



Re S: Court of Appeal judgment now handed down

The Court of Appeal has now handed down its judgment in the matter of **Re S (Wardship: Removal to Ghana) [2025] EWCA Civ 1011**. This high-profile and widely-reported matter relates to a 14 year old young man, who was deceived by his parents into travelling to Ghana, leaving him, effectively, stranded there.

The background of the matter is reported here: <https://iflg.uk.com/blog/james-netto-represents-a-young-man-at-the-centre-of-a-high-profile-international-family-dispute>

Within the appeal judgment, the President concluded that the trial judge's welfare evaluation was flawed, and the matter has been remitted for a re-hearing before a different judge of the Family Division. The Court of Appeal held that the first instance judge fell into error by viewing 'welfare' through the lens adopted by the parents, rather than making an independent evaluation.

The case is vital reading for anyone involved in international children matters, not least given the Court's comments on the well-known case of *Gillick*. The Court stressed that the case of *Gillick* is limited to the ability of a young person to give autonomous valid consent to medical treatment. Specifically:



Para 47: “In the circumstances, it is right to proceed in the present case on the basis that the characterisation of S as being Gillick competent has no direct legal impact in a case which does not concern the evaluation of his ability to give or to withhold valid consent to medical treatment. In the context of this case, ‘Gillick competent’ is no more, nor no less, than a convenient label to indicate that S has sufficient maturity and understanding to form his own view as to where he may live. His ‘wishes and feelings’ are matters that the court is specifically required to take into account by CA 1989, s 1(3)(a). They are to be considered ‘in the light of his age and understanding’. The fact that all parties before the judge accepted that S was Gillick competent was a factor that should have been given appropriate weight by the court in its overall welfare evaluation. The wishes and feelings of a young person who is so regarded are likely to attract more weight, and, depending on the issue in question and the circumstances of the case, in some cases significantly more weight, than that attaching to the wishes and feelings of a younger or less mature child.”

The Court also stressed that, within wardship cases, *“In contrast to most other forms of civil litigation, where the court will passively react to the evidence that each party may file, in wardship the court itself has parental responsibility for its ward and that responsibility carries with it a positive duty to obtain further evidence or information if, in the interests of the ward, that is needed”*.

The matter has been remitted and remains ongoing before the High Court, with a decision expected later this year.

Our partner, **James Netto**, acts for the young man as his litigation friend, assisted by associate **Rosa Schofield** and paralegal **Beatrice Holt**, and instructing Deirdre Fottrell KC, Rob George KC and Andrew Powell (of 4pb and Harcourt Chambers).

James Netto

james.netto@iflg.uk.com

The International Family Law Group LLP

www.iflg.uk.com

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