England and Wales Family Court Decisions (other Judges)

IN THE FAMILY COURT AT WORCESTER

Case No. NG135 & 136/2013

The Combined Court Centre
Shire Hall Foregate Street
Worcester 16th July 2015

Before

THE HONOURABLE MR. JUSTICE KEEHAN

Re M and T (Proposed Convention Adoption) Habitual Residence

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Sheffield S1 2DX

Ruth Cabeza of Counsel appeared for applicant kinship carer, instructed by Dawson Cornwell Solicitors
Elizabeth McGrath QC appeared for the the first respondent local authority, instructed by the local authority legal department
Miss Barbara Connelly QC and Miss Beryl Gilead, Leading and Junior Counsel appeared for the second respondent mother, instructed by Hawley & Rodgers
Miss Pami Dhadi of Counsel appeared for the third respondent father, instructed by Miles & Cash
Miss Lorna Meyer QC appeared for the 4th and 5th respondent children, by instructed by ??

APPROVED JUDGMENT

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

See: Postscript

MR. JUSTICE KEEHAN:

Introduction

1. This case concerns two children, M and T, who were born on the 28 January 2011 and are four years of age. The mother is the second respondent, D; their father is the third respondent, S.

2. On 13 July I gave judgment in respect of the mother's application for leave to apply to revoke the placement orders made in respect of the children on 15 August 2012. I dismissed both applications.

3. The applicant, E, the step-maternal great aunt of the children, with whom they have lived since August 2013, applied for a Hague Convention Adoption Order on 14 October 2013. She made the application jointly with her then husband B.

4. She now asserts that the children have lost their habitual residence in this jurisdiction and have acquired habitual residence in the United States of America. Further, if the Court finds that the children remain habitually resident in this jurisdiction she invites the Court, notwithstanding her lack of *locus* to apply for the latter two orders, to (a) grant her permission to withdraw her application for a convention adoption order on the basis that at the date of the application neither she nor her erstwhile husband were eligible, pursuant to Section 42 of the Adoption and Children Act 2002 to apply for the same; (b) to revoke the placement orders made on the 15 August 2012 in respect of both children and (c) to discharge the care orders made on 26 July 2012.

5. The purpose and intent is to enable E to apply for adoption orders, guardianship orders and special immigration juvenile status for the children in the United States.

6. The mother, the father, the local authority and the children's guardian each oppose those applications. They submit that (a) the children have not lost their habitual residence in this jurisdiction and (b) this Court should retain its jurisdiction in respect of the children and that E should pursue convention adoption orders in this jurisdiction rather than permit her to pursue domestic orders in the United States.

Background

7. The children were taken into the care of the local authority in August 2011. As the social worker records in her statement of 26 May 2015:

> "A number of concerns were raised in the first instance about parents allowing the children to be cared for and taken into the community by persons who may not have been appropriate. D left the children in the care of her father, J, who has an offence against a child. There were a number of concerns relating to domestic violence with D being the perpetrator of violence and receiving a caution for an assault on S's sister who at the time was 14 years of age. D had been reported to the police on a number of occasions for assaults on family members and on the advice of the police left the family home on 5th August 2011 leaving the twins in the sole care of S. A number of concerns were raised about S's ability to prioritise the needs of the children including basic aspects such as feeding and supervision, even when a package of intensive support was put in place".

8. D underwent a psychological assessment in the course of the care proceedings. In her report of 13 October 2011, Doctor Helen James observed how mother struggled to cope with the care of the twins aged seven months. She opined,

> "As the needs become more complex her limitations will become more apparent. In addition, caring for the twins will stretch her resources
>
> and problems with organisation and planning, prioritising, anticipating risk, and providing sufficient care. The required level of support is likely to exceed the availability of professional support".

9. I am told by Counsel that although the parents conceded that the threshold criteria of Section 31(2) of the Children Act 1989 were satisfied, no formal threshold document was agreed or filed with the Court. Furthermore because the parents did not oppose but did not consent to the making of care orders or the subsequent placement orders there is no fully reasoned judgment dealing with the granting of either of those orders. That is unfortunate but it does not materially affect the issues I am now called upon to decide.

10. In late 2011 B and E notified the local authority of their interest in caring for and adopting the children.

11. M and T were made the subject of care orders on the 26th July 2012. The care plans contemplated an assessment of B and E as potential carers in the United States. On 15 August 2012 the Court made placement orders in respect of the children and adjourned the application pursuant to Section 28 of the 2002 Act for leave to remove the

children from the jurisdiction to live with the maternal aunt and uncle in the United States.

12. On 12 August 2013 His Honour Judge Orrell, sitting in Derby, made the following order.:

> The Court has previously noted the mother's general position that she is supportive of the proposed adopted placement with the children with B and E in the United States;
>
> B and E having attended Court today to give undertakings in forms annexed to this order;
>
> The Court was informed of B and E's intention to issue an application for adoption of the children as soon as practicable
>
> IT IS ORDERED THAT:
>
> 1. Paragraph 1 of the orders dated the 8th July are amended to provide as follows:
>
> > The subject children shall remain subject to this Court's jurisdiction until further order and specifically to consider any adoption application after their stay with their relatives in the United States of America. The local authority which has parental responsibility for the children by virtue of the placement orders made on 15th August 2012 shall have permission pursuant to Section 28 of the Adoption and Children Act 2002 to arrange for the removal of the children from this Court's jurisdiction to the United States of America for the purposes of staying with their relatives B and E for a period not exceeding 12 weeks on the following conditions: (a) the children must return to the jurisdiction of this Court at the end of the period of 12 weeks or such earlier time as the local authority requires (b) the proposed date of outward travel is 21st August 2013 and the return date would be no later than 13th November 2013.

13. In pursuance of that order, and subject to the undertakings given by B and E to Court, namely to return the children to the jurisdiction if so ordered by the Court, the children subsequently travel to the United States to "stay" with their maternal great uncle and step great aunt.

14. On 14 October 2013 B and E made an application for a Convention Adoption Order. It is now agreed by all parties that (a) at that time B and E were not eligible pursuant to Section 42 of the Adoption and Children Act to apply for a Convention Adoption Order and (b) for a considerable period of time thereafter it was erroneously thought that the children had been placed by the local authority as an adoption agency with B and E for

adoption. It is now agreed no such placement was agreed, intended or effective.

15. Tragically and very sadly, M was sexually abused by B on 27 October 2013. He admitted the abuse. E separated from him in order to protect the children. On 12 May 2014 he pleaded guilty to aggravated sexual assault in the second degree and was sentenced to eight years imprisonment.

16. In consequence, the United States Citizenship and Immigration Service "USCIS" issued a notice of revocation on 2 of January 2014, apparently based on E's alleged lack of candour in disclosing her husband's arrest in relation to his abuse of M. All Counsel are agreed that whilst USCIS was entitled to issue a notice of revocation the stated reason on which it is based is, to say the least, dubious. There are, however, strong grounds to assert that E did not demonstrate a lack of candour in relation to her husband's abuse of M and his arrest.

17. Furthermore, the United States home study assessor, Baker Victory Services then withdrew its prior approval of B and E as eligible and suitable adoptive parents for the children.

18. The local authority then changed its plan. It no longer supported the placement of the children with E and sought the return of the children to this jurisdiction. By

mid-July 2014 the plan had changed again to one of adoption by E as sole carer, but by the 31 July it is recorded in the

Court order, however, that the local authority no longer supported that plan. On 15 September 2014 His Honour Judge Lea directed that the matter should be reallocated to a full judge of the Family Division, thus the matter came before me on 22 October 2014.

19. On 9 September 2014 B and E were divorced.

20. At the hearings on the 15 September and 22 October various issues were raised including(a) when this Court should surrender jurisdiction to the courts of the United States (b) whether the local authority would approve E as a foster carer on the basis that the children had not been placed with her and her husband for the purpose of adoption and (c)

E gave notice of her intention to seek permission to withdraw the application for a convention adoption order.

21. On 5 January 2015 there was a meeting between two American lawyers engaged to advise the parties on the relevant law of the United States. A schedule of agreement and disagreement was prepared. In broad terms each had concerns about the approach of USCIS to a renewed application by E for a Convention Adoption Order in light of the given reason for issuing the revocation notice.

22. Counsel for the parties were agreed that on a best case scenario it would take some 12 months for E to complete a Convention Adoption Order application and secure an adoption order in respect of thechildren.

23. The US attorneys advised that on an application for a guardianship order in New York, it could be obtained very quickly, in a matter of weeks, rather than months. The application for special immigrant juvenile status would take some six to seven months to process. In relation to an application in the United States to obtain an adoption order, the children would have had to have lived with E a period of two years from the date of the application before an adoption order could be made. The timescales for the application for a guardianship order assumed the children's parents would co-operate with and consent to such an order being granted to E. Ms. Connolly, QC, on behalf of the mother indicated that it was unlikely such consent would be forthcoming. If, however, her primary case to resume care of the children failed, as it has done, then the mother would support an adoption order being made in favour of E.

24. There is clear and unequivocal evidence that both of the children are happy and wellsettled with E. She is providing them with an excellent quality of care in a loving home.

25. I have read a number of reports from American health care professionals outliningvarious difficulties from which each of the children suffer. I am quite satisfied, however, that all

appropriate treatment and support is being provided for them to enable them to achieve their maximum potential.

Habitual Residence

26. In the case of *A -v- A and another (Children) Habitual Residence Reunite International Child Abduction Centre and Others Intervening* [2013] UKSC 60 Baroness Hale said at paragraph 54,

> "Drawing the threads together therefore; (1) all are agreed that habitual residence is a question of fact and not a legal concept such as domicile. There is no legal rule akin to that whereby a child automatically takes the domicile of his parents. (2) It was the purpose of the 1986 to adopt a concept which was the same as that adopted in the Hague and European conventions. The regulation must also be interpreted consistently with those conventions. (3) The test adopted by the European Court is 'the place which reflects some degree of integration by the children in a social and family environment' in the country concerned. This depends on numerous factors including the reasons for the family's stay in the country in question. (4) It is now unlikely that that test would produce any different results from that hitherto adopted in the English Courts under the 1986 Act and the Hague

Child Abduction Convention. (5) In my view the test adopted by the European court is preferable to that earlier adopted by the English Courts. Being focused on the situation of the child with the purposes and the intentions of the parents being merely one of the relevant factors. The test derived from *Regina -v- Barnet London Borough Council Ex parte Louis Chard(?) 1983 Appeal Cases 309* should be abandoned when deciding the habitual residence of a child. (6) The

social and family environment of an infant or young child is shared with those with a parent or others on whom he is dependent hence it is necessary to assess the integration of that person or persons in the social and family environment of the country concerned. (7) The essentially factual and individual nature of the enquiry should not be glossed with legal concepts which would produce a different result from that which the factual inquiry would produce. (8) As the Advocate General pointed out in opinion, paragraph 45 and the court confirmed the judgment, paragraph 43, proceedings brought by A, it is possible that a child may have no country of habitual residence at a particular point in time".

27. During the course of giving the judgment of the Supreme Court in the case of *In Re. L (A Child) Custody Habitual Residence Reunite International Child Abduction Centre Intervening* [2013] UKSC 75 Baroness Hale observed at paragraph 26,

"On the other hand the fact that a child's residence is precarious may prevent it from acquiring the necessary quality of stability".

28. In the recent case of *C and M Case C376/14PPU* [2015] 1 FLR 1 the Court of Justice of the European Union, having referred to earlier judgments, and in particular to the case of *Mercredi -v- Chaff* [2011] 1FLR 1293, said at paragraphs 51 and 52,

"In those judgments the court also held that a child's habitual residence must be established by the national court, taking account of all the circumstances of facts specific to each individual case. The court held in that regard that in addition to the physical presence of a child in a member state other factors must also make it clear that that presence is not in any way temporary or intermittent and that the child's residence corresponds to the place which reflects some degree of integration in a

social and family environment. The court explained that to that end account must be taken of *inter alia* the duration, regularity, conditions and reasons for the stay in the territory of a member state and for the family's move to that state, the child's nationality, place and conditions of attendance at school, linguistic knowledge and the family and social relationships of the child in that state."

29. Very recently in *Re. R (Children) Reunite International Child Abduction Centre and Others Intervening* [2015] UKSC 35 the Supreme Court stated at paragraph 16,

"It is therefore the stability of the residence that is important, not whether it is of a permanent character".

30. The President in *Re S and T (Children)* [2015] EWHC 1753 (Fam) said at paragraph 62, "In my judgment in all of the circumstances and not least having

regard to the carefully crafted provisions of the orders on 9th July 2014, 3rd October 2014 and 4th February 2015 and in particular the provision requiring the children to be returned to this country at any time if the court so ordered the presence of the children in the United States of America has been designedly so both intermittent and lacking in instability. The children remain habitually resident in this country".

31. Ms. **Cabeza** on behalf of E submits that the facts of the cases in *Re CM* and *Re S and T* are very different to the facts

of this case. I agree. The principle which I derive from those cases, and from the case of *Re R,* is that it is not sufficient simply to have regard to whether the children have achieved some degree of integration in a social and family environment. The stability of that placement is another factor to be considered. Moreover the court must take account of the duration, regularity, conditions and reasons for the stay in the territory of a member state.

32. I readily accept that the issue of habitual residence is a matter of fact. Accordingly, the mere fact that a child is a ward of this Court or is subject to orders requiring his return to this jurisdiction if the court so orders when, for example, granting permission pursuant to Section 28 of the 2002 Act to remove a child from the jurisdiction, that cannot of itself prevent the child from acquiring habitual residence in another country in which he stays with the leave of the Court. Thus a court order is not a trump card which precludes a child losing habitual residence in this country and/or acquiring habitual residence in another country.

33. In my judgment there are clear public policy considerations in respect of a child, whom the Court has given permission to stay with a family member or other person in another country for the purposes of an assessment, but over whom the court intends to retain jurisdiction, against him losing habitual residence by the mere effluxion of time when present in that other country. These considerations cannot prevent that child in appropriate circumstances as a matter of fact acquiring habitual residence in the other country. They are however factors to be considered when analysing the factual matrix.

34. I accept that since their arrival in the United States of America in August 2013 the children have undoubtedly achieved a degree of integration in the social and family environment of E. No doubt to a very considerable degree. There are, however, other factors which I must consider and in particular the stability of that placement, the reasons for their stay in the United States of America and the conditions of the same.

35. For these purposes I must consider the terms of the orders which gave permission for the children to stay with B and E and then E. The first order made under s. 28 of the Adoption and Children Act giving permission to remove the children from the jurisdiction to stay with E was made on the 12 August 2013. I have already set out the terms of that order in paragraph 12 of this judgment above. The undertakings given by B and E were that,

> "In the event the children visit the United States prior to adoption order being made, he/she will return or facilitate their return to the United
>
> Kingdom within 12 weeks from the date of travel or earlier if so required and to be so bound until an adoption order is made in his/her favour".

36. On the 28 October Her Honour Judge Butler QC extended the period of the stay to the 19 February 2014 and varied some of the terms of the order of the 12 August 2013. The relevant parts of the terms of the order of the 28 October 2013 are,

> "And upon the Court accepting undertakings on behalf of the applicants to return to the children to the jurisdiction on the basis that written confirmation is filed with the Court by the 8th November 2013 and upon the Court releasing the applicants from the undertaking given on the 12th August 2013 to the Derby County Court, the permission granted to the respondent local authority on the 12th August, pursuant to Section 28 of the Adoption and Children Act to allow for the removal of the children from jurisdiction of England and Wales to the United States of America is hereby varied such that the children must return to the jurisdiction of England and Wales by 19th February 2014 or such earlier time as the local authority requires".

37. There was a further order on the 6 December 2013 which recorded B's confessed sexual abuse of M.

38. By order of the 7 January 2014 the period of the children staying with E was extended to 25 April 2014. It was

further extended to the 6 May by order of the 9 April 2014.

39. On the 6 May His Honour Judge Lea further extended the period for the children to remain outside of the jurisdiction with E, to 6 November 2014. Then on the 31 July 2014 the Court was made aware that the local authority no longer supported the continued placement with E and sought to secure the return of the children to this

jurisdiction. The relevant terms of that order are,

> "On 6th May the Court further considered the applicant's application for convention adoption orders in respect of the children. (2) The local authority confirmed with the Court that whilst it considers that the applicant is providing a good standard of care for the children, and that a placement of the children with the applicant continues to be in their best interests, the local authority has concluded in the particular circumstances of this case, it is not possible to secure lawfully the permanent placement of the children in the United States of America and accordingly it is the local authority's intention therefore to give notice pursuant to the Adoption and Children Act 2002 Section 35.2(b). (3) The local authority confirmed that in the circumstances where the applicant was (inaudible) change of the position on the part of the local authority the day before this hearing, the local authority prepared to delay giving formal notice under Section 35.2(b) for a period of 28 days to enable the applicant to take further advice as to the legal options available to her in the light of the local authority's intention to bring the placement to an end. (4) The local authority confirmed to the Court that the parents had been informed of developments in this matter up to and including the decision of the local authority to support the placement with the applicant but that the parents have yet to be informed of the local authority's decision to bring the placement to an end. (5) The local authority confirmed to the Court that it will notify the parents of the local authority's decision to bring the placement to an end. (6) Having regard to the developments in the case the Court considered that it is in the children's best interests
>
> that they be made parties to the proceedings".

The matter was then re-allocated to a judge of High Court level, reserved to His Honour Judge Lea, sitting as a Judge of the High Court and he gave further directions.

40. On 15 September His Honour Judge Lea acceded to the parties request to re-allocate the matter to a full judge of the Family Division. His order provided that,

> "Upon the local authority confirming to the Court that while it considered the applicant is providing a good standard of care for the children, and the placement of the children with applicant continues to be in their best interest the local authority has concluded on the basis of the evidence available, in the particular circumstances of this case, that it is not possible secure lawfully the permanent placement of children in the United States of America. Accordingly it remains the local authority's intention to seek the return of the children to the United Kingdom".

His Honour Judge Lea then gave further directions for the matter to be listed before me.

41. The matter then came before me on the 22 October the relevant parts of the order that I made are as follows,

> "Upon the local authority reconfirming to the Court that it considers the applicant is providing a good standard of care for the children and that placement of the children with the applicant continues to be in their best interests, subject to a mechanism being found to secure lawfully the permanent placement of the children in the United States of America and upon the local authority indicating that in circumstances where the children had not been placed for adoption for the purposes of the 2002 Act it is accepted at Section 35 of the 2002 Act is of no application in this case. Upon the applicant

indicating that

she intends to withdraw her current application for adoption order pursuant to the Hague Convention 29th of May 1993 on protection of Children and co-operation in respect of inter-country adoption, then application to withdraw to be considered at the next hearing. And upon the Court deeming the local authority to have made an application to further extend the leave granted pursuant to the Adoption and Children Act 2002 s.28 for the children to be removed from the jurisdiction and upon the children remaining subject to a care order and placement order in favour of the local authority in consequence thereof the local authority holds parental responsibility for the children under English law and it is entitled to exercise the parental responsibility to the exclusion of every other person including the children's parents. Upon the local authority indicating that during the continued placement of the children with the applicant, the local authority will retain full responsibility for meeting the children's needs and it will continue to monitor and support the placement with the applicant. This responsibility will continue until such time as final orders are made under the Hague Convention. Upon the local authority reconfirming to the Court that it will take no steps to remove or seek the removal of the children from the care of the applicant without first returning the matter to the Court save in exceptional circumstances where the children's safety were to require their immediate removal and upon the applicant having reconfirmed that she will not alter the current address of the children in the United States, and she will take no steps in and will seek no orders from the State or Federal Courts in the United States regarding the children, without first

returning the matter to Court, and upon the Court recording that it retains jurisdiction in respect of the children in this case by reason of the fact that (1) at the time the children travelled to the United States they were habitually resident in the United Kingdom. (2) the children's time in the United States is at the behest of the local authority which shares parental responsibility for the children. (3) the children remain the subject of orders in an English Court. (4) the position of the children in the United States is subject to an
undertaking by the carers to return the children to the United Kingdom.

(5) the court has expressly recorded that it retains jurisdiction and (6) no party has sought to dispute the jurisdiction of the English Court during the currency of these proceedings".

And thereafter I gave leave for the removal of the children pursuant to Section 28 to be further extended until the 30 January 2015.

42. On 12 March 2015 I extended the period of placement with E to the conclusion of this hearing.

43. The result of all those orders is that (a) the period during which the children were staying with B and E and then E were time limited; (b) the court asserted it retained jurisdiction in respect of the children; (c) they were subject to being returned to this jurisdiction at any time during that period at the behest of the local authority and/or by order of the Court; (d) in July 2014 there was a real prospect that they would be required to be returned to this jurisdiction and (e) throughout E was bound to return them to this jurisdiction if the local authority sought the same and/or the Court ordered it.

44. I accept Ms **Cabeza's** submission that all parties are now agreed that ideally the children should be adopted by E. But (a) the mother would oppose a route for adoption order than by a Convention Adoption Order and (b) the court has not yet determined whether

it will approve and make a Convention Adoption Order in favour of E.

45. In all of the circumstances I am not satisfied that the children's stay or placement in the care of E has achieved or will during the currency of these proceedings achieve a significant degree of stability that results in the children, as a matter of fact, having acquired or acquiring habitual residence in the United States of America. Furthermore, their placement in her care is for the purposes of securing an adoption order in her favour which has not yet been approved or granted by this Court.

46. Accordingly I am entirely satisfied that the children are and remain habitually resident in this jurisdiction.

Surrender of Jurisdiction

47. Having heard argument on the issue of habitual residence on the morning on the 13 July I announced my decision in the afternoon and reserved judgment until today. I then proceeded to hear the mother's application for permission to apply to revoke the placement order made in respect of the children on 15 August 2012. I refused the same and gave an extempore judgment.

48. Late in the afternoon of 13 July I heard E's applications to discharge the care orders, to revoke the placement orders and to grant her permission to withdraw her application for a Convention Adoption Order. No party, rightly in my view, took issue with E's lack of *locus* to seek a discharge of the care orders or a revocation of the placement orders. In terms E was inviting me, notwithstanding my decision on habitual residence, to cede or surrender jurisdiction in respect of the children to the courts of New York.

49. I entirely understand E's frustration about the delays in bringing the future of the children to a final conclusion. I understand too her anxiety about what decisions and orders will eventually be made about M and T. A considerable element of the delay, but by no means the only element, was B's abuse of M.

50. Fortunately, and to the great credit of E, the uncertainty about the long-term placement of the children and their legal status has not had any or any significant adverse impact on the welfare of either of the children.

51. On the other hand, I am aware that the mother is concerned to ensure that if she cannot care for the children, which she cannot, they are securely and permanently cared for by E. She does not trust the domestic American process to achieve the same outcome for the children as a Convention Adoption Order.

52. For the avoidance of doubt when inviting the Court to cede or surrender jurisdiction to the US Courts, I do not for one moment question the *bona fides* of E nor her very great love for and commitment to the children.

53. I am reminded by Ms. Meyer QC for the children's guardian, of the provisions of Article 2.1 of the Hague Convention on the Protection of Children and Co-operation in Respect of Inter- country Adoption 1993 which provides that,

> "The convention shall apply where a child habitually resident in one contracting state, the state of origin, has been, is being or is to be removed to another contracting state, the receiving state, either after his or her adoption in the state of origin by spouses or a person habitually resident in the receiving state. Or for the purposes of such an adoption in the receiving state or in the state of origin".

54. The provisions of the 1993 Convention and the Adoption with a Foreign Element Regulations 2005, together provide a comprehensive procedure for the adoption of a child who is habitually resident in one contracting state by a couple or a person who are/is habitually resident in another contracting state. The Convention and the 2005 Regulations set out detailed procedures for assessments and enquiries to be made to ensure that an adoption order is only made where it is plainly in the welfare best interests of the child or children or concerned.

55. In my judgment I should only countenance a mechanism and procedure to secure the permanent future of

these children which is plainly in the welfare best interests of the children.

56. Whilst I am acutely conscious of E's understandable anxiety and frustrations at the delays to date in pursuit of the Convention Adoption Orders in respect of M and T, I am not satisfied that the welfare best interests of the children require or demand a scheme for permanence outwith the provisions of the Convention and the 2005 regulations. In my judgment a guardianship order granted by a court in New York would make no material difference to the care or status of these children. The aim and desired goal for these children, namely adoption by E, is much more likely to be achieved by an application for and the granting of a Convention Adoption Order in this jurisdiction.

57. Accordingly, I dismiss E's application for me to discharge the care orders, to revoke the placement orders and to cede or surrender jurisdiction to the courts of the United States.

58. The future conduct of E to withdraw her current Convention Adoption Order application, on the basis of her issuing of a new application for the same, will be considered after I have heard further submissions from Counsel.

Postscript

The publishing of this Judgment was deferred until the conclusion of the Convention Adoption application made by E in respect of the two children. Following the handing down of this judgment, E reapplied for approval as a sole adopter to the US Central Authority. Although her application for approval as an adopter under Article 15 was complicated and delayed by the fact of the previous revocation of approval, the UK central authority received confirmation of her approval as a prospective adopter in accordance with Article 15 on 28 June 2016. Thereafter, and having complied with all remaining Convention Adoption procedures, both in the US and the UK, the children were eventually placed with E for adoption in April 2017 and on 19 May 2017, with the consent of both parents, I made Convention adoption orders in relation to both M and T.