

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.

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

IN THE FAMILY COURT
(Sitting at Newcastle upon Tyne)

NE20C00835

Newcastle upon Tyne Civil & Family Courts and Tribunal Centre
Barras Bridge
Newcastle upon Tyne NE1 8QF

Wednesday, 16 June 2021

Before:

HIS HONOUR JUDGE WOOD

(In Private)

B E T W E E N :

A LOCAL AUTHORITY

Applicant

- and -

(1) THE MOTHER

(2) THE CHILD

(via his Children's Guardian)

Respondents

ANONYMISATION APPLIES

MS FOSTER solicitor on behalf of the Applicant.

MR M. HEWITT solicitor on behalf of the First Respondent.

MS J. CHARLTON solicitor on behalf of the Children's Guardian Laura Bywater.

J U D G M E N T

JUDGE WOOD:

- 1 The court is concerned with the welfare of Billy (not his real name), a boy born in November 2020. He is coming up seven months old. The local authority agreed with Billy's mother, who I will refer to as "M", that he be accommodated at birth, and so on discharge from hospital he was received into foster care where he has remained ever since. The local authority subsequently issued proceedings and now seeks to achieve permanence for Billy by way of a care order and a placement order permitting it to place him for adoption.
- 2 Billy's mother has not attended this hearing and has, in large measure, not engaged with the proceedings at all. At the outset of this hearing I refused Mr Hewitt's application for an adjournment to give her a further opportunity to engage. I did so for a variety of reasons, all of which led the court to the conclusion that no meaningful progress would likely be made in the event that an adjournment was offered. There are a number of strands to this: there was non-engagement pre-birth; subsequent to birth, although the mother was living with her own mother, and did attend at least a couple of contacts, within a month of Billy's birth she had stopped attending contact and she has not attended any contact this year, that is a period now of almost six months.
- 3 It follows that, sadly, Billy has no relationship at all with his mother. She did not engage in the parenting assessment. Although she did file a parental response document, she has not filed any evidence. Contact was made with her by Mr Hewitt earlier this week and she indicated an intention to engage. Arrangements were made for her to receive the papers and so on. Those arrangements were not kept by her and all attempts to contact her today, both by her solicitor and by the court, have failed.
- 4 This is all part of a very significant pattern which really shows no sign of changing. It obviously feeds into threshold but it was directly relevant to the application to adjourn. In the circumstances the court is therefore satisfied that there is no merit in further adjournment because there is no indication at all that there is any change on the part of Billy's mother to engage in this process.
- 5 I should say directly relevant to this question is the fact that both to the previously allocated social worker and to the current social worker SW and then, separately, this is on three different occasions, to Mr Hewitt, in the run-up to the hearing before His Honour Judge Loveridge on 12 April, M indicated that she did not think that she could care for Billy and, therefore, would not oppose the plan. Thus, it might be said that her behaviour is really consistent with that realisation and acceptance, expressed, as I say, to three different people on three different occasions.
- 6 The plan is supported by Billy's Children's Guardian Miss Bywater. Billy's father has never been identified, another concern within the case. Three names were put forward, three paternity tests were carried out, none of them established Billy's paternity. Amongst the several losses with which Billy is going to have to contend in life going ahead is the complete absence of any information that is now likely to lead to his birth father being identified.
- 7 The court has probably said sufficient already to indicate the thrust of the reasons as to why the local authority contends that were Billy to be placed in his mother's care he would have been at risk of significant harm, hence the bringing of the proceedings. The background is a significant one, and for the purposes of this *ex tempore* judgment it is not necessary to detail

it really beyond the circumstances that resulted in care orders being made in respect of M's older children in December 2019. Those children, who are now seven and six, were the subject of care proceedings which resulted in care orders being made and the children being placed with their paternal grandmother. The threshold in respect of those proceedings related to issues around the misuse of drugs, and the impact that that misuse had on her ability, and indeed those children's father's ability, both to care for their children and to keep them physically safe within their home.

- 8 There was evidence of very significant neglect. At times the house was observed to be frankly squalid, both by the local authority, and by the police. It was known that mother had a history of mental health difficulties. Those difficulties had resulted in her self-harming. The continued use of drugs was an enduring concern and there was a concern at least that she was likely being exploited sexually for money in order to fund that particular habit. In short, the threshold demonstrated an inability on the part of either of those children's parents to prioritise the needs of their children, to keep them safe and secure.
- 9 Billy was born almost exactly a year after those proceedings ended. The threshold in respect of these proceedings incorporates that from the 2019 litigation but adds that there is no significant change demonstrated since the time that the older children's proceedings were finalised, thus suggesting that Billy would be at risk of being exposed to very similar harm to that which they experienced.
- 10 The use of illicit substances continued during M's pregnancy and she was tested, and found to be positive, in respect of cocaine, heroin and cannabis, amongst other substances. That drug use was in association with her spending time with other drug users known to the authorities. She reported that she was sexually assaulted by one of them in the early part of 2020. These are individuals who are known to pose a risk of physical harm not just to the mother but to any child in her care.
- 11 Her engagement during pregnancy was minimal with the consequence that Billy pre-birth was exposed to the risk of significant physical harm and lacked the monitoring which ante-natal care would at least have enabled some level of protection to be offered. The status of her mental health is currently not very clear. She has a history of post-natal psychosis. It is reported by SW within this hearing that during a visit by the adoption team to undertake life story work last month, her presentation was so concerning that the emergency services had to be called out. It is believed there are diagnoses of a bipolar disorder and borderline personality disorder. Whilst she has engaged with professionals in the past there is no evidence of any current engagement.
- 12 All of those factors really come together, as the social work analysis points out, to continue to expose any child in her care to the risk of significant harm. She did not engage in the parenting assessment. The local authority did the best it could in the circumstances of her non-engagement, but almost inevitably sadly it is negative. It follows therefore that the gateway to the making of public law orders is opened on the threshold being crossed so readily and that therefore brings the court to consider the issue of welfare.
- 13 There is, for the reasons I have indicated, no positive assessment of the mother which would demonstrate that there is any prospect of Billy being safe in her care, either at the present time or in the foreseeable future, certainly within his timescales. There is no alternative family carer who is either willing or has been assessed positively to care for Billy. At one stage the maternal grandmother was put forward to be assessed as Billy's carer but, as the process of assessment began, she indicated that she did not feel able to do this, and thus withdrew.

- 14 There are of course no paternal family members. I should add, because it is linked, that Billy has no relationship with his half-siblings because of the issues with which they present. It has not been felt appropriate to effect an introduction. It follows that there is no prospect of a placement, albeit it would be with a carer who was not a blood relation of him, within that setting.
- 15 The legal principles which apply are well-known and can be stated shortly, perhaps most shortly using the words of Peter Jackson J, as he then was, in a 2016 case, when he said that children cannot be taken away from their parents unless social services prove to a judge that it would be harmful for them to live at home. If children are taken away, judges will always try to return them if that is safe. Those words really encapsulate the principles which apply here.
- 16 Put more formally, it is for the local authority to prove on the balance of probabilities the facts upon which it seeks to rely. It is for the local authority, since it is seeking to have Billy adopted, to establish that nothing else will do, in accordance with the guidance of the Supreme Court in *Re B* in 2013, as further explained by the Court of Appeal later that year in *Re B-S*. As Baroness Hale said in *Re B*, "The test for severing the relationship between parent and child is very strict. Only in exceptional circumstances, and where motivated by overriding requirements pertaining to the child's welfare. In short, where nothing else will do".
- 17 In considering the local authority's application for a care order, the court must have regard to the welfare checklist in section 1 of the Children Act 1989 and, since the plan is for adoption, also the welfare checklist in section 1 of the Adoption and Children Act 2002. In that context the court must of course treat as my paramount consideration Billy's welfare throughout his life, recognising the draconian nature of the order which will sever all connection between Billy and his birth family, both legally and in practice.
- 18 This is an immensely sad case. The court has obviously not had the opportunity to see, let alone meet, Billy's birth mother for the reasons that I have outlined. All that the court has read about her and the circumstances in which she is living cause the court the gravest concern. The Guardian has carefully analysed the evidence and highlights the lack of change since 2019, on the issue of drugs, both previously, both during pregnancy and subsequently, and the dangerous associates with whom the mother consorts.
- 19 The issue of her mental health has manifested itself, for example, in the post-natal psychosis, in the course of which she threatened somebody with a knife. All of those factors just reinforce the fact that not only was she not able to meet the needs of her older children or protect them from harm, but that that remains the situation. As the Guardian points out, and is self-evident, M is plainly an extremely vulnerable individual, likely being manipulated or controlled by those with whom she is in thrall, whether it is due to drugs or other factors, all of which pose the risk of extreme harm to her, let alone any child.
- 20 That said, Billy has been kept as safe as it is possible for him to have been, in foster care. He has not met his half-siblings, which will inevitably have an impact upon his welfare as he grows up, indeed lifelong. As the Guardian points out, there will be a need for sensitive life story work to explain these losses: the loss of his mother; the complete absence of his father, who has never been identified; and a loss of his half-siblings. It will be substantial work and it will be very important for it to be carried out sensitively, so that Billy is protected as best he can be from the harm which inevitably follows from such separations.

- 21 I am satisfied, having read the papers, having read the analyses, that the local authority and the Guardian have considered this case with a great deal of care, such that the evidence placed before the court does comply fully with the requirements identified by the Court of Appeal in *Re B-S*.
- 22 The realistic options for future care: return to his mother under whatever order; or a care order in conjunction with a placement order. Those options have been comprehensively analysed and the advantages and disadvantages of each carefully considered, and I accept the analyses of the local authority and Guardian. The Supreme Court reminds us that adoption is the last resort. Wherever possible, children should be brought up by their natural parents, and it is recognised that adoption is no complete panacea but has advantages and disadvantages.
- 23 However, in this case, having conducted the balancing exercise, I do conclude without hesitation that there is no realistic prospect of Billy being safely returned to the care of his mother and that Billy's needs for stability, safety and permanence can only be met in an adoptive placement. In those circumstances I make a care order, and having concluded that Billy's welfare requires me to dispense with his mother's consent to him being placed for adoption, I make the placement order sought, authorising the local authority to place Billy for adoption.
- 24 There are few words of comfort that can be offered to Billy's mother in these sad circumstances, save perhaps this: that the orders which the court makes today it is hoped will ensure that Billy does have that safety and security that the order is intended to bring about, such that he will be able to grow up without being exposed to the risk of harm, safe and secure, and given the best opportunity that he can be to achieve whatever potential he has in life, enabling him grow up as an emotionally safe and secure boy, teenager, young adult and so on. I think in the circumstances, that is all I need say.
-

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

*Transcribed by Opus 2 International Limited
Official Court Reporters and Audio Transcribers
5 New Street Square, London, EC4A 3BF
Tel: 020 7831 5627 Fax: 020 7831 7737
civil@opus2.digital*

This transcript has been approved by the Judge.