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IN THE FAMILY COURT
(Sitting at East London)

No. ZE17C00714

11 Westferry Circus
Canary Wharf
London E14 4HD

Wednesday, 3 July 2019

Before:

HER HONOUR JUDGE ATKINSON
(Sitting as a Deputy High Court Judge)

(In Private)

B E T W E E N :

AN EAST LONDON BOROUGH

Applicant

- and -

(1) MOTHER
(2) FATHER OF SARAH
(3) FATHER OF PATRICK
(4)-(5) SARAH AND PATRICK
(By their Children's Guardian)
(6) MATERNAL AUNT

Respondents

REPORTING RESTRICTIONS APPLY

J U D G M E N T

A P P E A R A N C E S

MR C. POOLE (instructed by Legal Services Department) appeared on behalf of the Applicant.

MS Y. YASSIN (Solicitor, Black White Solicitors Limited) appeared on behalf of the First Respondent.

MS S. MARDNER (instructed by Wilsons Solicitors) appeared on behalf of the Second Respondent.

MS K. WHITE (Solicitor, Goodman Ray Solicitors) appeared on behalf of the Third Respondent.

MR A. RYATT (Solicitor, MW Solicitors Limited) appeared on behalf of the Children's Guardian.

MS T. HYATT (instructed by Faradays Solicitors) appeared on behalf of the Sixth Respondent.

JUDGE ATKINSON:

- 1 Patrick and Sarah are brother and sister, now aged eleven and five respectively. In August 2017, Sarah suffered significant injuries. Those injuries were found by me to be consistent with an attempt at type II FGM. On two separate occasions I have been satisfied that whilst unable to determine what their individual roles were, both parents (the mother and father of Sarah) were involved in that assault.
- 2 A jury at the Central Criminal Court found the mother responsible for the injuries to Sarah, though was not sufficiently sure to convict Sarah's father. The full horror of what Sarah suffered is set out in full in my earlier two judgments. I do not intend to repeat that information here. In this third judgment, my focus is the children's welfare needs. I now have to make a decision about with whom they should live, under what legal framework and how their relationship with the significant adults in their lives, specifically their parents and maternal aunt, should be arranged going forward.
- 3 By the end of the hearing, the parties' respective positions had changed considerably. There is no dispute that the children should remain in their current placement with their foster carer. No one challenges this and no one challenges the making of a Care Order in respect of each child as the means by which this can and should be secured. Further, Patrick's father, and now the maternal aunt, agree the way forward with regard to contact. Patrick's father has already established regular Skype contact with Patrick and Sarah. It is intended that should continue. The maternal aunt, having considered carefully the evidence of the expert in the case, agrees that therapy is essential and indeed should be prioritised over and above her contact to the children.
- 4 So far as the children's mother and Sarah's father are concerned, it is the local authority position supported by the guardian that there can be no contact between the children and either of them until the therapy necessary to their recovery from the trauma of these events is underway and the therapists advise that it is safe and in their interests. The local authority is clear that once that contact is possible, the basic plan is for contact to be introduced at a level commensurate with the fact that the plan is not to rehabilitate these children with their mother or Sarah's father, so the plan is for annual, indirect contact.
- 5 The Mother and Father of Sarah hotly dispute the form and frequency of contact with the children. The mother, who is serving a lengthy prison sentence, seeks monthly face-to-face contact when she wants the children brought to prison to visit her. In addition, she seeks contact by telephone on birthdays and special celebrations such as Eid.
- 6 Sarah's father seeks face-to-face contact, originally on a weekly basis but latterly as frequently as is possible. He does not accept that contact needs to await therapy, either its implementation or completion. If I am unwilling to make an order in that regard, he asks me to consider in the alternative that this case should be adjourned for there to be a further parenting assessment of him.

Decision

- 7 So far as those matters which are agreed are concerned, I can indicate the following:
 - (a) The threshold is undoubtedly crossed in this matter.
 - (b) The children cannot be cared for by either their mother, Sarah's father or their maternal aunt, and each of those parties is right to concede this.

- (c) The only realistic option for the care of the children is a Care Order and long-term foster care.
- (d) The children's placement with the current foster carer should be supported and maintained if at all possible, and it is in their interests that they should remain placed together.
- (e) There is an immediate and urgent need for the delivery of therapy in the three forms outlined by Dr Butler in her report. The local authority must (as it has agreed) fund that therapeutic input privately in order to ensure its swift delivery by a service with the requisite high level of expertise, probably the Anna Freud Centre or Great Ormond Street Hospital.

8 Turning to those matters in issue:

- (a) I refuse the mother's application for contact.
- (b) I refuse Sarah's father's application for contact and his fallback application for a further assessment.
- (c) I approve the care plan for the basic level of contact set out by the local authority in respect of both the mother and Sarah's father and I give the local authority permission to refuse that contact until such time as the professionals involved in the care of the children, in consultation with the therapists delivering therapy to the children, are content that introduction, even of indirect contact, will be safe for these children and will not undermine their emotional development.

9 I will set out my reasons in full but, first, I will deal with the law and the largely unchallenged evidence in summary form which provides the foundation for my decisions.

The law

- 10 The local authority seeks Care Orders in respect of the two children. The local authority brings the case and it is for the local authority to satisfy me, firstly, that threshold is crossed and, if so, that its plan for placement of these children in foster care and for contact with the adults who are parties in the case is in the best interests of each of the children. The standard of proof is the simple balance of probabilities.
- 11 On threshold, the local authority must satisfy me that each of the children has suffered significant harm attributable to the care given to them by their parents, that care not being what it would be expected a reasonable parent to give. If I am satisfied that the threshold is crossed, the welfare of these two children separately then becomes my paramount consideration. The decision that I make in respect of each of them separately must be what best meets their needs. I am guided in my assessment of their best interests by the factors set out in the welfare checklist to which I shall return in a moment.
- 12 As the local authority is seeking orders which will separate the children long-term from their mother and Sarah's father, Art.8 is engaged, the Art.8 rights of both Sarah's father and the mother and the Art.8 rights of the children. Indeed, given the relationship between the maternal aunt and the children, arguably she too is able to invoke Art.8 rights. I have to, if I make orders interfering with their rights to respect for family life, be satisfied that those orders are necessary and proportionate to the outcome that I seek to achieve.
- 13 I make my decision having regard to all of the evidence, that is the evidence of the parties, the professionals and the experts in the case. I have evidence from a child and adolescent psychiatrist whose recommendations are subject to challenge. Whilst I should have regard

to her expert opinion, I do not have to accept it and I am entitled to reject her views on examining the evidence against the broader canvas of the whole of the evidence. The evidence in that context then of the parents is of importance, although I have only heard from Sarah's father and from the maternal aunt. Nevertheless, their views are of importance in considering the whole of the evidence and the decision that I have to make.

Threshold

- 14 Given the findings that I have made concerning the mutilation of Sarah, there can be no doubt that she has suffered significant harm in the form of actual physical harm. Although Patrick made allegations of physical beating, I have made no findings as to the actual physical harm so far as he is concerned. However, there can be no doubt that he has suffered significant emotional harm given what he witnessed in the aftermath of Sarah's mutilation, and given the findings that I made that he was encouraged to conceal the truth. What we now see is evidence of his growing anxiety at what he views as his failure to protect his sister from that harm. Based on my findings, that harm is attributable to the care given to the children by their mother and Sarah's father. Accordingly, the threshold is crossed, and no one has suggested otherwise.

Welfare

The evidence

- 15 I do not intend to recite all of the evidence that I have read, in fact very little of it is in issue in the sense of being actively challenged by conflicting evidence. The key evidence in this part of the case has come from a child and adolescent psychiatrist. There is no alternative evidence from an expert challenging her recommendation or her assessment. Her assessment and her diagnosis is not really challenged by Sarah's father or the mother but, rather, her recommendations which are based upon her assessment are challenged.

The evidence of Dr Butler

- 16 The most significant evidential development since the last hearing in April has been the filing of the report of Dr Juliet Butler, a highly experienced and respected child and adolescent psychiatrist. Dr Butler can describe the experiences and functioning of a child with enviable clarity and delicacy. Her report in this case does exactly that. It is detailed, focused, crystal clear and devastating. I cannot do justice to her evidence in this judgment. Nothing can replace a reading of her report in understanding the difficulties which these children will face going forward in their lives, and anyone charged with the responsibility for caring for these children must read that document in full. Let me try to summarise her key findings and recommendations which have had a direct bearing upon the decisions that I have made, all of which I accept.
- 17 Dr Butler met with the children on 22 May 2019 and reported on 7 June. She did not meet any of the adults as part of her assessment, nor would I expect her to. During her meeting with Patrick, she describes further disclosures. Patrick talked about his mother's alcohol misuse, and he alleged that his mother had beaten him and Sarah, and that he had witnessed domestic violence between his mother and Sarah's father. He also speaks of men coming to the home and he alleges on one occasion his mother got him to take photographs of her naked genitals which she then sent to a man. The mother refutes all of these allegations.
- 18 It is right to observe, as has been pointed out by the guardian, that the allegations concerning alcohol misuse and domestic abuse have some support in the local authority records. I have

not been invited to make findings on those matters and nor do I. It would be a disproportionate exercise, in my view. I recite them because they suggest, as I have remarked before, that Patrick has not finished disclosing details of what he maintains happened to him in that household, and these pieces of information provide Dr Butler with some examples of why Patrick describes himself as having to “survive” at home. Patrick describes his lived experience as one of constant danger and threat. This is a direct quote from Dr Butler:

“It appears from their presentation that both children have had to organise around dangerous adults throughout their childhood, in particular the threat posed by the mother. The description that Patrick gave to me of family life was deeply concerning. His narrative is full of danger and he told me explicitly that he had to work hard to survive within the home environment. In my opinion, Patrick felt under threat not to expose what was going on in the family to any outside agencies or professionals such as school. Thus, despite living in an environment which sounded highly disordered and dysfunctional, he appeared to be able to present well enough at school that authorities were not alerted.”

- 19 Dr Butler considers that both children are presenting with evidence of disordered attachment development, significant levels of unresolved trauma in respect of events within the family, particularly Patrick who is showing evidence of complex trauma, and increased risk of mental health problems.
- 20 Turning to their disordered attachment development, the significance of this is described with characteristic simplicity by Dr Butler in her report as she describes the importance of attachment development to children between paras.1.1 and 1.5. Dr Butler considers that Patrick is presenting with a compulsive compliant/compulsive care-giving attachment strategy which means that he has been able to adopt a “pleasing strategy” as a means to manage unpredictable but repeated danger and persistently unavailable care. Dr Butler further advises that Patrick is presenting with evidence of depression and “significant levels of trauma which he dismisses and displaces from himself”. She recommends therapeutic services should be in place for him before he starts secondary school and highlights the risk of depression and anxiety as he goes through adolescence and into adulthood.
- 21 According to Dr Butler, Patrick has been a protective factor for Sarah, and indeed he has seen himself as having this role. This observation was supported by the guardian who remarks in her report that during her visit to the children, Patrick was reluctant previously or most of the time to leave her alone with Sarah. It is also evidence of the distress that he demonstrated when Sarah was in hospital and his concern that she would be taken away from the family. So it is that the traumatic experiences that these children have suffered are likely to impact upon their respective abilities to cope socially, emotionally and educationally during their childhood and on into adulthood. Dr Butler describes Patrick as:

“...fragile emotionally. At times he appears to shut down. Other times he is easily distressed. He depends on his foster carers to reassure him.”

- 22 She summarises her opinion about Patrick as follows:

“Patrick remains highly organised around his mother’s needs. Due to his disordered attachment, I think he still struggles to feel safe in relationships. I think he is living on a moment to moment basis trying to survive. I wondered if the times he breaks down when asked to carry out small tasks remind him of their relationship and the risks involved for him. He is presenting with evidence of multiple unresolved traumas. When I asked Patrick about life at home, he immediately began a monologue of events describing dangerous things happening to him in the family. At times he was disfluent. He often spoke in the present tense as if these things remained present risks to him. Patrick told me spontaneously, ‘I had to just survive’.”

- 23 She describes in her report the increased risk of mental health problems facing Patrick as a result of the trauma that he has undergone and in presenting evidence now of depression. She considers he has self-worth. He demonstrates an inability to care for himself. He has poor self-care skills and needs a lot of prompting to take care of himself. He has got limited emotional language. It is impossible for him to express his distress, all growing out of his ability to express that distress during the time that he was living in the home with his mother and at sometimes with Sarah’s father. When asked about whether or not he needed any help, he said, “I don’t need any help right now”. Again, yet more evidence of his inability to express his own needs.
- 24 Sarah is also presenting as using a compulsive compliant compulsive care-giving attachment strategy and to have disordered attachment development, unresolved trauma and increased risk of mental health problems. The view expressed by Dr Butler is the chances of mental health for her too “...increase as she gets older and she understands more fully what has happened to her”.
- 25 Dr Butler was particularly struck by Sarah’s descriptions of her father as “scared” and her mother as someone “not scared”. Dr Butler’s observation was that there was no sense of Sarah’s father having provided protective care for her. He did not feature in her narrative to Dr Butler as someone who was able to protect her or care for her. Again, therapy is recommended to help her process her experiences and develop a narrative about what has happened so that she is able to deal with that narrative.
- 26 She too has unresolved trauma. Overall, Dr Butler felt she was doing remarkably well considering the horrific experience that she has had. Dr Butler commented that this was to the credit of her carers, but she also thought that it was because she had been placed with Patrick. However, she cautioned that there is a risk that in adolescence and adulthood, when she gains more of an understanding of what her mother had done, that the trauma will re-emerge leaving her vulnerable in respect of her mental health.
- 27 Dr Butler recommended that both children need therapy to help them process their experience and develop a shared narrative which is less acutely distressing for them. She considered the children should remain together in placement in foster care and she felt unable to recommend any contact between the children and either the mother or Sarah’s father at present.
- 28 Her view expressed in her report is that the children need to be settled in care for a considerable period of time and then the priority is for them to start therapy. The children will require therapeutic support from a specialist team who work in the field of childhood maltreatment and trauma and she recommended the Anna Freud Centre. Dr Butler felt that

Patrick may require child psychotherapy as a longer-term piece of work. She felt that contact for the mother and Sarah's father should be considered if recommended during the course of therapy but also taking into account the view of the carers, therapists and the local authority, but any contact would need to be supervised.

- 29 Dr Butler did not feel able to comment on the extended family and contact (and specifically I am thinking of the maternal aunt) not having met them, but she did feel that there would be a need for the maternal aunt to have an acceptance of what had happened and that contact may well need to be supervised. She did flag, however, the availability of the maternal aunt as a member of the extended family to assist with meeting the children's cultural needs, to have a better understanding of their cultural roots and also their family history.
- 30 The parents challenge Dr Butler's evidence. They had insisted that she should give evidence. Just prior to the beginning of the hearing, Dr Butler suffered a personal tragedy which meant she was simply unable to be here, and I faced the prospect, if I insisted that she should be here, of adjourning the hearing. Actually, there was no serious suggestion that I should adjourn the hearing. What I invited the parties to do was to tell me what questions they wanted to put to the doctor in order that I could assess the need for her to be here. That resulted in one question being put forward by counsel representing Sarah's father. That question was put to Dr Butler and she was able to answer it by email. The question was about an incident recorded on 8 April this year when Patrick had reported that he had seen Sarah's father getting on a bus and it appeared to the person who has written the note to be excited at the idea of seeing Sarah's father. Dr Butler was invited to consider whether that made her change her diagnosis of Patrick as someone suffering from disordered attachment. Her response was, in my assessment, more devastating evidence against Sarah's father's position. She said this:

“I believe Patrick's experience in the care of his mother across time has been characterised by maltreatment and he managed to survive by developing a compliant attachment strategy. I have no doubt Sarah's father provided him with some positive care at limited times but, in reality, it was not protective and did not do enough to help Patrick feel safe. Patrick also describes seeing domestic abuse. Sarah's father's statement dismissed all of those allegations, leaving me concerned that if the children did see him there would be a risk their past experiences would be dismissed by him in order to maintain the positive view he has of himself. As a complaint child, Patrick would have reinforced that positive self view held by Sarah's father even if it meant that Patrick had to deny his own distress.

Patrick would know that Sarah's father needed him to confirm that he was a good father even if he did not experience him as such. As I said, there may have been occasions where Sarah's father made him feel nice which would have been helpful in that moment, but it was not something Patrick could depend on. Therefore, Patrick running after the bus is likely driven by a need to appear pleasing to Sarah's father as well as some relief that one of the adults he was driven to care for and protect was okay. Given how dismissive Sarah's father is of the allegations Patrick has made about family life, it is not evidence of a secure attachment.”

- 31 In my judgment, Sarah's father is not a source of safe care and therefore risks maintaining Patrick's trauma. Sadly, I believe Sarah's father focus appears to be on making himself feel he is a good father rather than acknowledging the children's actual lived experience in his and their mother's care.
- 32 It will be convenient if I gather the remainder of the evidence together under the headings of the welfare checklist, beginning with the children, their wishes and feelings and circumstances.

Patrick and Sarah
Age, sex, circumstances

- 33 Patrick and Sarah are Black British children. Patrick's cultural heritage is Ugandan and Sarah's is half Ugandan and half Ghanaian. The children are being raised within the Muslim faith and speak English as their first language. Patrick is due to begin secondary school in September 2019. Sarah is now aged five. She seems to have recovered well physically from corrective surgery following the FGM assault. It is not anticipated she will have physical difficulties regarding her sexual development or capacity for intimacy. There are risks as set out already in the evidence of Dr Butler as to her emotional wellbeing.
- 34 The children are reported to be doing well at school and they appear to have been very able to separate their family life and school life in order to keep learning. They are very close as siblings and there is no dispute that whatever the future holds, they must, if at all possible, be kept together. They have a very unique and terrifying shared history and I strongly suspect that we do not yet know the full detail of that history. It is this shared history of trauma that has marked out their lives thus far as different from any other children of the same age and background.

Wishes and feelings

- 35 Patrick has been clear in his wish to remain living with his foster carer for some time now. Sarah has not expressed a wish to return to her parents' care. Both children have been ambivalent in their views about seeing their mother and Sarah's father. Sometimes they express interest, others not. Both the mother and Sarah's father seek to highlight the occasions when Patrick in particular has said something that suggests an interest in seeing them. The difficulty is that the compulsive compliant presentation and compulsive care-giving attachment strategy, as I identified in them both by Dr Butler, makes it difficult for me or indeed anyone at this stage to be really clear about what their real wishes and feelings are. What this means is that these are children who have learned to suppress their wishes, feelings and needs out of fear and continue to do so. I accept this evidence from Dr Butler.
- 36 I would also pray in aid the evidence that I have had from the social worker about Patrick's response to receiving letters from his mother. He has received those letters. He has not responded emotionally to them. He has apparently trashed the sweets that she sent to him for his birthday. He has declined to respond to that communication thus far, although he has indicated occasionally that he will reply when he is ready. I agree with the social worker that that speaks volumes about where he is at this moment in time, particularly when it is seen against the background of his usual complaint behaviour.

Needs

- 37 I draw the following from the evidence of Dr Butler and the guardian, whose evidence I also accept.
- (a) As set out above, these children have a pressing and urgent need for high-level therapy. Dr Butler suggests three forms of therapy: CBT, some psychotherapy particularly for Patrick, and EMDR. They are highly specialised therapy needs.
 - (b) That therapy needs to be delivered as soon as it can be. In order for it to be able to start, the children need to be settled in their placement. They are approaching that now. That will most likely, according to the guardian, be complete when they are told that final decisions have been made about their future and that they are to remain where they are. The delivery of this therapy will be a highly complex undertaking in itself. The future management of the children's day-to-day lives will be dictated by how they are reacting at any one time to that therapy and their carers will have to be highly attuned to that and supported in that by the local authority.
- 38 In my judgment, without this therapy the children may not survive this emotional trauma. It may not be evident now but will almost certainly surface at some time later in their lives. The therapy will also deal with their attachment style, enable them to make sense of their shared history, and allow those around them to properly assess to what extent they are ready and able to receive communications from their mother and Sarah's father.

How capable each of these parents or others are to meet the children's needs

- 39 This brings me to the evidence of the mother, Sarah's father, Patrick's father and the maternal aunt.

The mother

- 40 The mother is serving an eleven-year prison sentence for her role in this assault on Sarah. She will spend half of that time incarcerated. She has suffered threats from other prisoners and lives in fear for her safety. She filed her evidence in this case on the fourth day of the hearing. Up until that point, her counsel had put her case on the basis that what she sought was indirect contact though at a far higher frequency than the once a year proposed by the local authority and to start in advance of any therapy. Her statement made it clear that she was seeking face-to-face contact with the children on a monthly basis for which they would have to be brought to the prison. She has not attended this hearing to submit herself to questioning. The reason given was that she was unable to attend due to the dangers posed to her in having to return to the institution in which she was threatened in order to access a video-link.
- 41 Whilst I do not underestimate the difficulties that she faces following her conviction, I do not accept that she was prevented from attending. She has chosen not to attend. It may well be that this is because on one level she realises the enormity of the task facing her in trying to persuade the court that Patrick is not being truthful about what he has related and that these children need, above all else, to resume their contact with her. Nevertheless, I am satisfied that her position demonstrates very clearly a continuing inability to place the pressing needs of these children before her own need to see them.
- 42 Overwhelmingly, the evidence is that this mother poses a risk of continuing significant harm to these children. That follows inevitably in this case from my findings against her and her

refusal to acknowledge either her responsibility or the damage that has flowed from her actions. Accordingly, I would not consider her capable of caring for these children even if she was not incarcerated. I am also satisfied that for the same reasons she also poses a risk to the children through contact. The precise nature of that risk, and therefore whether it can be managed safely should it be in the interests of the children to see her face-to-face in the future or whether it can be managed safely even indirectly, is something that I consider can only be assessed by the children's therapists going forward. It may well change over time. I will return to this.

Father of Sarah

- 43 Sarah's father cannot move on from his refusal to accept my findings. As a lay person, he struggles to understand how it can be that he was acquitted by a jury and yet found by me to still be culpable. The answer to that is to be found in my last judgment in which I give full reasons as to why I considered on the evidence put before me he must have been there and culpable. I am not going to repeat that again. It is, however, in that mindset that he argues that he is not, nor has he even been, a risk to his daughter or Patrick. He prays in aid his previous contacts which were noted to be successful and happy occasions for the children, and that is confirmed as much by the guardian who observed one of them.
- 44 The difficulty for me is that this ignores the fact, firstly, that I have found him jointly responsible for the injuries suffered by Sarah and by that means and in circumstances in which he continues to refute this, he, like the mother, poses a continuing risk to the children. At the very least, and on his own case, he was in the environs of the flat when his daughter was most brutally assaulted. She was unable to seek out his help or protection. Patrick was unable to rely upon him to assist him in protecting his sister. The dangerous lived experience described by Patrick was not made less so by Sarah's father presence, however fleetingly. Quite the contrary, it became more dangerous as Patrick had to fend for himself and protect his sister. Where was Sarah's father when Patrick was 'just trying to survive'?
- 45 Sarah's father, whose evidence I listened to very carefully, persistently returned in that evidence to his explanation that he was not responsible. The previous contact also tells us nothing about the way in which Patrick or Sarah were feeling about him in truth because of their complaint and care-giving strategies as described by Dr Butler.
- 46 Sarah's father does not put himself forward as a carer, but he has indicated the purpose of seeking weekly contact is to make it possible in the future that the children should be returned to his care. This, in my judgment, demonstrates a completely blinkered outlook. Sarah's father is not capable of meeting the needs of these children now or in the near future and he will not be so, at the very least, until he begins to recognise his role in their trauma and how he has failed to protect them. It may well be even then it is not possible for him to be able to provide care. That, of itself, does not rule out contact, however his singular inability to put the needs of the children first is demonstrated yet further by his similarly blinkered approach to contact. He cites his need to see his daughter for fear that she will forget him. His evidence was notably all about his needs, how this would impact upon him having lost one child already. This case, I would remind him, is about Sarah and Patrick and not him.
- 47 Finally, whilst apparently recognising the need for therapy, he nevertheless does not accept the need for therapy as a priority over his contact, which, in my assessment, is patently wrong on the evidence of Dr Butler and demonstrates further the fact that he is incapable of seeing the needs of the children and putting them first.

The maternal aunt

- 48 There is an immediate contrast between the position taken by the maternal aunt and the position taken by the mother and Sarah's father. What the maternal aunt has demonstrated through this process is the ability to understand when given the information and the time to consider it and her willingness to shift her position in direct response to the children's needs. As distinct from both the mother and Sarah's father, the maternal aunt is, in my view, someone who has very clearly demonstrated during the course of this process, and finally at this hearing, that she has only the children's interests at heart and she is well capable of putting their needs first.
- 49 In the first place she shifted her position on being able to care for the children. She held tightly onto a hope that she will be able to provide care for these children and her feistiness in that regard is not to be held against her. Indeed, I was reminded in reading the assessments of her of what one of her referees said about her. This person was very supportive of her but wondered whether she really truly understood the depth and the difficulties that were likely to be presented for her own family in taking on these two extremely traumatised children.
- 50 She came to that decision in her own time having seen all of the evidence. The painful nature of that decision was very clear to me when she gave her evidence in the witness box. It is not a decision that she has taken lightly. This is not a woman who is used to giving in. She is a woman who is used to advocating for her own children, and has done very successfully. However, she also is intelligent enough and child-focused enough to recognise when Dr Butler says that the trauma is enormous for these children, that it might need real professional involvement and the sort of focus and care that is difficult for one person to give especially with caring responsibilities elsewhere in the household. To her credit she stepped away from that position.
- 51 She started this hearing looking for some face-to-face contact immediately. Again, the pattern repeats itself. Not quite grasping immediately, perhaps not quite understanding, perhaps also not wanting to accept for a moment what Dr Butler had to say about the need for therapy first. However, having read the report and had the time for it to sink in, and having listened to the debates about it, she has stepped away from immediate contact in an appropriate way because, as we know, these children need their therapy first.
- 52 Let me give an example of why the therapy is so important to her relationship with the children. Patrick is a bright boy and he knows that his aunt and his mother were very close so he might just wonder how his aunt feels about the fact that Patrick - because this is how he feels - has contributed to the imprisonment of her sister. Of course, in the fullness of time she will be able to explain to him that he is her priority, but he will need help with that.
- 53 I am very clear that this lady going forward is probably going to be the one means by which these children can access a proper history of their lives, a proper history about their maternal families and their cultural identity. She may be the one link to the maternal family that they have. Having demonstrated her ability to understand, she is a means by which it may well be possible for them to come to understand that not all maternal members of their family are dangerous to them.
- 54 I consider that she should play a parental-like role in their lives going forward. I cannot give her parental responsibility, but I do think that whoever takes charge of the LAC

reviews and the care of these children going forward, they must have her down along with the parents as a key person to inform and consult. That means not just being told about LAC reviews and invited to them, but she needs to be given the updates about their progress in therapy. She also needs to be offered the opportunity to join with that therapy, not necessarily when they are there but if thought appropriate by the therapists she should be offered the opportunity to access information that will enable her to be able to relate to these children in a positive way and in a way that makes them feel safe and secure.

Father of Patrick

- 55 I will be forgiven, I hope, if I deal very briefly with Patrick's father. The fact that he seems, by comparison to the lines that he will receive in this judgment, to play a minimal role is not quite true. He has, from the side-lines, put himself forward on one occasion as a carer for the children. That has not proved to be possible. What he has managed to do, because he is not associated in the minds of these children with this event, he has managed to sustain a relationship through some contact with them. As the guardian described to us in her evidence, although he is Patrick's father, the children share their parents and their parentage, and so Sarah is involved in the contact that Patrick has with his father over Skype. That is a good thing, it seems to me. It shows them a parent who they can instantly disassociate from all of those events that have taken place and whom they can see as normal.

Discussion and analysis

- 56 The children's needs are now paramount in my decision-making. With one eye to the welfare checklist already rehearsed and considering always the Art.8 rights of all of those involved, I turn to consider placement, therapy and contact which are the three main issues in this case.

Placement

- 57 Although the first two of those issues are without dispute, let me say this, firstly, drawing all of the evidence together, it seems to me that neither the mother nor Sarah's father, nor Patrick's father, nor the maternal aunt are able to care for these children. I have set out the reasons why. When I add to that Patrick's strongly expressed wish to remain with his foster carer and the fact that she has managed to provide for him and his sister a safe and secure environment in which they have been able to settle and from which they have a chance to access much needed reparative therapy and parenting, I am able to confirm without hesitation that currently the only way in which their complex needs can be met is through the making of a Care Order with a plan for long-term foster care.

Therapy

- 58 I am pleased that the local authority has recognised that in this case the trauma suffered by these children is unique and wholly exceptional such that the level of expertise required to swiftly deliver the therapy identified by Dr Butler is possibly beyond the capability of the hard-pressed CAMHS resources and must therefore be funded privately through either the Anna Freud Centre or Great Ormond Street Hospital.

Contact

- 59 The children undoubtedly need to know that their parents are well. Through life story work they will learn their history and learn about who their parents are, and through that means about who they are. This will be crucial to them as they develop.
- 60 Contact going forward for these children with the mother and Sarah's father will be on different terms as the nature of their relationship is about to finally change. They are no longer carers for these children. Their primary carer is their foster carer with whom they must settle and to whom they will turn for their day-to-day care.
- 61 The purpose of contact is not therefore to develop their relationship with their parents with a view to future rehabilitation, the purpose of contact going forward will be in order to satisfy the children that their mother and Sarah's father are well and to exchange information about their lives. That can be done directly or indirectly. The current plan for those exchanges is to be indirect once a year. That is a position supported by Dr Butler's evidence and it is, in my view, entirely appropriate at this moment in time.
- 62 I endorse that plan as the basic plan. The risks flowing from contact, as very ably set out in relation to Sarah's father in the email that I have rehearsed, whilst these children are struggling to understand their history and in circumstances in which there is no acceptance by Sarah's father of the mother of that history, are very real. That risk may reduce. It may become manageable over time and after therapy, but I cannot make that assessment now. For the time being, the risk is real, and it is not yet manageable. Therefore, contact can only be indirect and once a year. This is something with which the guardian agrees. The local authority plan, therefore, is a reasonable one.
- 63 However, written communications cannot be given to these children until such time as the professionals involved in the children's lives are satisfied that they will be able to deal emotionally with them. We do not know how these children will react to receiving communication from either the mother or Sarah's father, and whatever their reaction at this moment in time will not tell us what they are really feeling.
- 64 It may yet take more than a year for there to be some resolution of this issue, and so it is for that reason that I give the local authority permission under s.34(4) not to give effect to the annual indirect contact by handing over the communications to the children until such time as the professionals are agreed, in consultation with the therapists, that the children are able to receive those communications without it interrupting their progress in therapy. That does not, I hasten to add, prevent Sarah's father or the mother from sending communications to the local authority to be gathered together by the local authority and kept for those children, as suggested by the guardian, on an even more regular basis than annually. Once it is safe and the local authority is able to lift that embargo and not exercise the permission I have given it, then those communications will be handed over on an annual basis.

The maternal aunt

- 65 The maternal aunt's position is different. She understands the need to be patient. I have already said that she needs to be kept in the loop. I would expect her to be the first port of call for the professionals involved with these children to look to in introducing family contact. It seems to me, and of course the local authority will have to check this with the therapists, that she offers the opportunity to be a good sounding board to see how they are able to cope. There is a real likelihood that the mother will be deported and there is a

chance that the father likewise will be deported. If that happens, then she truly will be the only link that the children have to their family in this country.

66 Finally, having made my determination, I have not yet dealt with Sarah's father's application for an adjournment. Sarah's father applied for an adjournment. Originally that was his primary position which he then amended to make it his secondary position. I think the way he puts his case is that if I was unable to give him what he seeks in terms of contact, then I should order a further report by a clinical psychologist to answer a series of questions to assist me in determining the matter further. The questions include an invitation to the expert to carry out a parenting and psychological assessment, to comment on his ability to have contact, and to answer some slightly odd questions, including:

“Would not the findings from such an assessment be useful in considering maintaining the child/parent relationship until such time as there can be a gradual reintroduction of the party to the child?”

67 I have no intention of adjourning further to seek more evidence in this case. As will be apparent from the judgment I have just delivered, I have plenty of evidence upon which I can make a determination and have just done so. I do not need further input from a psychologist. The evidence from Dr Butler combined with the position taken by Sarah's father himself and my findings is sufficient for me to be able to make all necessary determinations in respect of his application and the applications made by everyone in the case. Unless I consider the instruction of an expert is necessary in order for me to justly determine the issues, I am not empowered to order the instruction of an expert, and so it seems to me that is the end of it.

Those are my reasons.

CERTIFICATE

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

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

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