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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

IN THE MATTER OF THE ADOPTION (NORTHERN IRELAND) ORDER 1987

BETWEEN:

NORTHERN HEALTH AND SOCIAL CARE TRUST

Applicant;

-and-

AR AND BR

Respondents.

AND IN THE MATTER OF A CHILD MR

Sir Reginald Weir

The nature of the proceedings

[1] The Northern Health and Social Care Trust ("the Trust") applies for an order that MR, a girl born to the respondents in May 2008, be freed for adoption by Mr and Mrs S with whom MR has been placed by the Trust as a foster child since 15 October 2012. There are also applications by each of the respondents for increased contact with their daughter but these will have to be decided once the question of freeing has been determined.

[2] The fictional initials ascribed to those concerned in this judgment have been devised so as to preserve the anonymity of the two families and of the child. No report may be made of this judgment that could lead directly or indirectly to the identification of any such family or individual.

The background

[3] The respondents, Mrs AR and Mr BR, are the parents of 11 children. The eldest is CR and the youngest, the subject of the present application, is MR. The other nine children are, in descending order of age, DR to LR. Social Services'

involvement in the family began in 1995 and has continued for one reason or another in respect of each of the children at one time or another ever since. The relationship between the parents and the Trust and its officers has been characterised by refusals and failures to co-operate, by the encouragement of the children to disregard or reject the advice and help of social workers, and by the repeated disruption of their residential placements. The father, BR, who was born in 1961, has been particularly obstructive and at times menacing and threatening to social workers assigned to work with the family. His wife, AR, has in the past been very much under the malign influence of her husband and historically joined in aiding and abetting the obstructive and disruptive behaviour orchestrated by BR. Both AR and BR have in the past been assessed as being of below average intelligence and that may have contributed somewhat to the failure on both their parts to understand that the Trust officers were seeking to help the family. Their attitude was rather that the social workers were interfering in their family without any proper cause or necessity and that therefore they should resist those interventions by any means that they could devise. It is however plain that any lack of intellectual capacity did not hinder either parent in their determined endeavours to frustrate the work of social work staff. As each of the children became older they joined in their parents' efforts and in turn resisted attempts to help them by disrupting their placements and engaging in a myriad of risk-taking behaviours. I dealt with this family between 2008 and 2013 and was involved in repeated applications in respect of, mainly, the teenage children. I think it may fairly be said that overall the interventions by the social workers, Guardians ad Litem and this court throughout that period met with little positive success. The problems of the older children were intractable and this was in no small measure due to the misplaced encouragement of their father. Their mother, AR, did little to help, being heavily under the influence of her husband.

[4] In 2007 matters took a serious turn. A daughter FR and her sister GR made allegations of sexual abuse against their father BR who agreed to remain out of the family home while the matter was investigated. However, his compliance with this undertaking was inconsistent as was his co-operation with the investigation. AR was disinclined to believe that the allegations could be true and was similarly uncooperative with social workers to whom her husband was, as I have said, threatening and belligerent. Ultimately, having repeatedly tried and failed to secure the parents' co-operation so as to safeguard the female children of the family while the serious allegations were being investigated, the Trust applied for care orders, BR having at that time refused to live outside the family home. Interim care orders were granted in November 2007 in respect of the girls FR, GR, HR and IR and the boys JR, KR and LR.

[5] In the event, FR chose not to pursue her allegations against her father. Her sister, GR, who has significant learning difficulties, was carefully interviewed by the police in a video-recorded interview which was admitted in evidence in the care order proceedings. In written findings of October 2008 I concluded that BR had engaged in improper sexual activity with GR on a number of occasions at outdoor

locations away from the family home and I detailed the nature of that activity. I further concluded that GR had thereby suffered significant harm and that she and the other minor male and female children of the family were at risk of significant harm should they be in the care of their father.

[6] Those minor children by then included the daughter, MR, who is the subject of these proceedings and who had been conceived during the period of the investigation into the allegations against BR. Predictably, trouble between the parents and the Trust concerning decision-making towards a safe care plan began immediately following the birth with the police being called to an altercation at the maternity ward caused by BR. Members of AR's own family tried to help but that help was spurned by AR and BR. Matters continued thereafter in the chaotic fashion typical of AR and BR with a continuing failure to co-operate meaningfully with the Trust. BR initially refused to move from the family home but when he did so in December 2008 MR was returned to the care of AR by the Trust.

[7] It is significant to note at this point in the chronology that Mr Paul Quinn, a consultant clinical psychologist, had reported in October 2008 on the parents' intellectual and personality limitations and consequent poor ability to parent and concluded that the parents' and family's situation "is not likely to change in the future regardless of additional inputs".

[8] In 2009 BR sought to circumvent the agreement that he not reside in the family home by the stratagem of placing a caravan in its back garden, intending to live there instead. When the Trust learned of this it applied for an exclusion order which was granted in September 2009. BR promptly breached that order, being found hiding in the attic of the family home by police, as a result of which he was prosecuted and received a suspended prison sentence.

[9] The pattern of poor co-operation between the Trust and BR continued and there were escalating problems involving several of the older children. AR was unwilling, or perhaps unable, to work with social workers so as to try to improve matters. She appeared to be overwhelmed by the scale and frequently-changing patterns of behaviour on the part of her older children. It must also be said that this court made frequent efforts to try to find solutions to the problems presented by these children but was no more successful in this attempt than had been the social workers. Meanwhile MR continued in the care of her mother notwithstanding that a full care order had been granted in respect of MR on 14 November 2011. Several of the older children, also subject to care orders, had become too much for AR to manage and were placed variously away from her care. Their behaviour continued to be ungoverned and ungovernable. One, JR, behaved so badly that he had to be placed in a specialist unit in England, there being no suitable equivalent in Northern Ireland where his behaviours could be managed. In October 2012 JR absconded while on home leave in Northern Ireland and the Trust suspected that his parents were harbouring him. When interviewed by the social workers the parents said that

they knew where JR was but would not divulge the information. This was the catalyst for an extraordinary sequence of events involving MR.

The removal of MR from the care of AR

[10] As noted above, MR had remained in the care of her mother both prior to and subsequent to the Care Order made in November 2011. There had been no prior indication of any plan to remove her from that care, certainly none that had been reduced to writing or communicated to her parents. Yet on 15 October 2012 she was suddenly taken from her school by social workers and placed with foster carers. No members of her family saw her again for ten days and she has never since been returned to her mother's care but has remained throughout with the foster carers.

[11] The purported justification for this action was that social workers would have to ask the police to search the family home for the possible presence of JR and that they did not want MR to witness this activity. A moment's thought indicates that this excuse is fatuous because the search for JR would not have taken more than at most an hour and could easily have been accomplished while MR was away from home at school or in the temporary care of a social worker for the requisite period.

[12] The Trust then decided to transfer the case to a different social work team which purported to carry out a re-assessment of MR's care arrangements. For this purpose it consulted a Professor Williams, a distinguished psychoanalyst. The Professor prepared a report on AR based upon his consideration of various pre-existing clinical psychology, psychiatric, family therapy, social work and other reports. In his thoughtful and detailed report he concluded inter alia:

(1) That he did not think that intensive or systematic psychotherapeutic treatment of a traditional kind would benefit AR at this stage in her life.

(2) That no form of group therapy would be of benefit.

(3) Cognitive behavioural therapy was unlikely to work.

(4) A form of counselling by a very experienced psychotherapist might perhaps be helpful.

(5) The obstacles facing any clinician trying to help AR were formidable.

On the basis of this report and the uncertain overall timescale for any work that might be attempted the Trust decided not to engage in it and, purportedly on the basis of that report, it was decided at a LAC review on 15 February 2013 not to return MR to the care of her mother.

[13] It must however have been apparent to the decision-makers within the Trust that its records made prior to the removal of MR were not such as to provide support for that decision. When the Care Order had been made it had been no part of the care plan for MR that AR should undergo therapy as a condition of having MR placed with her and, as both Mr Quinn and Professor Williams had pointed out, the likelihood of AR benefiting from any therapeutic intervention of a psychological or psychoanalytic nature was remote in the extreme by reason of her inherent intellectual and personal frailties. A complex case review had been held on 28 September 2012, about a fortnight before AR's removal took place and what purported to be a minute of that meeting was produced to this court. Senior Counsel for the Trust claimed that it provided the context for the removal. However, it subsequently came to light that the following passages had at some time subsequent to the removal of AR been added to or subtracted from the original minute of that meeting:

> "(1) It was also noted that this case has historically been known to Children's Services since 1995 and that it has been an active case with lengthy court proceedings in relation to care order applications which concluded with the final care orders being granted in November 2011. *Since that the engagement with the family has been almost impossible*." (The words in italics had been added)
>
> (2) "*The general consensus of the meeting was that [MR] was suffering from emotional harm and professionals raised issues in relation to whether or not the child's needs were being met within the family home*." (The words in italics had been added)

In addition, the following passage had been deleted from the original minute:

> "(3) *Although it is now felt there is more co-operation from the family.*"

I was unable to ascertain which of the Trust's officials were responsible for altering or causing these minutes to be altered as no one would admit to having been involved. But I am entirely satisfied that these amendments were deliberately made *following MR's* removal in an attempt, which might well have succeeded had the changes not come to light on a close examination of documents produced during the discovery process, in providing justification for the removal of MR. Significantly, the actions contemplated by the complex case review had not included any plan to remove MR from her mother and I am equally satisfied that on the date on which MR was removed from her mother's care the Trust had discerned no need to take such action and that the action was prompted solely by the parents' refusal to co-

operate with the Trust's legitimate need to find JR so that he could be returned to his placement in England. Moreover, after the police search of the family home had been conducted without positive result, the decision to terminate MR's placement with his mother was not communicated to her and she was left to discover from the school that social workers had removed her child. Cruelly and inexplicably MR did not see her mother for ten days after she had been removed, another very unsatisfactory feature of the matter which remains unexplained. In January 2013 the Trust decided that the child should remain permanently outside the care of AR.

Judicial review proceedings against the Trust

[14] AR was understandably distraught at the sudden and unexplained removal of MR and brought judicial review proceedings against the Trust seeking a review of the decision and the return of MR to her care. Leave was granted but the Trust sought to maintain a defence to those proceedings until ultimately in May 2014 it capitulated and consented to an order that MR be declared to have been unlawfully removed. Treacy J understandably declined to order the return of MR to AR as he was not aware of the detail of the history of prior family proceedings.

The subsequent course of events

[15] Following the judicial review order the Trust, nothing daunted, initiated proceedings to have MR freed for adoption. Those proceedings were defective and were accordingly withdrawn and recommenced on 5 March 2015. Meanwhile MR had remained throughout in the care of Mr and Mrs S with contact with her parents proceeding more or less satisfactorily although difficulties between some of the social workers and the parents meant that there were occasional disagreements and interruptions. Unfortunately AR has until relatively recently been unwilling to meet the foster carers, a step that would have aided the carers' knowledge of her and her knowledge of them and helped to promote understanding of the birth family dynamics and the situation of MR with her carers.

[16] Unsurprisingly, the parents declined to agree to MR being freed for adoption and a hearing was therefore necessary. This took place in 2015 when the matter was fully argued. The following matters were then apparent:

(1) It was admitted that MR had been wrongfully removed from the care of her mother.

(2) No good reason had been advanced by the Trust for the failure to return her to her mother's care.

(3) Nonetheless, due to the passage of time, MR had become very well settled in the family of Mr and Mrs S. Their own son, some years older than MR, and the family dog had become MR's close and affectionate

> companions. All MR's health and educational needs were well attended to and it was plain that the foster carers were materially better placed than MR's own parents to provide for her wants and needs. MR had not been placed with the S family with a view to adoption but they had from an early stage expressed a willingness to adopt her if such became a possibility. Importantly therefore, MR had been up to that point living a settled and orderly life in a stable and harmonious home away from the upheavals and problems that were unfortunately a constant feature of the lives of AR, BR and their other children.

[17] I concluded then that the welfare of MR was best served by her continuing to live with the S family. I was not however satisfied that adoption into that family was the appropriate course and I had serious concerns about the actions of the Trust in removing MR and thereafter failing to return her to AR. I accordingly determined to postpone giving judgment in order to avoid any more disruption to the life of MR of the sort that had blighted the lives of her siblings, to see whether her life continued on the same even keel with the S family and to allow time for AR and BR to come to terms with the fact that, unless something radical occurred in the S family (which of course is not unknown either in fostering or in adoption), the likelihood was that MR would remain living in the S family, certainly during her minority. I am aware that this approach was unorthodox and has not been welcomed by the Trust or the Guardian Ad Litem ("GAL") but I was satisfied then and remain satisfied in retrospect that it has enabled MR to lead a settled life untroubled by repeated "tugs of war" between her parents and the Trust and the consequent court cases that have achieved nothing positive for the children of the R family.

Significant events since the hearing

[18] I have reviewed the matter on a number of occasions since the substantive hearing and there have been three events of significance during that period. The first was an application by the Trust to seek to prevent AR from attending MR's service of First Holy Communion, ostensibly on the basis that her presence at the church would be disruptive and upsetting for MR. No credible basis for this assertion was put forward and upon AR's assurance to the court that she merely wished to observe her daughter taking part in the ceremony and would cause no disruption or difficulty, was willing to be accompanied by a social worker and to obey any direction she might be given while there, I determined on the basis of those assurances that AR ought to be able to witness this milestone event in her daughter's life. Accordingly I declined to prevent her attendance. In the event AR did attend, she remained in the background and followed the advice of the social worker who accompanied her and he was able to report favourably on AR's comportment on the day.

[19] The second event of significance was a visit I received from MR herself. This was arranged at the request of the GAL and took place with the knowledge and consent of the other parties not long after the ceremony of First Holy Communion. On the few occasions when I have agreed to see children including MR my approach has been to see them in my own room in the presence of the GAL and the solicitor for the GAL. Following the meeting the GAL's solicitor prepared a brief minute of the salient points from the meeting which, its terms having been settled by me, has been circulated to the other parties. The same procedure was followed in the present case.

[20] I found MR to be a lively and engaging child, outgoing and polite in her manner and very well able to express her wishes and feelings in an age-appropriate way. She described her life with Mr and Mrs S, their own son and the family dog in terms that indicated clearly that she has a settled and happy life in that family and a present strong desire to remain with them permanently. She indicated a wish to be adopted by them but I was not certain that she understood the legal implications of that concept, it being rather what she understood would provide a strong confirmation of her clearly-expressed wish to remain irrevocably living as an integral part of the S family. One sad note arising from the meeting was MR's expressed unhappiness that her mother had attended her First Holy Communion ceremony. Clearly she had found this presence embarrassing. Children are of course very easily embarrassed by the actions or the mere presence of their parents, even in conventional families, as any parent who has been told not to drive up to the school gates where they might be visually associated with their off-spring can readily confirm. Nonetheless it was rather a blunt confirmation, had any been needed, that MR's primary allegiances are now to the members of the S family and not her own. AR may be to an extent responsible for this as until the time of the First Holy Communion she had refused to meet Mr and Mrs S. In my view and in the light of my experience of post-adoption contact between adopters and birth parents, it would have been much better had AR and Mr and Mrs S had the opportunity to get to know each other from an early stage and to let MR see that her mother and her foster carers could behave co-operatively and politely with each other, relieving MR of the burden created for her by a sense of a division and animosity between the two.

[21] A third and in some ways the most important event since the substantive hearing has been the dignified and realistic reaction of AR to the two events just described. In an affidavit sworn by her on 13 April 2017 she said, inter alia, as follows:

> "20. I have heard that MR wants to stay where she is; I know that a discharge application would mean an immediate return as there would be no care order. How I could do anything that would cause MR harm or unsettle her or make her unhappy by making an application to discharge her care order?

21. This is breaking my heart as I did everything I could to try to get MR back to my care and I did still hope that there could be a slow return home for her but can't happen now. It is too late. Maybe someday she will be told the truth but I am now left in this awful position. I know that MR has been told all sorts of reasons why she was taken from me and kept away from me but not the truth. I also know that too much time has passed and she wants to remain living with Mr and Mrs S. I was holding out, hoping that despite all this time MR could come home to me but after hearing what she wants and how unsettled a discharge application would make her, I know it would do nothing to help MR and so I can now advise the court that I will not make an application in the future and neither will I support an application made by BR, if he decides to make one.

22. I love MR so much and I hope in the future she will understand the decision that I am now making. I hope she sees this not as me giving up on her but trying to do what is right for her now in 2017 and that is to let MR remain where she is, with Mr and Mrs S.

23. This should not be interpreted as me supporting adoption; I do not support adoption but I believe I should let MR remain living with her foster carers, Mr and Mrs S because of the passage of time and no way do I wish to cause any distress and damage to MR a move home to her family might cause.

24. I want to maintain my relationship with MR and for MR to maintain her relationship with her siblings and family. Therefore I hope that Mr and Mrs S and the Trust will acknowledge this when it comes to taking into account the history of this case (not just my history but their history as well) and how well MR is currently doing with the current level of contact when it comes to making future decisions for MR and in particular her on-going contact with me and her siblings and nieces and nephew.

> 25. Finally I am still willing to meet with Mr and Mrs S. It may help them if they know that I am not the person that I am portrayed by many and that I love my daughter MR very very much. So much that I agree to leave MR where she is in foster care with them."

[22] Those who have come to know the R family well over the years, whether as social workers, lawyers or judges, and to some extent those who know them only through the glimpses afforded by the early parts of this judgment will I think be surprised by the maturity, bravery and selflessness displayed by AR in these concluding passages from her affidavit. No such response could have been expected from AR in previous years and few other parents whose child had been summarily and arbitrarily removed from their care could have found it possible to put their own feelings to one side in support of the settled placement in which MR wishes to remain. Over the years I have been at times a stern critic of the behaviour and attitude of AR and, especially, BR but in relation to MR the position which AR has come to accept is deserving of the highest praise. AR has matured greatly over the last decade, the baleful influence of BR upon her has waned and she has had what has become the valuable support of her now adult and more settled daughters in achieving a degree of independent thought and action that many would have thought impossible only a few years ago. People can change.

Adoption or long-term fostering?

[23] It has therefore now been agreed that MR should remain securely with the S family as is her wish, the only question to be decided is under what legal designation – as a long term foster child or as an adopted child of the S family? The S family has, as earlier noted, assured the Trust that MR can remain part of their family whether as an adopted child which would be their preference but in long term fostering if not. Enough time has now passed for me to feel confident that that is and will remain their genuine and fixed intent and that MR will continue to enjoy a stable and harmonious home with them and that her welfare will be safeguarded and promoted throughout her childhood and, all being well, I imagine probably beyond.

[24] The benefit of adoption in this case would therefore amount to a greater sense of "belonging" on the part both of MR and of Mr and Mrs S. While not underestimating the value of such a sense I have to ask myself whether that benefit is at all sufficient to overcome the high hurdle required to be surmounted before MR could be freed for adoption without the agreement of her parents?

The law

[25] The decision of the Supreme Court in *Re B (A Child) Care Proceedings: Threshold Criteria)* [2013] UKSC 33 caused a considerable fluttering in the dovecotes of family practitioners and much judicial and other ink has since been spilled by those anxious to offer their own gloss upon its message. It was thought by some that the Court had erected a new and much higher hurdle for forced adoption and others supposed that they discerned in the differing language employed by the Justices divergences of importance and of emphasis. However the many feathers ruffled by what was initially thought to have been a strong wind of legal change became smooth again as it began to be appreciated that *Re B* simply unearthed, blew the dust off, restated and re-emphasised the existing law of Proportionality which had in places fallen into a state of greater or lesser desuetude as exemplified by the many judgments in which only a faint and formulaic passing nod in its general direction is to be discerned.

[26] As I have said there have been many valiant judicial attempts since *Re B* to comment upon and seek to elucidate its meaning. I do not intend at this stage in my legal career to enter that competition. The clearest and most economical whilst at the same time comprehensive assay into the relationship between the concepts of Welfare and Proportionality pre-and post *Re B* which I have discovered is contained in an address to the Family Law Bar Association National Conference in October 2016 given by McFarlane LJ in a paper entitled "Nothing Else Will Do"[1]. This paper admirably describes the legal relationship between the two concepts both before and since *Re B*.

[27] The author first sets the scene by describing how things were prior to *Re B* by use of the following nautical comparison:

> "Picture the scene: there are three ships who regularly sail the public family law seas. Two of them are massive well-known vessels: The Good Ship Welfare and The Good Ship Proportionality. The third is a smaller craft that should travel in their wake, The Ship of Least Intervention. Although all three ships will normally sail in the same direction, depending on the tide of the evidence, it is Good Ship Welfare that is seen by all those involved as the flagship of this small fleet. Whilst on some, if not many voyages, there would often be a friendly wave (no pun intended) from Welfare towards Proportionality, it was the course of Welfare that really mattered and, where the voyage ended at the Port of Adoption, the

[1] December [2016] Fam Law 1403

> Navy were normally content provided Welfare got there and was tied up alongside the quay. It did not matter, at least to some, so much whether The Good Ship Proportionality actually made it into the harbour as well. On some voyages, the Ship of Least Intervention would cut across the bows of the others and possibly divert the convoy. This was because those at the helm of Least Intervention were wont to plot an entirely 'linear' course!"

[28] The author then draws attention to the terms of Article 8(2) of the ECHR whose effect he concludes is that:

> "The outcome for the child, as well as being that which meets her welfare requirements must also be 'necessary' for, in short terms, her 'protection'. In other words it must be 'proportionate' to the need to protect her."

[29] McFarlane LJ considers that Welfare and Proportionality are not in fact two distinct concepts but are in reality two sides of the same coin:

> "If it is not necessary to protect a child by removing her permanently in fact and in law from her birth family and grafting her into another family by adoption, it is highly unlikely that it will otherwise be in her best interests to do so."

[30] The author then refers to several now well-rehearsed passages from the judgments of Justices of the Supreme Court; Lord Neuberger (paras [77] and [104]), Lord Kerr (para [130]) and Baroness Hale (paras [194], [197], [198], [215] and [223]) to the effect that adoption against the parents' wishes should only be contemplated as a last resort – when all else fails (per Lord Neuberger), that the test for severing the relationship between parent and child is very strict and the test will be found to be satisfied only in exceptional circumstances and where nothing else will do (per Lord Kerr) and that it is quite clear that the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motived by overriding requirements pertaining to the child's welfare, in short where nothing else will do (per Baroness Hale).

[31] Returning to his nautical metaphor, Sir Andrew concludes as follows:

> "I have suggested that the re-statement of the law in *Re B* was 'timely' because in my view, and from my perspective, we who are involved in delivering justice

> in family cases may have, from time to time, and in some cases, slipped into the position painted by my earlier verbal sea-scape whereby Proportionality was given the odd wave or acknowledgment during the course of a case but was not always seen as an essential factor to be determined before an adoption order was made as it should have been. At the risk of stretching my metaphor too far, the law is, and this should always have been clear, that for there to have been a successful voyage to the Port of Adoption both vessels, Welfare and Proportionality, must have reached the port and be firmly tied up alongside."

[32] I think I cannot do better than to gratefully adopt the reasoning, the analysis of *Re B* and the conclusions of the author in this paper and I propose to apply them to the facts of the present case. In doing so I have not lost sight of the existence of some textual differences between the English and Northern Ireland legislation but I conclude that they do not affect the direct applicability of the approach in *Re B* and the conclusion from Sir Andrew's paper to this jurisdiction and the facts of the instant case.

Conclusion

[33] MR was removed and kept from her mother without warning and, as I hold, without justification. This happened at a time when the quality of care being afforded to MR and relationships with social workers were if anything trending upwards. That is not to say that matters might not conceivably thereafter have turned downwards for such had historically been the common pattern with the R family. However at the time of the removal AR was managing better, had the support of her adult daughters and was without the constant presence and level of interference previously exerted by her husband BR who was in my judgment of no help to AR in bringing up any of her children and who had had a positively harmful effect upon at least one of his daughters. Much of the great trouble in and with this family must be laid at his door.

[34] I am satisfied that the absconding of JR and the refusal of AR and BR to say what they knew of his whereabouts were used as the initial pretext for the needless removal of MR. Any search of the home of AR by police seeking JR could have been accomplished without the removal of MR from the care of her mother. A means could easily have been found to ensure that MR was looked after elsewhere for the hour or two that the police would have required. AR has since reflected on the events leading to the removal and has said that had she known that MR would be removed she would have told the social workers what she knew about JR's whereabouts. She was not even given that option since MR was removed from her school without warning to AR.

[35] I am satisfied that having removed MR the social workers, some of whom must have been at a senior level, realised that the absconding of JR constituted no justification for the removal of MR. They then hit upon the idea of falsifying Trust records so as to create the impression that the care of MR by AR prior to the removal had not been good enough. The genuine records contained no such concern. As I have said, despite my best efforts I was unable to ascertain who from within the Trust pool had perpetrated this outrageous deceit and dishonestly sought to foist it upon the court. I content myself by saying that the nature of the changes means that it is probable that more than one person must have conspired to first procure the admitted alterations and then seek to pass off the fraudulent record thereby created as original and genuine.

[36] I am entirely satisfied that MR has been and remains well settled within the S family where she enjoys a standard of life and a level of happy, calm and well provided-for existence that would not have been available to her in the R family. It is equally clear that she will continue long term to enjoy those benefits in that home without any necessity for adoption. True it is that MR would like, or at least presently believes that she would like, to be adopted and that Mr and Mrs S would like to adopt her. That however is, as I hope I have shown, far short of the test for adoption against the will of birth parents and I accordingly hold that in all the circumstances of this case to hold that AR and BR are unreasonably withholding their consent would be illogical and an abuse of language. Rather I am entirely satisfied that neither is withholding consent unreasonably which is the only ground in section 16(2) of the Adoption Order (NI) 1987 that has been or could be argued to be applicable. In those circumstances section 16(1) of that Order precludes the making of an adoption order and I accordingly refuse this application.

Postscripts

[37] The question of the appropriate level and nature of contact between MR and her parents and siblings and the children of those siblings will be a matter for another day and another judge. I hope that those arrangements will be such as to ensure that MR has as clear an appreciation as possible of who her extensive birth family are. I also echo the hope expressed by AR in the passage from her affidavit quoted above that MR will be given a straightforward, full and truthful account of how she came suddenly to leave the care of AR and move to that of Mr and Mrs S. Like AR I am not satisfied that such has happened to date and in my view it will be of great importance for MR in making future sense of her life experiences to know that AR did not fail to care for her as best she could, did not abandon her and is very much genuinely concerned for her present and future happiness. Arrangements should also be made without further delay for Mr and Mrs S to meet AR and to see whether that relationship of mutual respect and understanding can be fostered.

[38] Finally I want to take the unusual step of singling out and mentioning by name one of the many professionals concerned in this case. AR's solicitor, Ms Dara Montague, has down the years striven by all means at her disposal to represent AR in the numerous proceedings that have afflicted the children of this family and also to help, support and counsel AR and the older children to an extent far beyond her professional obligation. I have no doubt that much of AR's personal progress and present ability to see matters more clearly and dispassionately is due to that care and support, often provided at public holiday times or during unsocial hours when one of the frequent R family emergencies arose. Her actions and motivation throughout not merely equalled but exceeded the very best standards of her profession and deserve to be recognised and warmly commended.