

Re PG (Children) (2015)

AC9601851

29/07/2015

Barristers

Andrew Powell

Court

Court of Appeal (Civil Division)

Practice Areas

Public Children Law

Summary

Findings of fact that were in part based upon a social worker's biased reports which had accepted a mother's allegations against a father without proper investigation, and that had failed to give sufficient reasons for what had been accepted and what had been rejected, were set aside.

Facts

The appellant father appealed against a judge's findings of fact resulting from allegations made by the respondent mother.

The mother and father, who had separated and had an acrimonious relationship, had two daughters aged four and seven. The mother applied for a prohibited steps order and a residence order. The father cross-applied, making the same applications; the children were later joined as parties. The mother alleged that there had been inappropriate sexual conduct from the father; that he had exhibited controlling behaviour and verbal abuse towards her; that he had thrown an object at her; that he had been abusive towards the family dog and that he had sworn and shouted at their child. The father made partial admissions in relation to some of the allegations, explaining that the mother had exaggerated or taken his behaviour out of context. The judge rejected the father's view and took a favourable view of the mother. The mother and father gave live evidence and the judge had s.7 reports from a social worker concerning the contact between the father and the children and a report from the children's guardian. The s.7 reports supported the mother's allegations. The judge rejected the father's view that the s.7 reporter had colluded with the mother, and made findings of fact adverse to the father. The father complained twice about the s.7 reporter to during an independent review, and it was later accepted that the reporter had taken a biased approach in that: (a) there had been a failure to conduct a fair and just investigative process; (b) the reports had not involved the father fully; (c) the father suffered injustice; (d) the local authority had failed to give the father the addendum to the s.7 reports; (e) the reports dealt with the mother's allegations as though they were fact. The issue was whether the judge's findings of fact were perverse.

Held

The judge had relied on the s.7 reports in a way that was not susceptible to analysis, and he had not adequately reasoned what he had accepted and rejected. It should be possible to understand the reasons for a particular decision, but here the judge's decision did not permit the Court of Appeal that level of scrutiny. The extent of the conclusions of the independent review was such that there was strong prima facie evidence that an offence had been committed. The mother's argument that there was a sufficient basis for the judge's findings to stand could not be right. Neither could it be said that the new material, namely the result of the independent review, should not be considered or admitted. That material also dealt with the father's contact with his older child and showed that although the mother had said that the child had been adversely affected by contact, a school nurse and a psychiatrist had said otherwise. Accordingly, the appeal would be allowed, the findings of fact set aside and the case remitted to a different judge.

Permission

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