

*Judgment: approved by the Court for handing down
(subject to editorial corrections)*

Delivered: 22/11/10

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

IN THE MATTER OF JR (CARE ORDER; REHABILITATION)

MORGAN LCJ

[1] Nothing must be reported concerning this case which would serve to identify the child or the father or mother with which this case is concerned.

[2] In this case a Health and Social Services Trust seeks a Care Order pursuant to article 50 of the Children (Northern Ireland) Order 1995 in relation to one child, JR, born on 28 March 2001. The Trust relies on the following facts to establish that the threshold criteria contained in article 50(2) of the 1995 Order:

“1. The child was present in the home on the 21st June 2009 when his mother stabbed his father. He witnessed the events immediately leading up to the violent act including seeing his mother with the kitchen knife. JR was required to run for help when he shouted “police, get the police, my mummy is going to stab my daddy”;

2. JR had resided in a home where there was domestic violence between his parents;

3. The child had witnessed police raids on his home as a result of his father’s criminal behaviour;

4. The father was under the influence of alcohol on the 21st June 2009;

5. The father has a significant criminal record including drug dealing, counterfeit, possession of a weapon and robbery;
6. On the 21st June 2009 there was a white powder lying on a bench in the property. JR reported to a health visitor he tasted the white powder and reported that it made him feel "funny";
7. The relationship between the parents was volatile, not just by virtue of occasional domestic violence, but as a result of separations and reconciliations;
8. The mother has reported that JR was permitted to watch war videos within the family home, which were only suitable for adults due to violent content;
9. The parents demonstrated little insight and understanding into how the unstable and volatile home environment which arose from violence, criminality and instability in the parents' relationship was impacting upon JR;
10. The parents were unable to prioritise JR's needs, they were too focused on their own issues;
11. As a cumulative effect of the foregoing the parents failed to meet the needs of the child. "

[3] Those facts are not in dispute between the parties and I accept on the basis of them that JR did suffer significant harm affecting his emotional wellbeing, that this was due to the care given to him and that the care was not what it would be reasonable for a parent to give to him.

[4] The background to this case is that the father has an extensive criminal record for drug offences and offences of violence. He served his last sentence of imprisonment in 2008. The child's mother has a history of depression and it appears now to be common case that there were at least extensive arguments between the parents on a regular basis. Circumstances within the family home appear to have become chaotic in 2009 and culminated on 21 June 2009 when the child's mother's stabbed the child's father with a kitchen knife. Although the child did not witness the assault he did see the wounds inflicted on his father and ran out to seek help and call for the police. Thereafter the child's mother took up residence in a women's aid refuge and the child with the agreement of the parents resided with an older sister. In early September

2009 the child's mother withdrew her consent to this arrangement because she was dissatisfied with the arrangements in place for contact. Thereafter an Interim Care Order was made in respect of the child.

[5] Despite this violent episode between the parents they had reunited in October 2009. In a statement made on 4 November 2009 the child's father indicated that it was the wish of his parents that the child should come home to live with them. It is clear that there was a difficult relationship with Social Services at that time. The parents had contact with the child at that stage twice per week together.

[6] In February 2010 the parents again separated. On 2 June 2010 the mother made a statement in these proceedings seeking the return of the child to her sole care. She stated that she fully appreciated that she should have left her husband much, much sooner and that having left she should never have returned. She agreed that the child would have suffered emotionally while living with her and his father. The child would have been privy to continuous arguments and police raids. He would also have witnessed aggression and anger on his father's part. She stated that she was terrified of her husband and he made a threat that if she got the child he would harm both of them.

[7] In spite of these assertions the mother and father resumed their relationship on 21 June 2010. The identity of the social worker and the office from which they were facilitated was changed at that time and it is clear that a good relationship has now been established between the parents and the new social worker and her team. Since that time there is evidence that both parents have undertaken counselling and demonstrated a willingness to undergo work aimed at assisting them in their relationship. In her evidence before me the mother still diminished the nature and extent of the difficulties at home to which the child was exposed and there was limited evidence about the nature of the work that the father had undertaken by way of counselling. Nevertheless it is clear that both parents enjoyed good contact arrangements with the child and the child is clearly very fond of both of them. Both parents are anxious to ensure that the child can be returned to them.

[8] Having regard to the extent to which this child was exposed to inappropriate behaviours in the past within his family setting the Trust now seeks a Care Order. The welfare plan is that the child should remain within his kinship placement with his sister and will continue to enjoy regular contact with his parents which should over the next few months move to unsupervised contact and overnight contact if the progress made to date is maintained. The care plan envisages the child returning to live with his parents but is dependent upon the parents continuing to participate in work directed towards their understanding of their relationship and the needs of

the child and demonstrating a harmonious relationship for a significant period.

[9] The child has indicated his firm desire to return to live with his parents. I have also been provided with a statement made by the sister with whom the child lives which notes that the parents had successfully brought up five older girls and emphasises the degree of love that had been shown to each of them. While I entirely accept the warmth of the tribute paid to the parents I cannot leave out of account the evidence indicating that this child was exposed to significant risk and that from time to time even within the context of these proceedings relationships between the parents have been chaotic.

[10] I am entirely satisfied that the protection of this child requires the continuing participation of the Trust. The duration and extent of the participation will depend upon the progress made by the parents. The care plan as now drafted provides a clear framework for the return of the child to the parents under conditions which will ensure his safety and the ability of the Trust to continue to assist and guide the parents in what will undoubtedly be a demanding time for them having regard to their past difficulties.

[11] Such a course in my view properly respects the views of the child and indeed his sister while also respecting the family rights of all of those involved. I have also considered the other welfare issues associated with the child and note in particular the improvement noticed in his schooling as a result of the arrangements which were put in place during the summer of 2009. The parents accept that if the child's circumstances were to change at this stage that it would be too early and that reflects the traumatic consequences for him if he were to return to his parents before they were ready to look after him and before their relationship had settled. At this stage the evidence indicates that his parents are not yet ready to look after him whereas his sister and her partner have provided him with security and stability.

[12] I am satisfied that this is a proper case in which to make a Care Order and that no lesser intervention could secure the welfare of this child. I have considered the alternative of a 6 month adjournment but in my view the family now needs to focus on implementing the arrangements contained within the plan and there is no benefit to the child in the court continuing to review implementation of it. The family and social services should look on this as a considerable success in rescuing what was a horrendous situation and it is a tribute to the efforts of all involved that this beneficial outcome from the child's point of view has been achieved.