

Re R (Inter-Country Adoptions: Practice)

**(1999) 1 WLR 1324 : (1999) 4 All ER 1015 : (1999) 1 FLR 1042 :
Times, January 20, 1999**

13/01/1999

Barristers

Private: Amanda Barrington-Smyth

Court

Family Division

Summary

Child brought from Romania.

Facts

The child arrived in England from Romania in 1994 accompanied by Mrs R who was not related to the child. The immigration officer was informed that the child was visiting for a holiday. Mrs R denied any intention to adopt the child. Immediately before the expiry of the temporary visa, the applicants gave notice to the local authority of their intention to adopt the child and issued an adoption application, asserting that the birth parents consented to the proposed adoption. The Sch 2 report contained no information about the natural parents who were first seen by an agent of the Official Solicitor in 1996. They opposed the application to adopt and demanded the return of the child. The child's future was not determined until the conclusion of a contested hearing in December 1998. The application by the adopters was dismissed, the child was made a ward of court and care and control was granted to the applicants with contact to the natural family.

Held

Held - the following guidelines were given -

- (1) Whenever a non-European foreign national child arrived at a port of entry accompanied by an adult who was not related to the child and the child was not going to stay with a relative in this country, the written consent of the natural parents to the visit should be produced by the accompanying adult. The period of entry should be for the minimum necessary.
- (2) The Home Office should inform the Department of Health of the child's presence within 72 hours and the Department of Health should inform the fostering and adoption department of the relevant local authority of the child's circumstances. If the natural parents did not appear to consent to the child remaining in the UK, then the Home Office should not extend the temporary entrance clearance visa.
- (3) The Department of Health should perform an active role in combating delay when the department

became aware of the presence of a privately fostered child of foreign nationality. The role of the department should be to co-ordinate policy and agency action.

(4) The local authority should immediately attempt to contact the natural parents of the child to ascertain their views. If it appeared to the local authority that the natural parents did not consent to the child remaining in the UK then the local authority should immediately inform the Department of Health and the Home Office of that fact. Upon receipt of notification of an application to adopt a privately fostered child of foreign nationality, the local authority should immediately inform the Department of Health and ask them to ascertain from the Home Office whether an intention to adopt was disclosed to the immigration officer.

(5) The court, on receipt of an application to adopt, should draw up a timetable with a view to determining the application without delay. The court should never accept documents which were not translated into English. If the intention to adopt was not disclosed to the immigration officer, the applicants were unable to produce the natural parent's written consent to adoption or the applicants failed to comply with the Department of Health's guidelines on inter-country adoptions, then the application should be transferred to the High Court and the case listed as a matter of urgency and the Official Solicitor should be invited to act. There should be provision for a further directions hearing before the judge within 6 weeks, in advance of which the Official Solicitor should file an interim report. At the next directions hearing, if it appeared that the natural parents did not consent and opposed the application, the court should consider dismissing the adoption application or making orders within the wardship jurisdiction for the immediate return of the child to the natural parents.

(6) The Official Solicitor must be proactive and seek directions from the court in order to prevent delay. Priority should be given to interviewing the natural parents, effecting personal service on them, advising about legal representation and the options available to them.

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