

IMPORTANT NOTICE

This judgment was delivered in private. The judge has given leave for an anonymised 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[ren] and members of their [or his/her] 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: SE20C01437

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF E

Date: 21.1.21

Before :

HHJ Lynch

Between :

**A local authority
- and -**

Applicant

**M
G
E**

(through her Children's Guardian)

Respondents

**Jennifer Offord for the Applicant
Kay Swannack for the 1st Respondent
James Gascoigne for the 2nd Respondent
Sarah Walker for the Child**

Hearing date: 21 January 2021

JUDGMENT

Introduction

1. This court case is about a little girl called E. Her mum is M, but we do not know who her dad is. Her maternal grandmother is G with whom E is living. I am going to call E's mother and grandmother M and G respectively in this judgement to distinguish them. E moved to live with her grandmother last summer after an incident when M hit E at a time when she had drunk too much. At the first hearing in this case, I made a child arrangements order saying that E should live with her grandmother and an interim supervision order to give the local authority responsibility to support the family. During the life of this court case E has been able to see her mum, subject to Covid restrictions, and that time has moved on from being supervised by the local authority to being supervised by E's maternal grandfather or maternal aunt. At the second hearing orders were made for assessment of M and G and the case was timetabled through to today.

The Issues and the Evidence

2. I have had to do little today because the people involved in the case have been able to agree what final orders should be made about E so my task has been to see if I agree with that. I know the case well having done all three hearings and I have re-read all the key documents in preparation for today
3. When E was born, she and her mother lived at G's house until September 2019 at which point they moved out into M's own property. The incident which led to E moving to live with her grandmother happened last year. A neighbour had called the NSPCC reporting hearing M screaming and hitting a child and had recorded that happening. E was medically examined and was found to have two bruises on her left buttock as well as one on her cheek below her left eye. The doctor said this suggested excessive and inappropriate chastisement.
4. I have read the assessment of M and the social worker's final statement. M's problems with alcohol are long-standing and have had an impact on her own lifestyle and her care of E. On occasions when living with her mother and under the influence of alcohol M assaulted G when E was present. There was an occasion when last summer she left E at home in bed when she went to a neighbour's house for a few drinks and M could not recognise the risk involved in this. The local authority's worry is that M drinks too much alcohol and that increases the severity and aggressiveness of her behaviour and actions towards E. However, the social worker notes that she has also been verbally

abusive to E at times when she has not consumed alcohol. The evidence is that M is able at times to reduce her drinking but then goes back to her previous ways. Her hair strand test in August 2020 showed between the middle of May and the middle of August she had been drinking in effect a bottle of wine every night. A later test in November 2020 suggested she may have consumed chronic levels of alcohol up to November although M said she had cut down. It was only in November of last year that M approached a local alcohol misuse service for support. Previously she had taken the view she could sort out her problems on her own but could not see this had led to her going back to drinking after periods of reduced use.

5. M has been able to acknowledge that her drinking caused her to hit E and. In her assessment sessions though, the local authority feels that she does not acknowledge and understand the significance of the incident and that M could not put herself in E's position and imagine how she would have felt. M felt she would not follow through with the threat she was making. The assessment concluded that she needs to learn and put into effect different ways of dealing with a child's behaviour to ensure E was safe from harm. M is a person who gets stressed and this can impact on the kind of parent she is.
6. Observations of the time E spends with her mother are positive and she seems happy and relaxed. This has been the same whether contact has been at the contact centre or supervised by her aunt and grandfather.
7. E is doing well in the care of her grandmother where she is happy, settled and content. In this home she has consistent, predictable routines and her needs are being met. The social worker has observed warm and affectionate bonds between her and her grandmother who she seeks out reassurance and comfort. The assessment which has been carried out of her is entirely positive. She is well supported by E's grandfather and her daughter. E's health visitor reviewed her at the end of last year and commented on how much progress she had made while living with her grandmother. Nursery have also seen how she has grown in independence and confidence.
8. The local authority's plan for E is supported by the guardian and I read his report carefully. He shares the local authority's analysis of M's difficulties and says that E needs would be best met by her remaining living with G. He agrees that a special guardianship order should be made to give G the enhanced parental responsibility that comes with that.

9. In her final statement M says that she knows she made a big error of judgment during the incident which led to this case beginning. She does feel it was out of character for her but says she accepts it was wrong for her to shout at E and slap her as she did. She says that she was under the influence of alcohol at the time, having by 9am had a can of lager and two glasses of wine. She says that because of that she completely overreacted to the loss of the item which had gone missing when she was getting E ready for her bath. In her final statement, M says she is devastated about what she did, and she has accepted a police caution for that assault.
10. M hoped that, having cut down her drinking and late last year taken up support from an alcohol support service, she could resume care of E. She has been able to accept though the plan of the social worker, supported by the guardian, for E to remain with her grandmother. She is very grateful to G for all she is doing for E. She wants to go on being a regular part of E's life and to go on seeing her.

My Decision

11. I now turn to think about what orders if any are needed for E. Wherever possible, children should be brought up by their parents and if not by other members of their family. I know that E, M and G have a right to a private family life. And when I make my decision, I must remember that E's welfare throughout her life comes first in my thinking.
12. The parties asked me to confirm the factual situation as it was when this court case began by making threshold findings, even though I am not being asked to make a public law order. The wording of that document has been agreed between the parties and I am happy to approve that. It is set out at the end of this judgment.
13. The only options for E are that she could live with her mum or her grandmother. In my head though I have gone through those possible outcomes 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' which can be read in the most important Act of Parliament about children's cases, the Children Act 1989.
14. It goes without saying that E has already suffered harm in her life in the care of her mother. The wording agreed between the parties and set out at the end of this judgment shows the harm she has suffered. That is not something any child should experience at the hands of their parent. It is not just the physical

harm that E suffered when she was hit. The emotional harm caused by a parent shouting at a child, threatening a child, is just as serious. It will have affected her ability to trust the person bringing her up and will have made her feel unsafe.

15. E is a little girl with all the needs a child of her age would have. She has some particular needs because of her hearing impairment. Those needs must be met in a safe and consistent way by the adult looking after her. Her care needs to be given in a consistent and predictable way.
16. It is important for me to think about how capable M and G are of meeting E's needs. I have carefully considered the assessment of M. I know in her final statement she says that she is dealing with her problems, but she has a very long way to go. Reducing alcohol use but not stopping it may be harder than stopping completely. Certainly in the past I know M has cut down her drinking for periods of time but then increased it again. Being the person she is, someone who is vulnerable to getting stressed and then "losing it", drinking too much is a real problem. M knows that she has to change that and very importantly then keep up those changes, and hopefully she is at the start of that process. This is the first time she has engaged with a support agency and this may make a difference. It is going to take time though and time is something E does not have.
17. If E lives with G, it is evident from the assessment of her that all of E's needs will be met. G has been a significant part of E's life since the beginning and was an obvious person to step in when it became clear E could not stay with her mum. G has been willing to make a long-term commitment to bringing up E and everyone in this case recognises how significant that is. Living with her, E will be safe and secure in a familiar setting, will be living in her birth family with contact with all the people who matter to her, and very importantly can keep up a relationship with her mum.
18. I know things have been difficult between M and G given all that has happened, and I was delighted to read that the social worker has referred them to Family Group Conferencing. Meeting together to make plans for E will hopefully bring them together and improve communication. I also saw that E's social worker has referred M to a couple of parenting courses. This is a really good step forward if M can commit to that as the more she can learn about how to be a good mum the better it will be for E. I am grateful to E's social worker for looking into this and making the referrals.

19. Looking at the two options for E, living with her mum or living with her grandmother, it is clear to me as it has been to the parties in this case that the right thing for E is to stay where she is. It is the only place where she will be safe, where her needs will be met as required, and where she will be able to go on having a relationship with all the people that matter. I agree that G should have the enhanced parental responsibility that goes with a special guardianship order as there may well be difficulties between her and M in the future as there have been in the past. I am satisfied therefore that the local authority's plan for E is the best thing for her and is proportionate. I therefore make a special guardianship order in favour of G.

THRESHOLD CRITERIA
AS AGREED BY THE MOTHER
AND APPROVED BY THE COURT

At the time proceedings were issued E was at risk of suffering from significant harm, such risk of harm being attributable to the care given and likely to be given not being what it would be reasonable to expect a parent to give to the following concerns:

1. E has been known to the local authority since a referral from the NSPCC. The caller reported that she could hear the mother screaming and hitting a child. The mother can be heard on a recording making threats to E. E has suffered from significant physical and emotional harm as the result of this.
2. E attended a Child Protection Medical. The following injuries were identified to be inflicted injuries rather than accidental injuries;
 - a. 1. On her left buttock she had an oblique longitudinal yellowy-brown bruise around 7cm in length and 1cm in width
 - b. In addition, on her left buttock, she had a round yellowy-brown bruise medial to the above bruise, 1cm in diameter.
 - c. Below her left eye, on her cheek, she has a fading blue bruise around 2-3cm in length.

The Mother admitted to the Doctor that she had hit E on her left cheek and left buttock. The mother has subsequently accepted that she smacked E twice, once on her face and once on her bottom. The mother states that she has never acted in such anger towards E. The Doctor finds this admission consistent with E's injuries and concludes that there was bruising as a result of the Mother hitting E. The Doctor goes on to conclude that the injuries to E's face suggest excessive and inappropriate chastisement. E has suffered significant physical harm and emotional harm as the result of this.

3. The mother was arrested and bailed under investigation for child cruelty and actual bodily harm. The Mother accepted a Caution. E has suffered from significant physical and emotional harm as the result of this incident.
4. The mother has a dysfunctional relationship with alcohol. She has a history of alcohol misuse, but also periods of almost total abstinence. The mother states that before the incident, she drank about a bottle of wine per day, in the evenings after E had gone to bed. On the morning she was under the influence of alcohol having drunk a can of lager and two glasses of wine. The mother accepts that on this occasion that drinking alcohol had a negative impact on her behaviour and ability to care for E. The mother states that she has reduced her alcohol intake to 2-3 glasses of wine in the evening on a Friday and Saturday and occasionally Sunday. E has suffered from significant physical and emotional harm and neglect as the result of this.
5. The mother has told professionals that she has left E at home on her own before. She stated that one night she visited a neighbour's house for about an hour when E was in bed asleep at the time. The mother is unable to provide an explanation for this action. E has suffered from neglect as the result of this.
6. The mother presents as very vulnerable, which may be amplified by her alcohol use. Professionals are concerned that she could be taken advantage of. (Details of events removed to avoid identification of the child.) E has been at risk of suffering neglect as the result of the mother's vulnerability.