mother's cognitive difficulties, the mother's inability to make and sustain change, the mother being assessed as not being able to be a sole carer for a child, poor home conditions, the father's illicit substance abuse and his propensity to be violent. Should X be exposed to the same level of parenting as his three siblings, he will be at risk of suffering neglect, physical harm and emotional harm.
- 2) Despite longstanding involvement from Social Services, the mother and the father have failed to make and sustain the requisite changes to safeguard and care for a child; thereby demonstrating an inability or unwillingness to change and placing X at risk of suffering neglect.
- 3) The mother was diagnosed in 2012 with significant cognitive and neurological deficits and a moderate learning disability which impacts negatively upon her capacity and ability to meet a child's holistic care needs. The mother has not

accessed any therapy or support and does not accept the diagnoses. The mother has failed to address these issues thereby placing X at risk of emotional harm and neglect.

- 4) The mother tested positive for cannabis during the proceedings for two of her older children. X is likely to suffer significant neglect and emotional harm if his mother uses cannabis.
- 5) The father does not recognise the mother's limitations and is unable to make up for the deficits in her parenting. X is therefore likely to suffer neglect and emotional harm.
- 6) The father continues to misuse cannabis on a daily basis despite being aware that this impairs his ability to safely care for X. Hair strand testing from 25 January 2018 to 25 May 2018 indicates high level of cannabis use throughout the testing period. Should this behaviour continue, X is likely to suffer neglect and emotional harm.
- 7) The father has a propensity to be violent and struggles to regulate his emotions, resulting in aggressive behaviour. Should X be exposed to this behaviour he will be at risk of physical and emotional harm.
- 8) The home conditions have been dirty, unhygienic and unsafe. If X was exposed to poor home conditions, he is likely to suffer physical harm, emotional harm and neglect