

Re H; Re G (Adoption: Consultation of Unmarried Fathers)

[2001] 1 FLR 646

30/11/2000

Court

Family Division

Facts

In two cases heard successively, each unmarried mother placed her baby with a local authority with a view to adoption on the basis that confidentiality would be respected and that neither mother would be pressed to disclose the identity of the father. Neither father had parental responsibility. In the first case, the father and mother had cohabited for a period and had an older child with whom the father had contact. The pregnancy had been concealed from the father and extended family and the mother feared that information about the adoption would damage the relationship she had built up with the father. In the second case, the mother and father had never cohabited and although they had been engaged, their relationship had completely dwindled and they had lost touch. The mother was concerned that the father not be identified and that her family should not know of the birth. The father was from overseas and was training for a profession in this country. In the first case, the local authority sought guidance on whether to join the father as a respondent to the adoption proceedings. In the second case, the local authority invoked the court's inherent jurisdiction for guidance on whether it was lawful to place the child for adoption without consulting the natural father.

Held

Held - ordering the first local authority to take steps to identify and consult the father, and making a declaration that it was lawful for the second local authority to take no further steps to try to identify the father -

(1) As a matter of general practice, judges or district judges giving directions in adoption or freeing for adoption applications would be expected to inform natural fathers of the proceedings unless, for good reason, it was inappropriate to do so. Although a mother's desire for confidentiality might carry more weight in some cases than in others, it ought not to deprive the father of his right to be informed and consulted about his child in the majority of cases.

(2) In the first case, the parents had had a relationship, including cohabitation, which had lasted for several years and the father had shown continuing commitment to the elder child. The father was therefore entitled to respect for a family life with the child under Art 8(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950. To place the child for adoption without notice to the father would prima facie be in breach of this right, and in accordance with Art 6(1) and under r 15(3) of the Adoption Rules 1984, the father should be given notice and made a respondent with

the opportunity to be heard.

(3) In the second case, the facts were less strong. The parents had never cohabited and their relationship did not have sufficient constancy to show de facto family ties. Consequently, the relationship did not come within the concept of family life within Art 8 and the father therefore had no right to respect for family life. It was not necessary for him to be given notice or joined as a respondent to the proceedings.

Consultation of unmarried fathers

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