

Father killed baby, high court rules

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A man whose murder prosecution over the death of his baby was thrown out by a judge for lack of evidence did cause the injuries that killed the child, according to a high court family division ruling.

Mrs Justice Hogg made the latter ruling after a local authority applied for a care order over the family's other children, arguing that they were at risk of serious harm.

The Guardian has seen the judgment and knows why the judge reached her conclusions, but a court order obtained by the local authority prevents us from giving her reasoning.

The case starkly highlights the differing standards of proof in criminal and family cases and how they can produce opposite findings.

In criminal cases, guilt has to be proved to the highest standard - "beyond reasonable doubt" - while the family courts consider "the balance of probabilities". For this reason, the family courts will not simply adopt an acquittal by a criminal court as proof that the accused was not to blame.

But because family cases are decided behind closed doors, the public has often been unaware that parents acquitted of murder or manslaughter by juries have later been found responsible for the deaths by judges in family proceedings.

The names of such parents have been bracketed in news reports with those of Sally Clark, Angela Cannings and Trupti Patel as examples of parents wrongly accused of killing their children. Judges in care cases must make findings on where the blame lies for the baby's death in order to decide whether other children in the family are at risk.

The judge will look at all the people who were in a position to harm the child, and then make a ruling as to who or what most probably caused the injuries, before going on to decide whether this puts any remaining children at risk of significant harm.

The family courts are moving towards a culture of greater openness to counter accusations that they are secretive and unaccountable and to help improve public understanding of how the justice system works.

But the judge in the latest case, Mrs Justice Hogg, imposed an order forbidding quoting any part of her judgment, as well as the usual ban on identifying the parents, children or local authority, to safeguard the welfare of the children.

The Guardian can reveal only that the father was with the baby - whose sex we cannot mention - when it collapsed. It later died in hospital.

The father was charged with murder, but the judge directed the jury to acquit him because there was insufficient evidence that he caused the injuries - the extent of which we are not allowed to specify. There was evidence at the trial that he had previously been a good father.

Mrs Justice Hogg made a care order after ruling that the father had caused the injuries which led to the baby's death, and thus posed a serious risk.