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*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:*	**16/10/2024**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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FAMILY DIVISION
OFFICE OF CARE AND PROTECTION

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Between:

A HEALTH AND SOCIAL CARE TRUST

Applicant

and

A MOTHER
and
A FATHER

Respondents

In the matter of a male child (dob 24.01.2017) and a female child (dob 03.09.2021)

And in the matter of an application by the paternal grandparents and paternal aunt for leave to be joined as parties to the application and for leave to commence proceedings to obtain residence orders or in the alternative contact orders in respect of the two children

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Ms S Ramsey KC with Ms R McMillan (instructed by Kristina Murray Solicitors) for the paternal grandparents and paternal aunt
Ms M Smyth KC with Ms L Murphy KC (instructed by the Directorate of Legal Services) for the Trust
Ms N Murnaghan KC with Ms U McGurk (instructed by Magennis & Creighton Solicitors) for the Mother
Mr G Duffy KC with Ms N Devlin (instructed by Campbell & McCrudden Solicitors) for the Father
Mr C MacCreanor KC with Ms B Dargan (instructed by Fisher & Fisher Solicitors) for the Children's Court Guardian

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McFARLAND J

[1] On 11 October 2024, I refused the applications of the grandparents and aunt to be joined as parties to care order proceedings and for leave to issue residence order applications and indicated that I would give written reasons later at the conclusion of the final hearing which is now fixed for 23 October 2024.

[2] The grandparents and aunt have sought written reasons before the conclusion of the case as they wish to consider an appeal, and I have agreed to provide them.

[3] These are my reasons. I have anonymised the judgment. Given the extent of publicity relating to this family it is essential that extreme care is taken to ensure that the children cannot be identified, although a 'jigsaw' type identification will be probable in the circumstances. I would alert those reading this judgment that nothing can be published that would identify either child as being the subject of these proceedings.

[4] The parents are of mixed ethnicity and background. The mother is originally from Poland. On marriage to the father, she assumed his surname and converted from Christianity to his Muslim faith. The father is originally from Pakistan.

[5] The mother had an older child from another relationship who was born on 17 September 2014. This female child died on 15 December 2019 (aged five years and three months) when she was being cared for by the parents.

[6] Threshold has not been formally determined at this stage, although both parents have been convicted on their pleas of guilty of a number of offences relating to this child. The father murdered her, and on two occasions prior to her death between July and December 2019 he caused her grievous bodily harm with intent. The mother caused or allowed the suffering of serious physical harm and her death.

[7] The recorded injuries, which occurred on at least four separate occasions, included more than 70 injury sites on her body, eight rib fractures, a fractured clavicle, fractures to the pelvis, a fractured skull, and severe lacerations of the liver and bowel. It is unlikely that threshold will be a significant issue on 23 October 2024.

[8] At the time of the death, the boy was 11 months old. The girl was born eight and a half months later.

[9] The father received a life sentence with a minimum tariff of 22 years. The mother was sentenced to 11 years, of which five and a half years is the custodial period.

[10] The current care plans for the children are separate long-term foster placements and the Trust is seeking court approval for care orders based on these plans.

[11] It is not necessary to set out the history of the care planning in this case, but it has been protracted and fraught with problems with the children undergoing multiple placements.

[12] In or about February 2023, the paternal grandparents emailed the Trust asking that the Trust make arrangements for their travel to the United Kingdom and for the Trust to both sponsor and pay their expenses in relation to their proposed immigration into the United Kingdom so that they could care for the children.

[13] A questionnaire was forwarded, and this was followed up by a remote interview on 6 April 2023, which included the paternal aunt. Following this meeting, the Trust made a decision on 12 April 2023 not to proceed with any further assessment.

[14] The core reason for this decision was a concern about the grandparents' ability to care for the children, based on a number of issues. These included the grandparents' belief that notwithstanding his admission of guilt, their son was innocent and that the injuries sustained by their step-granddaughter were caused by her falling down stairs thus raising safeguarding concerns; the fact that the grandparents live in Pakistan and wanted the Trust to fund and facilitate their immigration into the United Kingdom; their limited financial resources; they had never met the girl and contact with the boy had been limited to remote video link and not since 2019; and the language barrier as the grandparents had no English.

[15] This decision was advised to the grandparents, although they were not told that they could seek a review or appeal. There are obvious language and communication difficulties, but the grandparents did, on a regular basis, seek clarification from the Trust, and latterly they have sought legal advice in this jurisdiction. Their efforts included contacting the Pakistan High Commission in London and other agencies.

[16] The grandparents and aunt issued their C2 as personal litigants on 29 February 2024 and have now secured legal representation. They want to be joined as parties to the proceedings and to advance their case to obtain residence orders (or in the alternative contact orders). Their current concerns are the separation of the children from each other, and further that the girl's placement is not meeting her cultural and religious needs.

[17] The applications were opposed by the Trust and the Children's Court Guardian, supported by the father and the mother has remained neutral.

[18] The grandparents and aunt have no automatic right to be joined as none of them have ever exercised parental responsibility for either child. The court has a wide discretion when considering whether to join parties. Article 10(9) of the 1995 Order relates to leave to commence residence order proceedings and it sets out several relevant factors, although these factors are not to be regarded as a form of test, and the court should take into account all "the material features of the case" (see the judgment of Black LJ in *Re B* [2012] 2 FLR 1358). The welfare of the children is not the paramount consideration (see *Re A* [1992] 3 All ER 872) but will be an important consideration.

[19] Ultimately, the consideration will also require the court to consider if the applicants have an arguable case, with a realistic prospect of success.

[20] In coming to my decision, I have taken the following matters into account:

(a) The nature of the application, which reflects the efforts of both the grandparents and the aunt to argue that the proposed care plans for the children should include them as primary carers;

(b) Apart from the blood ties, there is no real connection between the grandparents and aunt and either child. They have never met, seen, or communicated with the girl. They have had contact by video link with the boy, but not since 2019. They do receive photographs of the children.

(c) The application has the potential to lead to disruption to the children's lives given the background, the complex needs of each child and the narrative work that is being carried out. Given the current attitude adopted by the grandparents and the aunt about the causation of injuries to their step-sister, I consider that there would be significant disruption to the emotional welfare of each child should they be given any scope to air those views and opinions to the children.

(d) Any issue relating to the culture and religion of each child is a matter for the parents. Both parents are promoting this issue within the current proceedings, and there is no need for the grandparents or the aunt to become involved, particularly as none seek a different approach or outcome from the parents.

(e) The granting of leave will inevitably result in further delay in the cases of each child. The geographic location of the grandparents and aunt obviously has created a difficulty as has their lack of understanding of the English language or the legal system in the United Kingdom. Some of the delay has clearly not been their own fault, but the reality is that these children have been before the courts for significant periods – the boy approaching five years, and the girl now four years, for the entirety of her life.

[21] These matters must also be considered with the fact that neither the grandfather, the grandmother nor the aunt have come to the view that their step-granddaughter and step-niece suffered any harm at the hands of her mother and step-father, notwithstanding that both had admitted to either inflicting the injuries or allowing them to be inflicted.

[22] Even taking into account a lack of a full understanding of what had happened to the child and their lack of understanding of English, to even contemplate that the 70 injury sites on the child's body, her eight rib fractures, the fractured clavicle, the

fractures to the pelvis, the fractured skull, and the severe lacerations of the liver and bowel could be caused by her accidentally falling down stairs, reflects, at best, a fundamental lack of understanding of the most basic of safeguarding issues. Neither grandparent or the aunt have sought in the intervening 18 months to retract or explain their earlier opinions.

[23] The injuries inflicted by their son on their step-granddaughter/step-niece are well documented. Had any applicant shown any inclination to ascertain what had actually happened they could have accessed all the relevant journalistic and judicial material by a simple internet word search. They have either accessed this material and rejected it, or they have not been sufficiently motivated to access it.

[24] Based on all of these matters and particularly the safeguarding concerns, the lack of English, their inability to enter and remain in the United Kingdom, the prospect of the grandparents and/or the aunt obtaining a residence order or having any meaningful role in the care of either child has to be seen as extremely remote and is not arguable.

[25] The issue around contact is a little more nuanced as there could be a way by which the children's welfare could be promoted through contact with the wider paternal family. Given the lack of any real connection to date with the children, it is very much in the early stage of development. The application, insofar as it relates to an article 53 contact order is much too premature.

[26] This issue will be one of care planning in the future, and at that stage an application by the grandparents or aunt may be more appropriate, although that will be very much a decision for the future, and I make no comment as to the advisability of such an application.

[27] In all the circumstances, these were applications which, although well presented by counsel in difficult circumstances, have very little merit, and for that reason they are refused.