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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (CROWN SIDE)

IN THE MATER OF AN APPLICATION BY THOMAS A DOWNEY FOR JUDICIAL REVIEW

HIGGINS J

This is an application for judicial review of several decisions by His Honour Judge McKay QC sitting at the Family Care Centre, Craigavon between and including 17 August 1999 and 5 January 2000. The applicant is the father of NBMcG (N) who was born on 3 July 1994 and is now aged 5 years and 9 months. She is the daughter of P McG with whom the applicant co-habited until 1997 when the couple separated. PMcG was granted a residence order in respect of N in February 1998. In June 1998 the applicant applied at Newry Family Proceedings Court for a contact order. At the end of 1998 social services became involved. A welfare report was prepared by Mr J McGuigan a senior social worker employed by Newry and Mourne Health and Social Services Trust for a court hearing at the Family Proceedings Court on 9 March 1999. Mr McGuigan recommended an interim contact order. On 2 July 1999, over one year after the proceedings commenced, an order refusing contact was made. On 15 July 1999 the applicant appealed to the Family Care Centre. A directions hearing was held on

17 August 1999 and the case listed for hearing on 9 September 1999. On this date no hearing took place but further directions were given. At the applicant's request it was directed that a welfare report be completed by a senior social worker other than Mr McGuigan. No evidence of bias or improper conduct on the part of Mr McGuigan was adduced by the applicant. The report directed was to be lodged on or before 8 November and the appeal was adjourned to 11 November 1999 when the author of the report was directed to attend.

In or around June 1999 Newry and Mourne Health and Social Services Trust contracted with the Newry Family Resource Centre for the Family Resource Centre to administer requests by the courts in the Trust's area, for welfare reports under Article 4 of the Children (NI) Order 1995. Newry Family Resource Centre is a Barnardos project. The staff are employed by Barnardos and the project is funded in part by the Newry and Mourne Unit of Management Social Services Department. In accordance with the pilot scheme then in operation the directions of the Family Care Centre dated 9 September 1999 were sent by Newry and Mourne Health and Social Services Trust to the Newry Family Resource Centre for a report to be prepared for the court. Mr Gerry O'Hanlon a qualified social worker and Project Leader at the Newry Family Resource Centre was deputed to prepare the report. He interviewed each of the parties and also spoke to Mr McGuigan. He then prepared his report dated 4 November 1999 in which he referred to the report written by Mr McGuigan. On 11 November 1999 Mr O'Hanlon attended the Family Care Centre. The applicant objected to the report being received in evidence because it disclosed (a) that the report of Mr McGuigan had been considered by Mr O'Hanlon and (b) that Mr O'Hanlon had spoken to Mr McGuigan. The applicant submitted that a social worker was an expert witness and as such, was someone to whom the guidelines on expert witnesses contained in such cases as "The Ikarian Reefer" National Justice Compania S.A. v Prudential Assurance Co. Ltd 1993 2 Lloyds Reports 68, should apply. His Honour Judge McKay QC acceded to this application and the report was not received into evidence. An interim contact order

was then made and the case adjourned to 17 December 1999 for mention. The respondent to the proceedings appealed the interim contact order to the High Court. On 25 November 1999 I ruled that no appeal from a Family Care Centre lay to the High Court when the proceedings before the Family Care Centre were an appeal from the Family Proceedings Court. The case was referred back to His Honour Judge McKay QC for further consideration.

At the hearing on 11 November 1999 the Trust was not represented nor was Newry Family Resource Centre. On learning of the ruling on that occasion the Trust lodged a C2 application. This was dated 13 December 1999 and pursuant to Rule 4.15(2) of the Family Proceedings Rules (NI) 1996 sought " fresh directions…from the court in relation to the Article 4 welfare report and the Social Worker's (that is Mr O'Hanlon) future role in the proceedings… in the light of the provisions of Article 4 of the Children (NI) Order 1995 and the relevant authorities". The C2 application was sent by first class post to the court, the applicant and the other parties on 13 December 1999. Thus each had two clear days notice of the application. On 17 December 1999 the case appeared in the list for the Family Care Centre as an adjourned case for mention. The applicant was present and represented himself. Counsel appearing on behalf of the Trust requested that the C2 application dated 13 December 1999 be heard. After submissions on this issue the judge abridged time for service and allowed an oral hearing on the application. The applicant submitted to the learned County Court Judge that he could not reverse the decision he had made on 11 November 1999. After hearing submissions from both parties the judge ruled -

(i) that Mr O'Hanlon should attend the hearing of the appeal which was then fixed for 5 January 2000;

(ii) that his report which would be received into evidence would be open to challenge by the applicant;

(iii) that the applicant would have the opportunity to cross-examine Mr O'Hanlon; and

(iv) that the court would then determine the weight, if any, to be attached to the report.

On 5 January 2000 the case came on for hearing and His Honour Judge McKay QC made the following orders (i) that the applicant should not have contact with his daughter; (ii) that no further proceedings be issued without leave of the court for a period of two years; (iii) a prohibited steps order prohibiting the applicant from doing certain things and (iv) a costs order against the applicant. Subsequently the applicant requested the learned County Court judge to state a case for the Court of Appeal. I was informed that he has declined to do so and that proceedings may be brought in the Court of Appeal seeking a direction that the learned judge state a case for the consideration of the Court of Appeal. I understand that the same issues which arise in these proceedings would arise in the case stated.

Since the first application relating to his daughter in June 1998 the applicant has been and remains a litigant in person. At the commencement of the hearing of this judicial review he sought and was granted leave to have present in court a Mr John Bannon as a 'McKenzie friend' to assist him. At each directions hearing or hearing before His Honour Judge McKay QC on 17 August, 9 September, 11 November, 17 December 1999 and 5 January 2000 he applied for leave to have a Mr Crowley assist him as a 'McKenzie friend' and each application was refused. Unlike these present proceedings the hearings before the learned County Court judge took place in chambers. In paragraph 7 of his affidavit the learned judge set out his reasons for refusing the application for leave to have a McKenzie friend present on 17 December 1999. He stated -

> "I refused his application on the following grounds - firstly these proceedings were proceedings to be held in chambers and were proceedings which involved the welfare of a minor. Issues of confidentiality inevitably arise and in the circumstances of a case such as this I would consider it inappropriate for another person not directly involved in the proceedings to be present. Secondly, I considered the applicant to be a highly educated man who has appeared before me on a number of occasions and has well demonstrated his ability to deal both with the evidence and issues involved in these proceedings. I therefore considered that he would not be disadvantaged by the

> absence of a person to assist him. Thirdly, I know Mr Crowley, having previously heard a case in which he was a party. As far as I am aware, he had no legal qualification or knowledge and on the previous occasion made application for the assistance of a 'McKenzie friend' (sic) nominating Mr Downey for this purpose."

Leave to bring these judicial review proceedings was granted by Mr Justice Kerr. By an amended originating motion the applicant seeks -

a) an order of certiorari to bring up and quash the orders and directions given by His Honour Judge Randal McKay QC at Craigavon Family Care Centre on Friday 17 December 1999 and Wednesday 5 January 2000, particularly that permitting Gerry O'Hanlon's readmittance to the proceedings in relation to Thomas Downey's application for contact with his daughter N;
b) an order of certiorari to bring up and quash Judge McKay's refusal of the applicant's requests for the assistance of a McKenzie friend at every hearing in Craigavon Family Care Centre in relation to file no FCC4/7/99: 17 August 1999, 9 September 1999, 11 November 1999, 17 December 1999 and 5 January 2000.
c) a declaration that as a result of Gerry O'Hanlon's readmittance to the proceedings and His Honour's repeated refusal of the assistance of a McKenzie friend, Judge McKay's decision to deny the applicant any contact with his daughter N for the next two years is null and void.
d) such further and other relief as may be just.
e) costs.

In support of his application for certiorari the applicant submitted -

1. That the learned county court judge should not have ruled on 17 December 1999 that the report of Mr O'Hanlon be admitted in evidence and used at the hearing on 5 January 2000 - in effect reversing the decision he made on 11 November 1999.

2. That two clear days notice of the directions hearing had not been given and as the case had been listed for mention a directions hearing should not have taken place; and

3. That the learned county court judge should have ruled in favour of the attendance of the McKenzie friend. In this regard the only relevant dates are 17 December 1999 and 5 January 2000 these being the only occasions on which the learned county court judged ruled contra the applicant.

Under Article 4 of the Children (NI) Order 1995 a court considering any question with respect to a child under the Order may request a welfare report either orally or in writing. Article 4 provides -

> "4 (1) A court considering any question with respect to a child under this Order may ask an authority to arrange for a suitability qualified person to report to the court on such matters relating to the welfare of that child as are required to be dealt with in the report.
>
> (3) The report may be made in writing, or orally, as the court requires.
>
> (4) Regardless of any statutory provision or rule of law which would otherwise prevent the court from doing so, the court may take account of -
>
> (a) any statement contained in the report; and
>
> (b) any evidence given in respect of the matters referred to in the report,
>
> in so far as the statement or evidence is, in the opinion of the court, relevant to the question which it is considering.
>
> (5) An authority shall comply with any request for a report under this Article."

Thus a court may request an authority [a Trust by virtue of Article 2(3) of the Children (NI) Order 1995 and Article 3(1) of the Health and Personal Social Services (NI) Order 1994] to arrange for a suitably qualified person to report in writing to the court about the welfare of a child. Where a court makes such a request and a report is presented the court may take account of its contents regardless of any rule of law or statutory provision if it is relevant to the issue before the court. Thus once a report is commissioned it is admissible and the court may take it into account in its discretion if it so wishes and if the report is relevant. At the directions hearing on 11 November 1999 the court ruled that the report was inadmissible because it contained references to the earlier report by Mr McGuigan and

because Mr O''Hanlon had spoken to Mr McGuigan. It is also alleged in the affidavit of the applicant that Mr McGuigan had become involved in mediation between the applicant and the respondent mother and that this was a reason why he should not fulfill the role of welfare officer for the Family Care Centre proceedings. There is nothing in the report of Mr McGuigan to suggest that he was involved in any mediation or conciliation between the parties.

Directions hearings are provided for by Rule 4.15 of the Family Proceedings Rules (NI) 1996 which states -

> "4.15 (1) In this rule, 'party' includes the guardian ad litem and, where a request or a direction concerns a report under Article 4, the welfare officer.
>
> (2) In proceedings to which this Part applies the court may, subject to paragraph (3), give, vary or revoke directions for the conduct of the proceedings, including -
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> (a) the timetable for the proceedings;
>
> (b) varying the time within which or by which an act is required, by these rules or by other rules of court, to be done;
>
> (c) the attendance of the child;
>
> (d) the appointment of a guardian ad litem, whether under Article 60 or otherwise, or of a solicitor under Article 60(3);
>
> (e) the service of documents;
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> (f) the submission of evidence including experts' reports;
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> (g) the preparation of welfare reports under Article 4;
>
> (h) the transfer of the proceedings to another court;
>
> (i) consolidation with other proceedings.
>
> (4) In an urgent case the request under paragraph (3)(*b*) may, with the leave of the court, be made -
>
> (a) orally, or
>
> (b) without notice to the parties, or

(c) both as in sub-paragraph (*a*) and as in sub-paragraph (*b*).

(5) On receipt of a written request under paragraph (3)(*b*) the proper officer or chief clerk shall fix a date for the hearing of the request and give not less than 2 days' notice in Form C3 to the parties of the date so fixed.

(6) On considering a request under paragraph (3)(*c*) the court shall either -

(a) grant the request, whereupon the proper officer or chief clerk shall inform the parties of the decision, or

(b) grant that a date be fixed for the hearing of the request, whereupon the proper officer or chief clerk shall fix such a date and given not less than 2 days' notice in Form C3 to the parties of the date so fixed.

(10) The court shall take a note of the giving, variation or revocation of a direction under this rule and serve, as soon as practicable, a copy of the note on any party who was not present at the giving, variation or revocation."

Rule 4.1 - the definition rule - defines a welfare officer as a person who has been asked to prepare a report under Article 4 of the Children Order.

Rule 4.14 provides for the service of a welfare officers report and for his attendance at court and is without prejudice to any power to give directions under Rule 4.15. It provides -

"4.14 (1) Where the court has directed that a written report be made by a welfare officer, the report shall be filed at or any such time as the court directs or, in the absence of such a direction, at least 14 days before a relevant hearing; and the proper officer or chief clerk shall, as soon as practicable, serve a copy of the report on the parties and any guardian ad litem.

(2) In paragraph (1), a hearing is relevant if the proper officer or chief clerk has given the welfare officer notice that his report is to be considered at it.

(3) After the filing of a report by a welfare officer, the court may direct that the welfare officer attend any hearing at which the report is to be considered; and

> (4) this rule is without prejudice to any power to give directions under rule 4.15."

Upon a request or direction for a welfare report under Article 4(5) of the Children (NI) Order the suitably qualified person who reports to the court, the welfare officer, becomes a party to the proceedings. In Children Order proceedings the court has extensive powers to give directions in relation to the conduct of the proceedings - see Rule 4.15(2). Paragraphs (a) to (i) of Rule 4.15 (2) set out examples of the type of directions which may be given but they are not exclusive. In addition the court has similar extensive powers to vary or revoke earlier directions. Thus a court may direct that a report be not used at a hearing or a person not to attend a hearing and at a later date to revoke or vary such a direction and to issue fresh directions. However the revocation or variation of earlier directions given under Rule 4.15 would require good reason. Directions may be given, varied or revoked either of the court's own motion or on the written request of a party on Form C2. In the Family Care Centre the Chief Clerk upon receipt of a written request in Form C2 shall fix a date for the hearing of the request and give not less than 2 days' notice in Form C3 to the parties of the date so fixed. The purpose of this notice is to give a party an opportunity to attend the hearing and if necessary to prepare a response to the application. The applicant did not receive notice of the request in Form C3. He did receive the Trust's C2 application sent by first class post on 13 December 1999. He did receive 2 clear days' notice of the application and attended the hearing fixed for 17 December 1999. As appears from the affidavit of the learned county court judge and confirmed by the affidavits of Mr Greenaway and Mr O'Hanlon and not disputed by the applicant he was offered time to consider the application but nevertheless opted to proceed, though the applicant in his second affidavit stated that on receipt of the Trust's C2 he was provided with no authorities and was unable to prepare and deal with the Trust's points. Having offered the applicant the opportunity of an adjournment the learned county court judge abridged time for service and permitted an oral hearing on the issue. The court has power to abridge time under Order 43 Rule 10 of the County Court Rules (NI) 1980 which are applicable by

virtue of Rule 1.4 of the Family Proceedings Rules (NI) 1996. Equally the court has the power under Order 6 Rule 7 of the County Court Rules to declare the service actually effected to be sufficient where there is evidence that a party has received the application form or where there is a purely technical defect in service - see respectively Dalton v Ringwood 1906 40 ILTR 52 and Henry v Henry 75 ILTR 96 (NI). Furthermore under Rule 4.9(1) of the Family Proceedings Rules (NI) 1996, the court has power to direct in Children Order proceedings that a requirement in the Family Proceedings Rules for service shall not apply or that it shall be effected in such manner as the court directs. The omission in this case was that Form C3, informing the applicant of the date fixed was not served on the applicant by the Chief Clerk as required by Rule 4.15(5). It is not clear whether in abridging time and permitting an oral hearing the learned county court judge was purporting to exercise his powers under Rule 4.15(3) or (4). All the parties were present and the C2 had been served but not the C3 and having abridged time the learned County Court Judge would have been entitled to proceed under Rules 4.15(3). However in his affidavit he refers to abridging time and allowing an oral hearing. Under Rule 4.15(4) the court has power in an urgent case to permit an application for directions to be made orally or without notice. Therefore under either Rule 4.15(3) or (4) the court had power to hear the application for a further direction relating to the welfare report. At such a directions hearing the court has power to revoke an earlier direction relating to the welfare report and to give further directions about it - see Rule 4.15 (2) supra. Therefore the court had power to give the directions made on 17 December 1999 and to consider the report, of the welfare officer at the full hearing on 5 January 2000. In any event even if the rules were not complied with, the court was entitled in its discretion to take account of any statement in a welfare report, and any evidence given in respect of matters referred to in the report by virtue of Article 4 (4) of the Children Order, supra. Where a direction is given at a subsequent direction hearing which revokes an earlier direction then the revocation should be recorded in the relevant Form C18.

The applicant deposed that at one stage in the proceedings he was asked to leave the courtroom and did so for a lengthy period whilst everyone else remained. If that did occur as alleged it is difficult to conceive of circumstances which would justify it. A litigant in person is entitled to be present at all times when his case is before the court. The applicant also alleged that on occasions there were other persons present who had no connection with his case. Rule 4.2 states that unless the court otherwise directs proceedings under the Children Order shall be heard in chambers. Thus unless the court directs to the contrary only those connected to the proceedings before the court should be present and all other persons should be excluded. This includes other practitioners and police officers but not potential witnesses from Trusts or from Barnardos or other similar organisations who provide reports to the court. There could be no objection to Messrs Leeson, O'Hanlon and McGuigan being present during these proceedings on the ground that the proceedings required to be heard in chambers.

A social worker who prepares a report at the request of a court is a court welfare officer. As such he is an officer of the court appointed for the purpose of reporting to the court. He is not a witness nor is he an expert witness. He is not employed by a party to the proceedings. He is not an expert witness who is relied on by that party nor a witness who may be called on behalf of a party. He is appointed by the court to investigate circumstances relating to a child or a family and to report on those circumstances to the court. It is for the court to decide in its discretion whether he should be called as a witness and examined or cross-examined by any party. He does provide an expertise outwith the experience of the court but nevertheless is in a different category from persons with expertise engaged by a party to advise and if necessary give evidence on behalf of that party. He should not be a person who had previously engaged in conciliation between the parties. He requires to be independent from the parties and to provide on the basis of his investigations a balanced view upon which the court can decide the issue. He is not a person to whom the guidelines relating to expert witnesses should apply. The court directions of 9 September 1999 contained no injunction against the

welfare officer speaking to Mr McGuigan or referring to the report of Mr McGuigan. Nor did they provide any reason why a further report was directed, which might have alerted the welfare officer to any special difficulty about those matters. The actions taken by Mr O'Hanlon were in accordance with normal social work practice and neither he nor his investigations or report could be faulted on the grounds that he had spoken to Mr McGuigan or referred to his report. It remained for the court to decided on the evidence whether a contact order should or should not be made.

Should the applicant have been permitted to have a 'McKenzie friend' present in court? The term 'McKenzie friend' derives its name from a contested divorce case Mckenzie v McKenzie 1971 P 33. In that case the husband's right to free legal aid was terminated and as a result he was no longer represented by counsel and solicitor. He wished to have the assistance of an Australian barrister to sit with him and advise him during the proceedings. The judge at first instance did not allow him to remain as the firm of solicitors for whom the Australian barrister worked was no longer on record as representing the husband. All three judges in the appeal court considered that decision to be wrong, holding that the husband was entitled to the assistance he requested relying on the old case of Collier v Hicks 1831 2 B & D 663 and the views of Lord Tenterden CJ. In his judgment Sachs LJ stated that the error of the trial judge in refusing the husband's application did not render the trial a nullity. This issue has been considered recently in children's cases in R v Bow County Court ex p Pelling 1999 2 FLR 1126 and Re G (Chambers proceedings: McKenzie Friend) 1999 2 FLR 59. These were Court of Appeal decisions in which the lower court's refusal to permit a 'McKenzie friend' to sit in was challenged. Re G was heard in 1991 but only reported in 1999. They were proceedings in wardship in which the judge took the view that wardship proceedings were of a highly confidential nature and that it was unnecessary for the appellant to have a 'McKenzie friend'. Parker LJ said at p 60a:

> "In the present case, the proceedings are in chambers and in my judgment it must be a matter for the judge to have control over whom he permits to remain in a chambers' proceeding. There are, no doubt, many cases in which a judge will find it proper to exercise his discretion

> in favour of allowing a *McKenzie* friend to be in chambers and he should and will naturally view any application in that behalf with sympathy, as I have no doubt the judge did in this case, but save in exceptional cases, it would be quite wrong for this court to interfere with the decision of a judge as to the persons whom he will allow to be present in a chambers' matter."

Balcombe LJ agreed with the judgment of Parker LJ and said:

> "I agree. The position of litigants in person, who are ineligible for legal aid but at the same time unable to afford the normal services of a solicitor, is one where the use of a *McKenzie* friend in appropriate circumstances can be very helpful. For that reason I agree with what my Lord has said that one hopes, and indeed expects, that judges of the Family Division, when dealing with cases in chambers, will consider with understanding any application for a litigant in person to have the assistance of a *McKenzie* friend where appropriate. But having said that, I agree entirely with what my Lord has said that this must be a matter for the discretion of the judge to conduct his or her own proceedings in chambers and I can see no ground upon which this court could possibly interfere with the decision which Waite J made in this case. I agree that this appeal should be dismissed."

Lord Woolf MR in giving the judgment of the court in ex p Pelling said that they agreed entirely with the sentiments expressed by Balcombe LJ. He then referred at length to R v Leicester City Justices ex parte Barrow 1991 2 QB 260 and the judgments of Lord Donaldson MR and Staughton LJ and at p 1132 stated -

> "We do however stress:
>
> (i) that the authorities lay down that a McKenzie friend has personally no rights with regard to litigation, it is the litigants who have the right,
>
> (ii) that a McKenzie friend has no right to be an advocate,
>
> (iii) that both in proceedings in chambers and in proceedings in open court, the court has a discretion to exclude a McKenzie friend,
>
> (iv) that the difference between the position in open court and in chambers is one of degree."

Later he stated at p 1132 -

> "In general, we would stress as did Lord Donaldson, that it is fairness and the achievement of justice which is in play here. A litigant in person has an entitlement to be heard and if he or she needs assistance for this purpose, then the court should not, unless there is reason, deprive that person of that assistance. There are many considerations which can arise in chambers to make the presence of a McKenzie friend inappropriate when that presence would be appropriate in open court. The proceedings can be confidential."

And at p 1133:

> "The help which a McKenzie friend can properly give a litigant in person could assist in achieving equality between the parties and also assist in reducing the length of the hearing. A McKenzie friend who does not act appropriately can however frustrate the objectives set out in Part 1. That is why the courts must have a discretion to determine the role a McKenzie friend should be allowed to play."

Lord Woolf MR summarised the conclusions of the court:

> "1. In relation to proceedings in public, a litigant in person should be allowed to have the assistance of a McKenzie friend unless the judge is satisfied that fairness and the interests of justice do not require a litigant in person to have the assistance of a McKenzie friend.
>
> 2. The position is the same where the proceedings are in chambers unless the proceedings are in private.
>
> 3. Where the proceedings are in private then the nature of the proceedings which make it appropriate for them to be heard in private may make it undesirable in the interests of justice for a McKenzie friend to assist.
>
> 4. A judge should give reasons for refusing to allow a litigant in person the assistance of a McKenzie friend."

In ex parte Pelling the litigant in person (not Dr Pelling) made an application ex parte concerning contact arrangements with his son. Dr Pelling was refused permission to be present. The judge gave no reasons. Lord Woolf said at p 1134 -

> "Here it would have been preferable for the judge to have given short reasons. However, the fact that he did not give reasons has caused no possible prejudice to [the applicant]. … The hearing was a private hearing and Dr Pelling was not entitled to attend unless he was given permission to do so."

In paragraph 7 of his affidavit the learned county court judge has stated his reasons for refusing Mr Crowley permission to attend the proceedings as a McKenzie friend. This court is entitled to look at the reasons given and consider whether they are irrational or whether the learned county court judge took into account material which he should not have considered or whether he omitted to consider material which he should have considered in reaching his decision. The reasons which he gave are all material considerations in a decision whether or not to permit a McKenzie friend to be present when proceedings relating to children are ongoing in private in chambers. The learned county court judge was entitled to take those matters into account. It has not been advanced in this court that there were other identified considerations which the learned county court judge should have taken into account in arriving at his decision nor has it been advanced that his decision was irrational. On the same facts and taking into account the same considerations another court might have reached a different conclusion about the presence of a McKenzie friend. This judge has considered all the relevant matters which he should consider and has decided that Mr Crowley should not be permitted to be present. As the assigned county court judge for that division and knowing the circumstances relating to this case and the personalities, he was best placed to decide whom to admit to his court sitting in chambers in private proceedings. There is nothing to indicate that his decision was irrational. It was a matter for the exercise of his discretion. Where he has taken account of the relevant considerations only and not failed to take account of any other relevant consideration there is no basis upon which this court should interfere with the exercise of that discretion. I agree with Parker LJ that save in exceptional circumstances, it would be quite wrong for this court to interfere with the decision of a judge as to the persons whom he will allow to be present when he is sitting in chambers in a private proceeding. There is nothing exceptional in the circumstances relating to this case. This is not a litigant in person who has been denied legal aid because he does not fulfill the criteria for such aid. The applicant is unemployed and probably would be entitled to legal aid but has chosen to represent himself in these

proceedings and has done so, creditably, from the first application before the Family Proceedings Court.

I have considered carefully all the submissions made by the applicant, as well as his skeleton argument and his affidavits and exhibits. There is nothing to indicate that the learned county court judge was not entitled to make the decisions which he made nor to exercise his discretion in the manner in which he did. Therefore I refuse the relief sought.

Social Services are hard pressed to fulfill their obligations to families and children in need. In the absence of some very good reason further reports by another social worker in substitution of existing reports should rarely if ever be directed.

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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QUEEN'S BENCH

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IN THE MATER OF AN APPLICATION BY THOMAS A DOWNEY FOR JUDICIAL REVIEW

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J U D G M E N T

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HIGGINS J

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