

FIT TO BE PARENTS?

On 4 December 1986 the Law Lords dismissed an appeal from the guardian of the Reading baby taken into care by Berkshire County Council's social services department because of her mother's addiction during pregnancy. Their decision, upholding the care order granted the council, means that mothers who use illegal drugs during pregnancy face having their children taken into care.

Although the mother was known to be an addict, the child suffered severe opiate withdrawal symptoms after delivery and was kept in a special care unit for several weeks. After the social services department obtained a place of safety order in April 1985, the parents made repeated attempts to obtain custody of their child, readily agreeing to the conditions of wardship, but on 1 August 1985 a juvenile panel granted a full care order to the council.

In February 1986, the High Court ruled that magistrates had no powers to place the baby in care merely because of the effects of the mother's addiction, as any harm caused in the womb could not recur, but their decision was overturned on appeal. The child's guardian, a court-appointed welfare officer, was given leave to appeal against the care order to the Lords. This appeal, which started in October, resulted in the latest ruling. The mother too is appealing and taking the case to the European Court of Human Rights, accusing the Council of legalised kidnapping.

The legal decisions were made under the provisions of section 1(2) of the Children And Young Persons Act 1969, viz: "If the court before which a child . . . is brought under this section is of opinion that any of the following conditions is satisfied with respect to him, that is to say a) his proper development is being avoidably prevented or neglected or his health is being avoidably impaired or neglected or he is being ill-treated; . . . and also that he is in need of care or control which he is unlikely to receive unless the court makes an order under this section in respect of him, then . . . the court may make such an order."

The Lords were careful to point out that a construction of the Act must be avoided which produced the result that *any* child born suffering from the symptoms or effects of some avoidable ante-natal affliction could be described after birth as being a child whose proper development was being avoidably prevented or whose health was being avoidably impaired. They considered that, in the present case, the mother's continuing heroin use throughout pregnancy was sufficient evidence of the beginning of a continuum of neglect or

The Law Lords' precedent-setting decision preventing a Reading addict regaining custody of her child has dismayed many who work closely with drug users. Lyn Perry explains the decision and its implications.

Lyn Perry

ill-treatment which would continue if the mother had custody of the child. Although upholding the care order, the ruling does not support the original juvenile panel's view that drug use during pregnancy could *itself* constitute grounds for a care order under the Act.

The Lords' ruling reinforces the prejudicial views held of illegal drug users and could mean that any parent using illegal drugs or having used them during pregnancy faces the danger of losing custody of their children, no matter what the circumstances of the case. The judgment is based on the common view that illegal drug users are necessarily chaotic, out of control of their own lives, and unfit to be in charge of anyone else's.

People who have harmed their children before birth through less stigmatised practices, such as drinking or smoking, are excluded from this view, and their continuing drug use is not considered necessarily harmful to the child. So while legal drug users would be assessed as to their suitability to look after their children using standard social work criteria, illegal drug users are considered to be *ipso facto* unfit parents, however controlled or responsible their behaviour. In contrast social workers at drug dependency units have stressed that the present circumstances of addict parents should be fully assessed and that they should not automatically be assumed to be unfit to care for their children.

Release has been concerned for some time by the increase in cases of pregnant women and parents whose children have been taken into care on no other grounds than that they have been discovered to be using illegal drugs. Many heroin addicts are prompted to seek medical help (often for the first time) when they become pregnant, and are determined to successfully complete a course of treatment. In the wake of this and other judgments, women in this position are unlikely to approach any statutory services for help if they wish to keep their children. Treatment and assistance for addicts and their children are being driven underground, and the health and future of both will suffer. Delivery tables are not the best places to start dealing with a long-term drug problem.

Such cases highlight the need for the provision of professionally trained drugs workers to give specialist advice to generic workers in all parts of the country. Many of the cases that have come to our attention have arisen in areas often with inner-city scale drug problems but few, if any, specialist facilities. Workers with statutory responsibilities, but lacking practical information on the assessment of drug problems, have made defensive decisions based on lack of knowledge, prejudice and justifiable fear of criticism for not identifying child abuse.

Appropriate emergency detoxification procedures may not be familiar to hospital workers who have seen few such cases.

We are concerned that what amount to major new policy decisions taken in relation to drug users are being decided in the courts. Courts are largely ignorant of the nature of drugs and drug use and decisions are often reached in the glare of hysterical publicity and based on misinformed preconceptions. These judgments must be closely scrutinised and monitored if illegal drug users are to be accorded civil rights equal to those of legal drug users. □

EXCLUSIVE: By BOB TOMLINSON and JANET BOYLE

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OF THE
JUNKIE
BABIES**

**Junkie baby
'ill-treated
in the womb'**

**Vital case for
addict mothers**

**Addict mother
loses fight for
drug case baby**

**BORN A
JUNKIE**

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