

Northamptonshire County Council v AB & CD (2019)

[2019] EWHC 1807 (Fam)

16/04/2019

Barristers

Kate Branigan KC

Court

Family Division

Practice Areas

Public Children Law

First instance decision of Mr Justice Keehan in care proceedings concerning a child whose brother had been murdered by his father. Care and placement orders made.

The case concerned a four-year-old child, CD. CD's mother has two surviving children: CD and GH (who was not a subject child of the proceedings). A third child, EF, had been murdered by his father, Raphael Kennedy, in a brutal attack.

The mother, who was only 20 years old at the time of the final hearing, had had a very chaotic and damaging childhood, which left her an extremely vulnerable young woman. CD's father was not known.

In September 2017, the mother was made aware of DNA test results that established Raphael Kennedy as the father of EF. Just a few days thereafter, the mother allowed EF to have staying contact at his father's home. The next day, EF was seen with bruising. The mother did not seek expert or medical assistance. Raphael Kennedy was subsequently arrested by police when EF was in his care. Despite this, the mother continued to allow him to spend time with the father overnight.

A social worker from the local authority spoke with the mother on 19th October 2017. The mother was advised to contact the police to obtain information about Raphael Kennedy's criminal past. She did not do so. The local authority accepted that they ought to have undertaken an assessment of EF and the mother and his father much sooner. On 27th October 2017, EF returned home after staying with his father with a lump on his head. The mother took no action. She also refused to engage with the assessment that was by then being undertaken by the local authority.

The mother, tragically, took no action when Raphael Kennedy contacted her on the evening of 14th December 2017 to notify her that EF was ill. The following day Raphael Kennedy murdered EF.

Following EF's death, CD was placed with foster carers. The local authority issued care proceedings. The

mother had not been consistent in attending contact with CD. CD was suffering extreme distress when he attended and she did not arrive.

On 20th January 2019 GH was born. His father is unknown. The mother and GH were undergoing a parenting assessment with GH in a mother and baby foster placement. This ended when she learnt that the care plan for CD was adoption. The mother left the mother and baby foster placement and used the money provided by her solicitors for travel to London to attend the final hearing to check into a hotel in Northampton with two friends and spend the whole weekend drinking.

The local authority, supported by the guardian, sought care and placement orders for CD. The mother sought for him to be placed in long-term foster care, pending a possible return to her care.

Keehan J summarises the relevant law at paragraphs 5 – 12 of his judgment and the evidence at paragraphs 25 – 35. He accepted the evidence of the independent social worker, who had carried out an assessment of the mother, that she not have the skills to afford any child with safety and security and that a return to her care either now or in the future was not a realistic option.

The judge undertakes an analysis of each proposed care plan at paragraph 47- 49. He notes that CD was very attached to his current foster carers. He had adjourned the final hearing to enquire as to whether they would be willing to put themselves forward as special guardians or potential adoptors for CD – they were not in light of their ages and family commitments.. In the circumstances, conscious that CD welfare would be best served if he could find a forever family, Keehan J approved the local authority's care plan and granted the care and placement orders sought.

The judge also granted the local authority permission to continue to refuse contact between CD and his mother (which was to be reduced to a farewell contact) unless the mother demonstrated her commitment to the same.

Permission

 **Family Law Week**