

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: SE20C00756

IN THE FAMILY COURT SITTING IN SHEFFIELD

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

AND IN THE MATTER OF J, A CHILD

Date: 23.10.20

Before :

HHJ Lynch

Between :

A Local Authority

Applicant

- and -

M (1)

F(2)

The Child

(through his Children's Guardian) (3)

Respondents

Dawn Potts for the Applicant
Donna Tilbrook for the 1st Respondent
Jonathan Reece for the 2nd Respondent
Liz Newbold for the Child

Hearing date : 23.10.20

JUDGMENT

Introduction

1. This case is about a little boy, J, who is one year nine months old. His mum is M, his dad F. Both of them have parental responsibility for J. Other very important people are his maternal grandmother and his great-uncle, although those two people are not part of this court case.
2. This case began about six months ago due to worries about J in the care of his mum and dad. There were worries about his parents misuse of alcohol and drugs, J being left alone by his parents or being out in the street with them in the early as of the morning, and worries that this was affecting their ability to meet his basic needs. These matters were raised with the local authority by members of the community but were also seen by professionals when visiting the home. The local authority had a period of being involved with the family in the latter part of last year, trying to ensure J was safe in the care of his parents, but without success. Matters came to a head after an incident where the police came to the house in response to a report of a violent incident involving the father and some other men. J's grandmother and great-uncle went to get him and said when they arrived the parents were under the influence of alcohol.
3. This led to the local authority beginning this court case. J remained living with his grandmother under an interim care order while assessments were carried out of the parents. Sadly J had to be removed from his grandmother's home a few weeks ago after she decided she could no longer care for him given threats of violence from F. The parents' involvement in assessments has been poor and the local authority has reached the conclusion that J cannot return to the care of his parents. Given there is now no other possible family placement for him, the local authority plan has become one of adoption.

The Issues and the Evidence

4. In preparing for this hearing, I have read the court papers, and I know this case well because I have been responsible for it all the way through. Nobody has given evidence in court today. This case was scheduled for a final review but on the basis that final orders could be made at this hearing. Neither M nor F have given their solicitors recent instructions. I therefore took the decision to finalise plans for J today.
5. The local authority has attempted to assess J's parents. There have been practical issues including the fact that F, who has a number of criminal offences to his name, has been aggressive to the social worker, making threats

of a personal nature towards her. M has, as described by the guardian, provided at best a fluctuating level of engagement with the local authority's parenting assessment. She is not been able to keep up her time with J on any consistent basis. She has not cooperated with hair strand testing for drugs and alcohol but has admitted during the parenting assessment using alcohol and cocaine when J was in her care. F has failed to engage at all in an assessment of him by the local authority. Neither parent met with the psychologist for the assessment that was ordered. Neither parent has seen J since August.

6. The parents' situation has not improved during these proceedings. The things which worried professionals at the beginning of these proceedings continue to be the case. The parents separated in May and M made allegations of significant harm caused to her by F. J's great-uncle provided her with a home to help her separate from him, but she then began a relationship with another risky man. That led to her uncle withdrawing his offer of accommodation to her. Two months after they separated the parents reconciled. Their relationship has continued to be characterised by volatility and on occasions domestic violence by F. M's response when these things happen is to phone her mother in a distressed state but then not take up any support offered.
7. The social worker carried out a partial parenting assessment of M. At times M has been able to acknowledge the things which worry professionals, but this has not been maintained and she is not committed to making the changes she would need to make to care for her son. The relationship between her and F remains a real concern to people. During the life of these court proceedings there have been several incidents when domestic abuse has been reported. Since the couple reconciled, the social worker has not been able to have any meaningful contact with M. It is not proved possible to assess whether M is still misusing drugs and alcohol as she did not cooperate with being tested. She minimises her difficulties in this area.
8. F has not been assessed because he has not engaged with the local authority, failing to attend all appointments. The only assessment successfully carried out was drug testing and that showed in the first four months of this year misuse by F of cocaine, cannabis, ketamine as well as other drugs and alcohol, the alcohol misuse in the chronic excessive range. Given the lack of any change in F's life, the local authority assumes this remains an issue for him. It is also likely to have fed into the incidents of violence. His record includes a

number of worrying offences including possession of an offensive weapon, and he is currently on remand.

9. The local authority worries about M's emotional well-being. It is known she has had issues around depression and a few months ago went to hospital extremely intoxicated asking to be sectioned. During these proceedings there has been a report of M having superficial self-harm cuts on her arms and presenting as very distressed in the community. Again this is an area that remains a real worry for the local authority given the lack of assessment of M's current state of emotional health.
10. The local authority against that backdrop has concluded that J could not be safely cared for by either of or both of his parents. The social worker concludes he would again suffer significant harm as he did when in their care before.
11. J did well in his grandmother's care despite showing some behaviour that it can be assumed was the consequence of the parenting he had received up to that point. His grandmother had always been clear that, due to her commitment to her own children and their needs, she was not in a position to be able to care for him throughout his life. She did however want to give him a home during these proceedings. Even that became impossible because of the threats from F. She has been a very significant person in J's life and even now is able to look at the situation and see what would be best for him. To the social worker she has said he would benefit from all that adopters would be able to give him. Likewise J's great-uncle, who again has been a significant person to J, is unable to offer him long-term care due to his own working commitments and his child.
12. The social worker in her final statement looks at the options for J and concludes that the only way all of his needs can be met throughout his childhood is by way of him being adopted.
13. That position is supported by the children's guardian whose report I read and considered carefully. She agrees with the analysis by the social worker that J would be likely to suffer significant harm again were he to return to the care of his parents, her analysis very much mirroring that of the social worker. She notes the parents' lack of engagement in the necessary assessments ordered by this court and says that in a recent telephone conversation with M she was quite clear she was not going to make herself available for discussions with the guardian or the social worker. The guardian shares the view of the social

worker that the parents have made none of the necessary changes that would be required for either of them to care for J.

14. The guardian looks carefully at J's relationship with his grandmother. She is the one constant in his life and still has contact with him three times a week by video call, as a result of the Covid 19 pandemic. J's foster carer says he enjoys those very much and the guardian is the view of the view that this should be maintained until an adoptive family is found for J. The guardian has thought carefully about whether there should be any direct contact between J and his grandmother going forward. That would bring great benefits to him but, were this link in any way to result in J's parents finding out where he was, then F certainly would bring real risks to that placement.
15. The guardian notes in her report that the relationship between J's mother and his grandmother fluctuates and we cannot be confident that the grandmother would be able to protect J from the risk presented by his father. The guardian says in her report: "Having regard for these factors, I have concluded that it would be onerous upon X to maintain the confidentiality of any adoptive family should this be required of her. I also consider that it would be challenging for any adoptive family to manage these risk factors and that this could potentially limit the pool of adopters available for J." The guardian therefore does not recommend direct contact but does say that there should ideally be a face-to-face meeting between J's adopters and his grandmother prior to him being placed.
16. Sadly neither of J's parents have given any recent instructions to their solicitors and have not filed final statements so I do not know what they want to happen. I can assume that certainly M would have wanted to care for J but maybe her withdrawal from the proceedings means she feels that is not going to happen. F's solicitor has told me today that once his client realised adoption might be a likely outcome he decided not to engage in any assessment and he has not spoken to his solicitor for some time. He is now in prison and his solicitor tried to get a video link meeting with him but without success. A prison officer was asked yesterday to give him the placement order application but F declined, saying he knew what it was about. He has not tried to reach his solicitor, knowing he could. This means I am having to make my decisions about J without knowing what the parents say about the evidence filed, which they have not challenged, or about the plans for J.

17. Before I can make any public law orders in respect of J, I have to be satisfied that the local authority can prove that what is known as the threshold criteria were met at the time this case began earlier this year. I have to be satisfied that J was suffering or was likely to suffer significant harm as a result of the care being given to him not being what it would be reasonable to expect a parent to give to him.
18. Having considered the document prepared by the local authority, and not opposed by the parents today given their non-attendance, I am satisfied from the evidence filed by the local authority that it has proved these facts to the requisite burden of proof. I therefore find that threshold is met as set out at the end of this judgment.

My Decision

19. I now turn to think about what orders if any are needed for J. Wherever possible, children should be brought up by their parents and if not by other members of their family. A judge should only ever agree to a child being adopted if that is absolutely necessary, where no other order would be good enough for the child, “when nothing else will do”. I know that J and his parents have a right to a private family life and when I make my decision, I must remember that J’s welfare throughout his/her life comes first in my thinking.
20. The social worker asks me to make a placement order in respect of J, the first step towards him being adopted. Given that his parents do not agree to J being adopted, I can only make that order if I am satisfied that I should dispense with their consent, in other words get rid of the need for them to agree. I know that I cannot do that unless J’s welfare requires me to do so.
21. The options for J are that he could be returned to the care of his parents, placed in a long-term foster placement or adopted. In my thinking today I have gone through all the possible outcomes for J and balanced up the pluses and minuses of each. When doing that, I have thought particularly about the list of factors in what is called ‘the welfare checklist’ in both the Children Act 1989 and the Adoption and Children Act 2002.
22. A significant factor in this case is any harm J has suffered or is at risk of suffering. I have already found that he has suffered harm in the care of his parents, and I am satisfied he would be at risk of suffering that exact same harm were he to be returned to their care. Given their complete lack of cooperation with these proceedings, I can only say I can think of no support

which could be put in place to keep him safe in their care from what I know of their situation. Their lack of cooperation with professionals to date and indeed F's threats make the idea that support could be put in place from professionals or family to be inconceivable. If J is removed from his family he will also suffer harm, most importantly probably from the loss of his relationship with his grandmother. I have to balance that harm against other factors.

23. J is a small child who has all the needs of any child of his age. He needs to be fed, clothed, housed appropriately, and loved. He needs to have the best conditions possible to grow and develop. He needs to be kept safe and secure. He needs to be brought up by people who will meet all these needs both now and throughout his life into adult hood.
24. I have to consider how capable each of J's parents are, as well as any other relevant person, of meeting his needs. Again, from the limited assessments I have, I am satisfied neither M nor F could meet J's needs for a safe and secure life. J's grandmother I think could meet all his needs apart from possibly keeping him safe from harm from his parents but in any event she is not offering to care. Were J to be placed for foster carers or adoption his needs would be met by adopters who would have been trained and assessed very thoroughly as well as being specifically matched to J.
25. All the options for J mean change for him, whether he was to return to the care of his parents, be in a foster placement long-term or be adopted. I know that the social worker will do what is needed to assist him in moving onto whatever placement is right for him, as I am sure will his foster carers.
26. J is of course far too young to express a view as to what he wants but I am sure it would be to grow up in his birth family if possible and with the person he knows best, now his grandmother given the lack of involvement by his parents and his life for some time. If J is adopted he will cease to be part of his family and will lose both his relationship with his grandmother as well as his parents and his wider family. The law requires me to look at the relationships he has and consider the likelihood of such a relationship continuing and the value to J of it doing so. Although J no longer has a meaningful relationship with his parents, he does with his grandmother and the loss of that has troubled me. There would be value to J that continuing if it could do so safely. She has been able to say that she cannot give him a long-term home and indeed she actually supports adoption, a rarity in these courts. I have thought

carefully about the loss of that relationship in particular and will come onto look at that in my analysis of the options that there are for J.

27. If J were placed back in the care of his parents nothing would have changed from the situation when this case began. He would continue to suffer significant harm as he did before and would be at risk of harm continuing. That would be as a result of their drug and alcohol misuse, the impact of that on their ability to put his needs first, and the violence in their relationship. They do not have the ability to meet his needs from all that I have read about them. This is an option I have been able to easily discount.
28. Were J to be adopted, I know that all of his needs would be met, subject to the fact that he may well have confusion about why he has been adopted. Life story work will be done with him to assist him in understanding that and any transition from his foster carers would be carefully managed. He would be safe from harm in such a placement. He would be able to have indirect contact with his extended family, particularly his grandmother, but that would not be the same as a meaningful relationship with her by way of direct contact. In every other way though his needs would be met.
29. I have considered carefully whether there would be benefit to J of him being placed in a foster placement long-term, which would mean his needs would be met and he could still have a direct relationship with his grandmother. There are two reasons why I do not think this option would be right for J. Inevitably I think his whereabouts would get out and his father poses a real risk, both to J and to those bringing him up. That has been the experience of J's grandmother and I am quite sure would be the same for anyone else caring for him. The other disadvantage for J is that it would not give him the long-term security that adoption does. We know that long-term foster placements do not always survive and children can drift around the system. They do not have the same sense of permanence, with ongoing social work involvement in their lives. Accepted wisdom based on good research is that for a young child adoption results in a better outcome than long-term fostering. In this case, despite the advantage that it would bring in terms of a direct relationship with J's grandmother, overall I do not think this option would meet his needs.
30. Finally, I have considered whether this is a case where I should make an order for contact between J and his grandmother, an order which would bind his adopters. For the reasons given by the guardian in her report however I am not going to make such an order. I think it would make it harder to find adopters

for J, for the reason such contact brings with it real risk. This would not prevent adopters at any point in J's life organising face-to-face contact if they felt that to be right, but requiring that by way of an order would not be the right thing. J's grandmother can see the advantages of adoption, despite her great love for her grandson, and that is admirable. It must be right to leave the adopters found for him to make decisions around adoption.

31. So, looking at the options for J, 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 J is the best thing for him and is proportionate. **I therefore make a care order.** I am also satisfied that J'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 J for adoption.**
32. 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 order that **this judgment must be given by the Local Authority to J's adopters so that it is available to him when he is older. That however is on the basis that they should keep it private so, apart from looking at it themselves, they may only show it to any medical or therapeutic staff working with J or the 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 J and I wish to be sure it reaches him.
33. And I remind myself, judges are often told that a willingness by adoptive parents to talk about a child's birth history, and maybe if appropriate to have contact with birth relatives, can show children that their adoptive parents understand and accept them and their birth families as part of who they are. It can help children feel that their identity with their adoptive parents and their birth identity are not separate but part of a whole. Children, we are told, may need explicit reminders that their adoptive families accept and embrace their histories as part of who they are now. They need to know that they can ask questions and talk about their birth family as part of coming to terms with what they have experienced. Obviously ultimately that comes down to the adopters found for J; all I can do is pass on what I have been told.

THRESHOLD CRITERIA
AS FOUND BY THE COURT

At the time when the Applicant took protective measures the child was suffering and likely to suffer significant harm and the harm was attributable to the care given to him or likely to be given to him if an order was not made, not being what it would be reasonable to expect a parent to give to him.

The categories of harm include domestic violence, emotional harm and neglect.

The following facts are evidence of this :

- 1) J was at risk of neglect due to his parents not consistently being available to him as a result of their drug and alcohol use. Hair strand testing taken on 21st May 20 showed that F had taken cannabis, cocaine and the presence of ketamine, non prescribed benzodiazepine and amitriptyline in the preceding three months.
- 2) F has an extensive criminal history. This includes harassment, possession of a controlled drug and common assault. Such behaviour would place J at risk of impairment of his social and emotional development.
- 3) J has been exposed to domestic violence in his parents' care thus putting him at risk of emotional harm and impairment of his social development. F has regularly perpetuated physical violence upon the mother.
- 4) M has been either unwilling or unable to leave father and has therefore failed to put J's needs above her relationship with the father.