



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

CASE OF C. v. THE UNITED KINGDOM

(Application no. 14858/03)

JUDGMENT
(Friendly settlement)

STRASBOURG

10 May 2007

This judgment is final but it may be subject to editorial revision.

In the case of C. v. the United Kingdom,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Mr J. CASADEVALL, *President*,

Sir Nicolas BRATZA,

Mr S. PAVLOVSKI,

Mr L. GARLICKI,

Ms L. MIJOVIĆ,

Mr J. ŠIKUTA,

Mrs P. HIRVELÄ, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 14 December 2004 and on 12 April 2007.

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 14858/03) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a British national, C. (“the applicant”), on 2 May 2003. The President of the Chamber acceded to the applicant's request not to have his name disclosed (Rule 47 § 3 of the Rules of Court).

2. The applicant, who had been granted legal aid, was represented by Sitters and Co, solicitors practising in Plymouth. The United Kingdom Government (“the Government”) were represented by their Agent, Mr J. Grainger of the Foreign and Commonwealth Office, London.

3. The applicant complained under Articles 6, 8 and 13 of the Convention of the removal of his children and their freeing for adoption.

4. On 14 December 2004, after obtaining the parties' observations, the Court declared the application admissible in so far as these complaints are concerned. Further complaints of the applicant were declared inadmissible on the same date.

5. On 4 January 2005 after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 6 December 2006 and 11 January 2007 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1957 and is resident in Plymouth.

7. The applicant cohabited with S. (the “mother”), who had two children from other relationships: AD born in 1985 and A. born in 1993. A.'s father had died and the applicant always treated her as if she was his natural child. He and the mother had two children together: N. born in 1994 and Z. born in 1998.

8. The family had a long history of social work involvement from 1995. These concerns centred on the mother's mental health (she was diagnosed as having a bipolar disorder), the chaotic, disorganised state of the home; the parents' inability adequately to provide consistent care in light of these factors; and the parents' inability to co-operate with professionals.

9. On 23 January 1998, CCC the local authority obtained Interim Care Orders in respect of A. and N.

10. In March 1999, the hearing on the final care order application took place. On the first day, the parties reached agreement. “Amended Threshold Criteria” were admitted by the parents as providing the necessary basis in domestic law for implementing care measures to protect the children from harm. The Care Plan was amended. The children were to remain at home, with provision of considerable support *e.g.* social workers to visit the family twice weekly to work on parenting issues and support children; family aide to visit weekly to take out A. and N.; community psychiatric nurse to visit twice weekly; local authority to assist with transport to school.

11. On 8 March 1999, Care Orders were made in respect of A., N. and Z.

12. On 9 July 2001, the mother and children were recorded as being provided with emergency bed and breakfast following a domestic violence incident.

13. On 8 November 2001, the children were removed.

14. On 17 April 2002, the Adoption Panel recommended adoption as being in the children's best interests.

15. On 24 September 2002, the applicant made application under the Human Rights Act 1998 seeking the children's return home.

16. The local authority made application for orders to free the children for adoption. It claimed that it had found prospective adopters approved by the Adoption Panel on 1 May 2002.

17. On 29 November 2002, after an eight-day hearing, the High Court dismissed the application for discharge of the Care Orders, dismissed the applicant's application under the Human Rights Act 1998 and granted the local authority the power to terminate contact with the applicant. It also granted the applications to free the children for adoption.

18. The judge refused leave to appeal. On 5 December 2002, the applicant's renewed application to the Court of Appeal was refused.

19. The parents were told that the children were introduced to the prospective adopters on 7 December 2002 and placed in the adoptive home on 20 December 2002.

20. On 18 December 2002, the applicant and the mother separated.

21. On 5 March 2003, the local authority informed the applicant that the placement broke down on 15 January 2003. The children were transferred to new foster carers.

22. On 8 July 2003, the High Court granted permission to the guardian to apply for a parenting assessment of the applicant and the mother to be undertaken by an independent social worker, Ms T.

23. On 24 September 2003, Ms T. reported to the court, recommending contact between the children and both parents.

24. On 10 November 2003, the applicant was granted permission to apply for contact.

25. On 1 December 2003, the applicant issued an application to revoke the freeing orders, as one year had now expired from the date the orders were made and such application was now possible.

26. On 12 December 2003, the court ordered direct contact to take place on three occasions. The applicant was granted permission to apply for residence orders.

27. On 17 December 2003, the first contact visit took place.

28. On 8 June 2004, the High Court judge ruled on outstanding applications. The orders freeing for adoption were revoked by consent and an interim care order was made in favour of the local authority with a care plan reuniting the applicant and the children.

THE LAW

29. On 6 December 2006 the Court received the following declaration from the Government:

“I, John Grainger, Agent of the Government of the United Kingdom, declare that the Government of the United Kingdom offer to pay 40,000 euros to the three children to be held on trust by the Family Welfare Association (FWA) on the terms set out in my letter of 14 November 2006 and will also pay the applicants' legal representatives the sum of GBP 15,000 plus VAT in respect of the legal costs with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

These sums, which are to cover any pecuniary and non-pecuniary damage as well as costs and expenses, are inclusive of any taxes that may be applicable. They will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay these sums within the said three-month period, the Government undertake to pay simple interest on them, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the

default period plus three percentage points. The payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention.”

30. On 11 January 2007 the Court received the following declaration signed by the applicant's representatives:

“Sitters & Co. Solicitors note that the Government of the United Kingdom are prepared to pay 40,000 euros to the three children to be held on trust by the Family Welfare Association (FWA) on the terms set out in their letter of 14 November 2006 and will also pay the applicants' legal representatives the sum of GBP 15,000 plus VAT in respect of the legal costs with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

These sums, which are to cover any pecuniary and non-pecuniary damage as well as costs and expenses, are inclusive of any taxes that may be applicable. They will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points,

I accept the proposal and waive any further claims against the United Kingdom in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.

We further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court's judgment.”

31. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

32. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list.
2. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 10 May 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Josep CASADEVALL
President