

Re C (Care: Consultation with Parents not in the Child's Best Interests) (2005)

(2006) 2 FLR 787; [2005] EWHC 3390 (Fam)

20/12/2005

Barristers

Alistair G Perkins

Court

Family Division

Summary

A father who had raped and indecently assaulted his daughter could be removed as a party to care proceedings and the local authority could be absolved of its duty to keep him informed.

Facts

The applicant local authority, which had been granted an interim care order for a 12-year-old child (C), applied for the father (F) to be removed as a party to the care proceedings and for it to be absolved of its duty to inform and consult him. F had been convicted of raping and indecently assaulting C, and was serving a sentence of 11 years' imprisonment. C, whose mother (M) lived in Jamaica, had been placed with a foster parent. The local authority, M and the guardian argued that C was a mature child and her wish that F should play no part in her life should be respected. F contended that he had not interfered in C's life since the proceedings began and that he was prepared to give undertakings that he would continue not to do so. He argued that he should still be allowed a role in major decisions affecting C and be able to ensure that her needs were being met by the local authority

Held

HELD: (1) The court had the power to absolve the local authority from its duties under the Children Act 1989 s.22 and s.26 to provide information to and consult with F, since a failure to comply with such duties amounted to no more than an irregularity, P (A Child) (Children Act 1989, ss22 and 26: Local Authority Compliance), Re (2000) 2 FLR 910 applied. (2) A parent's general right to be informed and consulted could be limited by countervailing factors such as rape or serious domestic violence, H (A Child) (Adoption: Consultation of Unmarried Fathers), Re (2001) 1 FLR 646 applied. (3) The same issues applied to both applications, since it would be difficult for F to remain a party if he were not being kept up to date with matters. (4) The applications were to be decided on the basis of C's best interests. F's total disregard of C's best interests in committing the offences and her fervent wish that he not be involved meant that he should not participate in discussions about those interests. He would be kept informed only through a brief annual report of C's progress, or if the local authority intended to make significant changes to the care plan, such as applying for adoption.

Applications granted

Permission

Lawtel 