

Re H (A Minor) (Adoption: Non-Patril) (1996)

**(1997) 1 WLR 791 : (1996) 4 All ER 600 : (1996) 2 FLR 187 :
Times, May 9, 1996 : Independent, June 5, 1996**

03/05/1996

Barristers

Baroness Scotland KC

Court

Civil Division

Summary

Adoption of a non-patril where the child's welfare outweighed the consideration of public policy in maintaining immigration control.

Facts

Appeal by the Home Secretary against dismissal of his objection as an intervener in adoption proceedings in respect of H. H had come on a visit to UK from Pakistan with his father to attend a wedding and was the sixth of eight children in his family. Mr and Mrs A were British relatives who were childless and unable to have children and H's father agreed they should adopt H who then began to live with them. The Home Office refused to extend H's entry visa and Mr and Mrs A appealed and applied for the adoption order, which if granted, would confer British nationality on H.

Held

An adoption application to circumvent immigration controls would always be refused but Adoption Act 1976 s.6 did not justify the refusal of a genuine application simply because it was not motivated by welfare considerations. Whilst it was true that the applicants wished to adopt H and there had not been a transfer of parental responsibility on the ground of the parents' inability to care for the child, the application was genuine and the welfare advantages to the child clearly outweighed considerations of public policy in maintaining immigration control.

Permission

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