

Blunkett v Quinn

[2005] 1 FLR 648

03/12/2004

Court

Family Division

Facts

The 2-year-old child lived with the mother and the mother's husband. The mother was 28 weeks' pregnant and was suffering relatively severe complications of pregnancy. The applicant, a senior politician, was seeking a parental responsibility order and a contact order, and described himself as the father of the child. He made no other applications to the court. The mother disputed the applicant's claim to be the father of the child. A judge refused the mother's application to adjourn the hearing until after the birth of the child she was now expecting, and listed the proceedings for further directions before him on a specified date to consider: whether the mother's husband should be joined as a party; whether there should be scientific tests to determine the paternity of the child; and various case management issues. The mother appealed arguing that she could not obtain a fair trial without the adjournment.

Held

Held - dismissing the appeal -

(1) Having regard to the quantity of material concerning this case that was in the public domain, some of it, even in the most responsible commentaries, wholly inaccurate, and having regard to the private and family lives of all concerned, it was right to hear the appeal in private, but to give this judgment in public, albeit excluding from the judgment unnecessary personal material. The ability to correct false impressions and misconceived facts would go further to help the rights of all involved under Art 6 and Art 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (the European Convention) than would the court's silence, which in this case would only promote further speculation and adverse comment that would damage both the interests of those involved and the family justice system itself. It did not follow that future hearings would result in a public judgment (see para [22]).

(2) The judge had not failed to have sufficient regard to the mother's right to a fair trial, under Art 6 of the European Convention, in the light of her medical condition, as (a) the evidence before the judge suggested that the mother was not incapacitated from giving instructions nor, to a significant extent, from taking part in the proceedings, (b) delay would be damaging to the relationship between the putative father and the child, and (c) it was a proper consideration of the parties' Art 6 rights and their competing Art 8 rights to continue the proceedings by active case management, dealing with paternity as the first issue (see para [28]).

Per curiam : it was not the case that the mother must necessarily attend all hearings, which was a matter for her to decide with her medical and legal advisers. There was considerable difference between (a) ensuring from hearing to hearing that the mother's right to a fair trial was secured by considering her health as against the instructions which she had given and the measures that could be taken to make her right of access to the court effective and (b) the abrogation by the court of its responsibilities to secure the rights of the child and the putative father for a period of at least 4 months (see paras [32], [33]).

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