

Re M (A Child) Sub Nom Re M (Adoption: International Adoption Trade) (2003)

[2003] EWHC 219 (Fam)

07/03/2003

Barristers

Michael Sternberg OBE KC

Court

Family Division

Summary

It was a criminal offence for anyone other than an adoption agency or its agent to provide a home study report for the purpose of an inter-country adoption. Local authorities which had concerns in such situations were required to voice those concerns to the foreign court clearly, loudly and explicitly. There was public interest in the author of this home study report being publicly identified.

Facts

Application by local authority ('Z') to free the child ('M') for adoption. M was born in January 2000 in the USA. Both her birth mother ('A') and her birth father ('B') were resident there. Prior to her birth, arrangements were made for M's adoption by ('C') and C's husband ('D'), who were both citizens of this country. The arrangements had been made on their behalf in the USA by an adoption company ('the company'). In this country, the arrangements were made by independent social worker ('ISW'). She provided a number of home study reports described in the present case as "deeply flawed and grossly inadequate documents". Only three days after M's birth A signed an 'irrevocable mother's affidavit of relinquishment of parental rights to licensed child-placing agency'. The same day, M began to be cared for by her prospective adoptive mother C. Four days later C arrived with M in the UK. On 22 December 2000 Judge Kern, in Texas, made a decree of adoption. In May 2001 C separated from D. On 2 August 2001 C committed suicide. M was placed with friends of the family, and the case was referred to Z. D informed Z that he did not wish to have M returned to him. On 14 September 2001 M was accommodated with foster parents by Z. On 29 November 2001 D consented to Z proceeding with M's placement for adoption. On 25 June 2002 A said that she wanted M back. Z conducted an assessment of the birth parents. Their conclusion was that M should not be returned to her birth parents. The birth parents did not take further part in the proceedings despite efforts to involve them.

Held

HELD: (1) This was an adoption that should never have been allowed to take place. The court in Texas would have been equally concerned had it not been misled by the seriously deficient reports on the basis of which the judge made his orders. (2) The author of a home study report such as the one in this case committed criminal offences under both s.11 and s.57 Adoption Act 1976. (3) Any local authority faced

with a similar problem was required to inform the foreign court and any other agencies involved in the clearest possible terms, that: (a) the provision of home study reports other than by an adoption agency or its agent is a criminal offence; and (b) of matters within its knowledge suggesting that the prospective adoptive parents are not suitable either to adopt at all or (as the case may be) to adopt the particular child involved. Local authorities were required to voice concerns clearly, loudly and explicitly. (4) The decree of adoption made by Judge Kern on 22 December 2000 was valid under the law of Texas and was recognised as valid in English law. Accordingly, D was the only person having parental responsibility for M and thus the only person who was a “parent” for the purposes of s.18 of the 1976 Act. M however remained a citizen of the United States of America. (5) The court’s conclusion was that M’s birth parents could not adequately look after her. (6) There was no obstacle to the court making a freeing order. D consented. It was, plainly in M’s best interests that a freeing order be made. (7) The wider public interest was served by the giving of this judgment in public so that it achieved the widest possible dissemination. There was a plain public interest in someone who had consistently conducted herself in the way in which ISW had behaved being publicly identified.

Freeing order granted

Permission

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