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Delivered: 18/09/2020

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

**IN THE MATTER OF THE ADOPTION (NORTHERN IRELAND)
ORDER 1987**

BETWEEN:

A HEALTH AND SOCIAL CARE TRUST

Applicant;

and

Ms E AND Mr T

Respondents.

**IN THE MATTER OF J, M, R (MINORS):
(FREEING FOR ADOPTION)**

**Ms Ramsey QC instructed by DLS for the Trust
Ms Simpson QC and Ms MacAllister instructed by Reid Black for the mother
Ms Brady BL instructed by Archers Solicitors representing the Guardian ad Litem
on behalf of the children**

KEEGAN J

[1] I have anonymised this case as it involves children. Nothing must be published which would identify the children or their family.

Introduction

[2] I have previously given judgment in this case in relation to an application made pursuant to the Brussels 11a Regulation. My judgment is reported at [2020] NI Fam 13. I have now heard evidence in relation to the Trust applications to free these

three children for adoption pursuant to the Adoption (Northern Ireland) Order 1987 ("the 1987 Order").

[3] On the date of hearing on 8 September 2020, Senior Counsel for the mother, Ms Simpson QC, told me that her client had not attended. Ms Simpson also told me that her client had said that she would attend and so I left over the opportunity for the mother to attend the following week. I reconvened on 15 September 2020 and on that date Ms Simpson explained that the mother had been contacted but had not attended. The mother has not filed a statement in these proceedings and her engagement has been minimal. Ms Simpson had no instructions to apply for an adjournment and in all the circumstances I am content that all efforts have been made to engage the mother in these proceedings and I should proceed on that basis. The father has not engaged at all with proceedings and the Trust have filed an affidavit of service in relation to him dated 14 September 2020. I am satisfied that both parents have had every opportunity to engage but have chosen not to. I have proceeded with the case on that basis.

Background Facts

[4] The sad history of this case is exposed in the papers filed by the Trust. The parents appear to have married some time ago in Slovakia. There are older children of the family who are all placed in foster care. The children are of Roma Slovakian origin. Whilst in Slovakia, it is clear the family led a transient lifestyle. In 2007, it is reported that the mother and father were arrested and charged with child neglect. It appears that they were subsequently convicted in 2012 and then they appear to have left Slovakia.

[5] Social services have been involved with the family in Northern Ireland since 2012. I note that in September 2015 there was a referral made by a GP in relation to one of the older children's weight but the case was then closed. In March 2016, a Gateway referral was made due to the behaviour of one of the older children, aged 14, amid allegations that he had inappropriately touched a 14 year old girl and made inappropriate comments to another underage girl. At this stage, poor school attendance was noted. In June 2016, an anonymous allegation was made in relation to multiple adults living at the family home and against the father in relation to slapping three of the elder children. A pre-interview assessment took place but no formal disclosures were made. A home visit took place on 3 June 2016, which noted that all seven family members were sleeping in one bedroom on multiple beds and there was very little clothing or food in the home. In June 2016, the health visitor also made a re-referral about one of the children's weight.

[6] Following from these referrals in 2016, social services involvement has highlighted serious issues with the children being underweight and poor, chaotic home conditions. There is also a pattern of social services failing to obtain access to the house and non-cooperation of the parents. The papers expose a worrying picture of missed appointments with the GP and a lack of attention to the children's health

needs. On 18 January 2017 an Initial Child Protection Case Conference was convened and the children's names were added to the Child Protection Register under the categories of confirmed neglect and potential emotional abuse. After this, there were attempts to keep the family together but the same issues of chronic neglect re-emerged. By February 2017, the Education Welfare Service were involved due to non-school attendance. In March 2017, a Core Group Meeting was convened and no changes or improvements were noted. At this time, I note that the PSNI also raided the home on intelligence for drugs and weapons but nothing was found. The situation became critical in April 2017 when the Trust issued interim care order proceedings. Removal was not imminent but it was inevitable given the lack of improvement and chronic neglect. On 9 June 2017, interim care orders were made. The mother failed to cooperate with the plan and tried to hide the youngest two children at that time, aged 5 and 2 (the 2 year old was J the eldest child in these proceedings). Recovery orders were granted and the two young children were eventually found with relatives and placed in foster care.

[7] Following the Trust intervention, the parents failed to cooperate in any meaningful sense. Parenting assessments were offered but they were not completed. The parents consistently failed to attend meetings and they also failed to attend contact on any consistent basis. On 11 July 2017, the mother gave birth to another child who is the child M in these proceedings. The mother discharged herself from hospital after 5 hours. She did not leave any items for the child. The Trust therefore applied for an Emergency Protection Order and the child was removed into foster care from birth. Following from this intervention, the mother had limited contact with the child. The father has had no contact at all since the children were removed into care. Some elder children began to make allegations of abuse against their parents and have attended ABE interviews. On 5 April 2019, the mother gave birth to R having concealed this pregnancy. She left him in the care of midwives and has not initiated contact since then. The father has had no contact.

[8] The above summary makes clear that whilst in Slovakia the elder children did not experience a happy life. When the family arrived in Northern Ireland, the situation did not improve. This is a case of chronic parental neglect. These younger children have all been born in Northern Ireland. The eldest child had some relationship with the parents but the two younger children have effectively been abandoned at birth and have had no relationship with their parents at all. The two girls are placed in one dually approved placement and the boy is placed in a separate dually approved placement.

[9] On the 8 June 2018, full care orders were made for J and M before the High Court in Northern Ireland along with the elder children. On 14 January 2020, the High Court also made a full care order for R. During those proceedings consideration was given to transferring proceedings to Slovakia, however, Northern Ireland was considered the best placed to deal with the case. There were no kinship placements identified and, by correspondence of 14 November 2019, the Slovakian authorities had indicated that placement in Slovakia would be in

institutional care. In this context, I am asked to make orders freeing the children for adoption.

Legal Considerations

[10] An application of this nature is governed by the provisions of the Adoption (Northern Ireland) Order 1987. In particular, the court must be satisfied that the children are placed for adoption or are likely to be adopted - Article 18(2). These children are in Trust care by virtue of care orders previously made. The adoption must be in the best interests of each child to satisfy Article 9. In that regard, the court must consider all other options pursuant to the authority of the Supreme Court in *Re B (A Child)* [2013] UKSC 33. This a draconian order which represents an interference with the Article 8 rights of the parents and so the court must be careful to analyse each and every option in a case before deciding on the most draconian order. In circumstances such as this, where both parents have parental responsibility for the children, the court must also be satisfied that each parent has unreasonably withheld consent within the meaning of Article 16 of the 1987 Order. This test was explained in *Down Lisburn Health and Social Services Trust v H* [2006] UKHL 36. I have considered all of these legal tests in reaching my conclusion.

[11] I have also invited the Slovakian authorities to make any representations to the court in relation to these children, given their origins. I have considered the previous document filed in November 2019, in which the Slovakian authorities refer to a proposed plan for institutional care for the children should they be returned to Slovakia. This was of course considered during care order proceedings but nonetheless I have read it again in these proceedings, given my obligation to consider ethnic and cultural issues. The affidavit of Mr Fitzpatrick of 10 September 2020 sets out all of the contact with the Slovakian authorities, who are aware of these proceedings. I am grateful for the recent email response of 14 September 2020 from Katrina Zubkova, Legal Department of the Centre for the International Legal Protection of Children and Youth. In particular, I note that in this response the Slovakian authorities refer to the fact that there are no relatives in Slovakia, that institutional care would be utilised and that "If the Court decides that adoption is in the best interests of the minors we fully respect this position. We also respect the position of the parents who did not appoint any relative in Slovakia willing to take the child into their care." The Slovakian authorities also wish to be informed of the outcome of this hearing.

Consideration

[12] Notwithstanding the low level of engagement of the parents and the limited dispute about these matters I, to satisfy myself, did hear evidence from the responsible social worker in this case and from the guardian ad litem. I am very grateful to both witnesses for attending at court and for giving evidence to me. The responsible social worker is Ms McFadden. She adopted all of the reports in the case and the statement of facts. Ms McFadden confirmed that she had considerable

involvement with this family. She told me that the children were doing very well in their respective placements. She pointed out that kinship had been considered in this case but was not viable, as there was an aunt who initially put herself forward and then withdrew and an older sister who also was not an appropriate placement. Ms McFadden said that the two girls have a very stable placement. She pointed out that the carers were receptive to their Roma origin, although the children now have English as a first language. Ms McFadden reminded me that one of the girls did have some behavioural difficulties which have substantially settled. She pointed out that the young boy is also in a nurturing placement and doing very well. Ms McFadden confirmed in evidence that she had not had real involvement with the mother or father, despite trying to engage with them. Ms McFadden also said that that sibling contact was part of the Trust plan on an ongoing basis to be managed between carers. She said that the older children were aware of the plan for their younger siblings and they were educators for the younger children in terms of the Roma background. Ms McFadden explained that prior to these proceedings sibling contact had been somewhat chaotic but it could be managed on special occasions. In relation to the parents, the plan that the Trust have if there is to be freeing for adoption is indirect contact only, if the parents engage. However, Ms McFadden said that it was debatable whether the parents would engage at all given their track record.

[13] Ms McAree, the guardian ad litem, also filed two reports in this case and gave evidence to the court. She was in full agreement with the Trust plan. She also had limited engagement with the parents and had not met either of them. She pointed out that she had written to them and had her letters translated but had no response. Ms McAree pointed out that on one occasion when she visited the home during the care proceedings, the father ran out the door and she hadn't seen him since. Ms McAree reassured me that she had visited both placements and had seen how well both children are doing. She was satisfied with the arrangements for contact. In relation to sibling contact, she described an occasion when the children all had to go to Dublin to get passports together and that that was a jolly day for them.

[14] Both Ms McFadden and Ms McAree assessed whether or not adoption was the best option in this case and whether or not all other options had been considered. Neither witness considered institutional care in Slovakia was the best for these children. Neither witness considered that long-term fostering was the best for these particular children, even though some of the older siblings were in long-term foster care. Both witnesses stressed that these younger children desired a forever family and that there is a particular psychological benefit in adoption in terms of certainty and the status of the carers.

Conclusion

[15] Having heard the evidence and read the papers, I am satisfied that adoption is in the best interests of each of these three children. They deserve to have a settled life with committed carers. Adoption is by far the best option for these children.

Given the age of the children and the certainty it will provide, it is infinitely preferable to long-term foster care. I am absolutely satisfied that the proposed carers will respect their Roma origins and also will promote sibling contact, which should allow some understanding of their origins. However, I do point out that these children were born in Northern Ireland, their first language is now English and they will be integrated in this society. It is clear to me that the parents have not provided proper care to their children. Now, they are clearly not interested in the children and could not be relied upon to provide them with a home or any stability. Quite the contrary. I have considered the representations made by the Slovakian authorities. Having done so, I am satisfied that there are no kinship carers and I do not consider that the option of institutional care in Slovakia would be the best for these children. I am satisfied with the contact arrangements.

[16] I will therefore dispense with the consent of each parent to the adoption of the children on the basis that they are unreasonably withholding consent. In relation to the mother, while she has had some limited engagement with her solicitors she has not felt able to present any objection to the court. In truth, there was no real case that she could make given her lack of involvement with these children. I therefore dispense with her consent and that of the father. I am satisfied that all of the statutory tests are met. I have considered Article 8 of the European Convention on Human Rights and having done so, I am satisfied that these orders are justified and are a proportionate response to the facts of this case.

[17] Accordingly, I will make the orders as requested by the Trust and I will discharge the guardian ad litem. I direct that the Slovakian authorities are made aware of this decision.