

McC (A Child) (No 2) [2012]

[2012] EWCA Civ 166

19/01/2012

Court

Civil Division

In the substantive application for permission and appeal, the mother relied on research showing a connection between low Vitamin D levels and an increased vulnerability to fracture in infant bones, arguing that the trial judge had not taken this issue sufficiently into account and that further expert evidence was necessary.

Thorpe LJ, in giving the judgment of the court, emphasised the strength and depth of the medical evidence that was available to the trial judge at the fact-finding hearing and the fact that the specialisation of paediatric radiology is particularly small. The experts had considered the issue and had been unanimously of the opinion that Vitamin D deficiency was not a factor. In light of that, it was unsurprising that this issue was not pursued at trial nor dealt with by the trial judge in his judgment.

Thorpe LJ, with the agreement of Rimer and Smith LJ, refused permission to appeal and to extend time. The parents had been properly represented in trial, had been engaged in the gathering of expert evidence and had had the opportunity to seek further expert instruction at that stage. The child's life had moved on since and the application was too late and inadequately meritorious to risk disrupting her potential adoptive placement.

Mother's application for permission to appeal judgment on the basis of judge's approach to the issue of low vitamin D levels and increased vulnerability to fractures in infant bones.

Permission

Lawtel 