

Neutral Citation No: [2024] NIFam 12

Ref: McF12667

*Judgment: approved by the court for handing down
(subject to editorial corrections)**

Ref No: 22/001354

Delivered: 12/12/2024

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION
OFFICE OF CARE AND PROTECTION

BETWEEN:

A HEALTH AND SOCIAL CARE TRUST

Applicant;

and

A MOTHER

and

AB

and

CD

Respondents.

IN THE MATTER OF A CHILD AGED SIX YEARS

Mr A Magee KC with Ms C McGrane BL (instructed by the Directorate for Legal Services)

appeared for the Trust

Ms M Smyth KC with Ms Z McKay BL (instructed by Andrea Reid solicitors) appeared
for the mother

Ms S Ramsey KC with Ms L Clarke BL (instructed by McLaughlin & Co solicitors)
appeared for AB

Ms M Rice KC with Mr McGuinness BL (instructed by Stephen Tumelty solicitor)
appeared for CD

Ms N McGrenera KC with Ms J Lavery BL (instructed by McKeown & Co solicitors)
appeared for the children's court guardian

Ms T Overing BL (instructed by the Departmental Solicitor's Office) appeared for the
Registrar General

McFARLAND J

Introduction

[1] This judgment deals with an issue concerning the parental responsibility for a child who is the subject of care order proceedings. I have anonymised the judgment to protect the identity of the child whom I will refer to as “the child.” The child’s mother is referred to as “the mother.” Two men, whose respective roles are set out in more detail below, are referred to as “AB” and “CD”. I have not named the Trust. The Registrar General was invited by the court to make representations concerning practice and procedure relating to the registration of births.

Background

[2] The child was born in 2018 to the mother. Although some matters relating to the mother’s relationships with AB and with CD are disputed, there was no need to conduct a fact-finding hearing to resolve those matters as the core details were largely agreed.

[3] AB and the mother had been in a relationship which could be categorised as turbulent. An older child was born in 2016. The relationship ended in 2017. The mother then entered into a relationship with CD and the child is a child of that relationship.

[4] During the pregnancy the Trust engaged with child protection measures which resulted in the mother being advised about the criminal antecedents of CD which included offending involving the sexual abuse of children. That relationship came to an end, and there was a reconciliation of sorts between the mother and AB.

[5] Both AB and the mother knew that AB was not the father of the child, and that CD was.

[6] AB attended at the birth of the child and 38 days after the birth, AB and the mother attended at a registrar’s office. They completed the appropriate forms declaring that the father of the child was AB.

[7] I consider, for reasons that I set out below, that both AB and the mother knew that this declaration was false, and both committed perjury. AB has submitted a skeleton argument arguing that the forms were somewhat ambiguous as they used the word ‘father’ without the adjective ‘biological’ or ‘genetic.’ AB argues that he considered himself to be the father of the child using a wider definition which could incorporate the concept of psychological fatherhood. AB in his statement said that he was a ‘father figure’ to the child at that time.

[8] The birth certificate then issued with the mother stated as the mother and AB stated as the father. The child's registered name incorporated AB's first name (as a middle name) and his surname.

[9] Approximately three and a half years later, on the application of CD, a Family Proceedings Court declared CD as the father of the child following DNA testing.

[10] The registrar, on receipt of that court order and on CD attending to complete further forms, withdrew the previous birth certificate and re-issued the certificate with the correct details regarding the parentage of the mother and CD.

The proceedings

[11] There are ongoing proceedings issued by the Trust seeking a care order under the Children (NI) Order 1995 ("the CO") in respect of the child. CD has issued a C2 seeking determination as to whether AB ever had, and if so, continues to have, parental responsibility for the child, and if he still holds parental responsibility, that it should be revoked. Given the uncertainty about CD's standing and in particular whether he has parental responsibility for the child, the mother has issued a C2 in similar terms with the intention that should the court rule that CD does not have standing, that she would step into his shoes and pursue the remedy.

[12] The issues for the court to determine are as follows:

- (a) Does CD have standing to bring this application?
- (b) Following the false declarations made by AB to the registrar, did AB acquire parental responsibility on his registration as the father on the child's birth certificate?
- (c) If so, did the subsequent withdrawal and re-issue of the birth certificate revoke AB's parental responsibility?
- (d) If not, and the court is required to determine the issue, what test is the court required to apply in determining the application to revoke AB's parental responsibility?
- (e) Applying the appropriate test, should AB's parental responsibility be revoked?

[13] I would like to place on record my appreciation for the written and oral argument presented by counsel about this complex and difficult area of family law.

Does CD have parental responsibility and standing to bring this application?

[14] Article 7(3) and (4) of the CO provides that a person who has acquired parental responsibility under paragraph 7(1), (1ZA), or (1A) shall cease to have that responsibility if the court so orders and that the court can make such an order on the application of any person who has parental responsibility for the child, or of the child himself (with the leave of the court). The issue is whether CD has parental responsibility and can bring an application to remove AB's parental responsibility.

[15] Article 7(1)(a) of the CO provides that an unmarried father shall acquire parental responsibility if he becomes registered as the child's father. Sub-article 2A states that "registered" means registered under Article 14(3)(a), (b) or (c) of the Births and Deaths Registration (NI) Order 1976 ("the 1976 Order").

[16] Article 14(3)(a), (b) or (c) of the 1976 Order relates to the registration of the birth of a child to unmarried parents with either the mother and the person stating himself to be the father, requesting; or, the mother alone declaring who the father is, supported by a statutory declaration of that man, requesting; or by a permitted applicant providing statutory declarations by both the mother and the father, requesting registration.

[17] Following the declaration of parentage by the Family Proceedings Court, CD applied to re-register the birth. The 1976 Order provides for re-registration after such a declaration under Article 19A. CD's application was dealt with under this Article, and the re-registered birth certificate specifically refers to this provision.

[18] Ms Rice KC has attempted to argue that the court can ignore the specific wording of the CO and somehow read across the provisions so that an Article 19A re-registration has the same effect as an Article 14(3)(a)-(c) registration.

[19] I reject this argument. The CO made specific reference to the Article 14(3)(a) (b) and (c) routes to registration, and these three routes are also specific in nature and relate to what would be straightforward registrations only requiring evidence of who the mother and who the father are. The remaining provisions of Article 14 (3) relate to more protracted processes involving parental responsibility agreements or court orders. The clear intention of the legislature was to limit the automatic acquisition of parental responsibility of unmarried fathers. Articles 14 and 19A were amendments to, and insertions into, the 1976 Order made by the CO, so both Orders in Council should be read together.

[20] It is not open to the court to ignore the clear and express intention of the legislature and somehow attempt to circumvent the provision. The leading text on the operation of children law and practice - *Herschman and McFarlane: Children Law and Practice* - when commenting on the identical provision in England & Wales states at A[259]:

“Re-registration of a birth under the Births and Deaths Registration Act does not trigger the grant of parental responsibility to the father as the enactment is not listed in [the Children Act] 1989 s 4(1A).”

Identical comments are made by Jackson J in *M v F* [2013] EWHC 1901 at para [31] and by Hayden J in *JB v AS* [2015] EWHC 180 at para [29].

[21] CD did not acquire parental responsibility for the child on re-registration of the birth and therefore cannot apply to the court for an order that AB shall cease to have parental responsibility.

[22] I make this ruling to provide clarity as to CD’s role; however it has only a modest impact on this application. I consider that CD has sufficient standing as a party to the CO proceedings brought by the Trust to seek a ruling from the court as to whether AB ever obtained parental responsibility by virtue of his registration as the stated father of the child and the circumstances surrounding that registration. CD’s lack of parental responsibility would have an impact should the court decide that AB did acquire parental responsibility. In that event, the mother having also issued a similar application seeking revocation of AB’s parental responsibility, has sufficient standing to pursue that application.

Did AB commit perjury when he applied to register the child’s birth?

[23] Article 9(1)(a) of the Perjury (NI) Order 1979 provides that any person who wilfully gives to any registrar any false information concerning any birth commits an offence. Article 9(1)(d) also makes it an offence to make any false statement with intent to have it inserted in any register of births. In this case, the relevant information and statement in the register of births is that AB is the father of the child.

[24] There was an argument presented on behalf of AB that he did not make a false statement in that he considered himself to be the father of the child, relying on the concept of ‘psychological’ fatherhood.

[25] AB and the mother have filed statements in relation to this application. At no stage, does AB actually indicate that he had such an understanding, but does make some references to the concept of ‘psychological’ fatherhood. It is important to bear in mind that we are considering AB’s state of mind when the birth was registered and when the child was 38 days old and not about events subsequent to the registration.

[26] As for AB’s actual motivation to be registered as the father, the mother in her statement said that AB had told her that “the baby should not have a ‘pedo’ [sic] for a father” (para 10). She said at para 13 that at the time of the birth AB was constantly making this statement and that they should register the birth before CD tried to get

involved. In his statement AB makes no reference to him using this type of language but does say that he did not want the child to have the stigma of being connected to CD (para 14).

[27] In his statement AB said “I became a father figure to [the child] and [the child] refers to me as dad or daddy. [The child] also shares my surname. [The mother] has accepted that during our relationship. I parented [the child] that that [the child] identified me as being [the child’s] father” (para 11).

[28] As for the registration process, AB stated “Before signing the document, the Registrar did not question [the mother] and/or I [*sic*] as to whether I was indeed the natural father. I do accept we did not volunteer the information” (para 13).

[29] AB was also very clear in his mind as to the child’s parentage. He stated, “Everyone knew and acknowledged that I was not [the child’s] biological father” (para 12).

[30] Article 14 of the 1976 Order sets out the mechanism for registration of a child whose parents are not married. The relevant sub-articles are as follows:

“(1) This Article applies in the case of a child whose father and mother were not married to or civil partners of each other at the time of his birth ...”

(3) A registrar shall not enter the name of any person as the father of the child in such a case unless the mother and the person stating himself to be the father of the child jointly request him to do so in the prescribed manner;”

[31] Article 2 of the 1976 Order offers no specific assistance in the definition of father, but does state that ““father”, in relation to an adopted child, means the child’s natural father.” The CO does not offer any assistance in defining “mother”, “father” or “parent.”

[32] *Herschmann & McFarlane (ibid.)* at A[1] states that “at common law legal parentage aligns with biological and gestational parentage.”

[33] The relevant form used for registration of births is GRO4. Section 3 provides for details of the “Father/*Second Female Parent.” Section 6 provides for signatures and states:

“*I/We confirm that the information given on this form is correct. Informant Signature(s) ... Please note: The Registrar will complete the registration with the details you have provided on this form. You will then be asked to check and sign the registration. The registration is the

legal record of the birth, and you should only sign when you are satisfied that the details are correct.”

The form gives guidance over two pages using the word ‘father’ without any further description.

[34] The mother and AB signed this document, and in addition both have signed the birth certificate as the informants. The birth certificate stated that the mother was the mother, and that AB was the father of the child.

[35] I reject AB’s argument that as the psychological father of the child he was entitled to register the birth and to declare that he was the father.

[36] The role of a psychological father in a child’s life has been long recognised with the usage of terms like “father figure.” It was, perhaps, first articulated in a legal context by Lady Hale in her speech in *Re G* [2006] UKHL 43, a case relating to a custody dispute that had arisen between a same-sex female couple, one of whom had borne a child after anonymous donor insemination. Lady Hale spoke of the difference between “natural and legal parents” (para [32]). She continued by stating that natural parenthood could be achieved in three ways – genetic, through the provision of gametes; gestational, through conceiving and bearing; and finally, social and psychological.

[37] At para [36] Lady Hale spoke of the final category in the following terms:

“The third is social and psychological parenthood: the relationship which develops through the child demanding and the parent providing for the child’s needs, initially at the most basic level of feeding, nurturing, comforting and loving, and later at the more sophisticated level of guiding, socialising, educating and protecting. The phrase “psychological parent” gained most currency from the influential work of Goldstein, Freud and Solnit, *Beyond the Best Interests of the Child* (1973), who defined it thus:

‘A psychological parent is one who, on a continuous, day to-day basis, through interaction, companionship, interplay, and mutuality, fulfils the child’s psychological needs for a parent, as well as the child’s physical needs. The psychological parent may be a biological, adoptive, foster or common law parent.’”

[38] Some female parents will combine all three categories, and some male parents will combine the first and third, but Lady Hale emphasised that those becoming psychological parents of a child can have an important contribution to make to the child's welfare (see para [37]).

[39] There is no real controversy about this analysis, and this role of psychological parent has emerged and then developed in the jurisprudence of the United Kingdom courts through the application of the Article 8 ECHR right for respect for a child's and a psychological parent's family life and application of the 'welfare checklist' contained in Article 3 of the CO, and in particular consideration of a child's physical, emotional and educational needs and the capability of meeting those needs by the parents "and any other person in relation to whom the court considers the question is relevant." Such a person would clearly fulfil the role of a psychological parent.

[40] It is important to put this section of Lady Hale's speech into context. She pointed out in para [32] that there was a difference between a natural parent and a legal parent. Being a legal parent gives that person legal standing. At no stage does Lady Hale ever define what a legal parent is, but gave several examples:

"the father of a child born to unmarried parents was not legally a "parent" until the Family Law Reform Act 1987 ... The anonymous donor who donates his sperm or her egg under the terms of the Human Fertilisation and Embryology Act 1990 is the natural progenitor of the child but not his legal parent ... The husband or unmarried partner of a mother who gives birth as a result of donor insemination in a licensed clinic in this country is for virtually all purposes a legal parent but may not be any kind of natural parent: see 1990 Act, s 28."

[41] This has echoes in the speech of Viscount Simonds in *Galloway v Galloway* [1955] 3 All ER 429 at 431 where he stated:

"[I]t ... is today a cardinal rule applicable to all written instruments, wills, deeds or Acts of Parliament, that 'child' prima facie means lawful child and 'parent' lawful parent."

and in the judgment of Roxburgh J in *Re CT* [1956] All ER 500 at 504G where he stated:

"the titles "father" and "mother" belong only to those who have become so in the manner known to and approved by law."

[42] The courts have consistently applied this principle, declining to expand the scope of the definition of “mother”, “father” and “parent.” I refer to two cases involving liability to pay child maintenance. In *J v J* [1993] 2FLR 56 a man had fulfilled the role of psychological father to a child when living with the mother as ‘husband and wife.’ Eastham J at para [59] said that “by no stretch of the imagination can [the man] be described as a “parent” because in the natural and plain meaning of the word he would have to be the father of the child.” In *Re M* [1997] 2 FLR 90, Bracewell J at para [94] said that “a father is a parent if he is either the biological father or he becomes the father by operation of law. There is no other way in which ... [he] ...can be held to be a parent.”

[43] The purpose of the registration of a birth is to provide certainty as to date of birth, the assigned name, and the parentage of a child, and for this to be confirmed in a public record.

[44] O’Hara J in *A v R* [2020] NIFam 6 dealt with a problem arising after an informal insemination arrangement between a mother and a male, whereby she became pregnant with the intention that the child be raised by her and her female partner. After the child was born the registration was processed by the mother as an unmarried mother with no named father. The couple then formalised their civil partnership and the partner sought to be registered as the second parent of the child. As the civil partnership did not exist at the time of the birth the provisions of the Human Fertilisation and Embryology Act 2008 could not apply. The partner sought to advance an application for a declaration of parentage on the basis of her ‘psychological’ parentage relying on Article 8 and 14 ECHR grounds.

[45] The application was under Article 31B of the Matrimonial and Family Proceedings (NI) Order 1989 which provides that “any person may apply to the High Court ... for a declaration as to whether or not a person named in the applications is or was the parent of another person so named.”

[46] O’Hara J rejected the application in resolute terms. At para [32] he referred to the application as being an application for a declaration of “actual parentage, legal parentage.” He continued

“This seems to me to be asking too much. Providing social and psychological parenting for a child is of enormous importance and value ... however ... it is really quite different from what Article 31B contemplates and requires ... Wonderful as [psychological parenting] is for a child it is not the basis for adding his or her name to a birth certificate.”

[47] When the legislature made provision for the registration of births in the 1976 Order it chose to use the word ‘father’ without any form of qualification. Statutory interpretation involves following a well-established path. Lord Nicholls in *ex p Spath*

Holme Ltd [2001] 2 AC 349 at 396 said that “statutory interpretation is an exercise which requires the court to identify the meaning borne by the words in question in the particular context.” This principle has been recently reiterated in *JR222 application for judicial review* [2024] UKSC 35 by Lord Stephens at para [73]:

“The courts in conducting statutory interpretation are seeking to ascertain the meaning of the words used in a statute in the light of their context and the purpose of the statutory provision.”

[48] This will involve an exercise in ascertaining the intention of Parliament as can be reasonably imputed by reference to the language used in the legislation.

[49] Taking into account the 1976 Order and the CO as a whole, the text used and the purpose, I am satisfied that the legislature intended that the only interpretation available for the word ‘father’ in Article 14(1) is legal father which means either the genetic father or a person granted the status of father by statute.

[50] I am also satisfied that when the child’s birth was registered at 38 days, AB could never have achieved the status of psychological father to the child. By any definition psychological parentage must develop over a period of time and be evidenced by what Goldstein *et al.* described as a continuous process through interaction, companionship, interplay, and mutuality, fulfilling the child’s psychological needs for a parent, as well as the child’s physical needs. Neither the mother nor AB refer in their statements to the role, if any, performed by AB during those 38 days, but even if continuous in nature, it will not have permitted AB to have achieved and to claim the role of psychological father.

[51] I am also satisfied that when he signed the necessary forms to register the birth, whilst AB may have had an intention to be a psychological father to the child, it was not in his mind that he was such a father. As a consequence he wifully made a false statement, knowing it to be a false statement, with the intention that it be entered into the register. I accept the mother’s evidence that AB’s primary motivation was to prevent CD from being registered and recognised as the father. As such, AB did commit the acts and with the necessary intention, to have committed perjury. For the removal of doubt, I make this finding to the criminal standard beyond reasonable doubt. Given the time limitation set out in the legislation, AB cannot now be charged with the offence of perjury.

[52] Ms Rice KC described AB’s actions as ‘fraudulent’ in nature. The word has a common usage and I am prepared to accept its use in this case insofar as it includes conduct which is deliberately deceitful or dishonest. It does not encompass conduct which would normally be associated with fraud which is the gain or loss of money or property.

Having committed perjury in the registration of the child's birth, did AB acquire parental responsibility for the child?

[53] I have set out above how an unmarried father acquires parental responsibility for a child on his registration as father on the birth certificate (Article 7(1)(a) of the CO). Having determined that AB committed perjury to achieve this status, the question now arises whether the application of the principles of public policy operate to prevent him from acquiring parental responsibility *ab initio* (i.e. on the date of the registration of the birth).

[54] Lord Mansfield expounded the principles of public policy in *Holman v Johnston* (1775) 1 Cowp 341 at 343 – “no court will lend its aid to a man who founds his cause of action upon an immoral or illegal act.” This is encapsulated in the maxim “*ex turpi causa non oritur actio*” - action does not arise from a dishonourable cause.

[55] Extreme caution should be applied when considering public policy issues. It is, as Burrough J in *Richardson v Mellish* (1824) 2 Bing. 229 described it, “a very unruly horse and when once you get astride it you never know where it will carry you.” Lord Atkins in *Fender v St John-Mildmay* [1938] AC 1 after reviewing several of the leading authorities and the warnings concerning judicial overreach, attempted to summarise the correct approach to be adopted by stating that “the doctrine should only be invoked in clear cases in which the harm to the public is substantially incontestable and does not depend upon the idiosyncratic inferences of a few judicial minds.”

[56] Parke B in *Egerton v Brownlow* (1853) 4 HLC 1 at 123 stated that the “common good of the community” is the province of “statesmen and not the lawyer to discuss.” The province of the judge is to “expound the law only ... [and] not to speculate upon what is best ... for the advantage of the community.”

[57] In *DST v Raknoc* [1987] 2 All ER 769 at 779e, Lord Donaldson MR summarised the modern application of the law as follows:

“It has to be shown that there is some element of illegality or that the enforcement of the award would be clearly injurious to the public good or, possibly, that enforcement would be wholly offensive to the ordinary reasonable and fully informed member of the public on whose behalf the powers of the state are exercised.”

[58] As for the application of public policy in cases involving fraud, Denning LJ was quite emphatic as to the consequences in *Lazarus Estates v Beasley* [1956] EWCA Civ 6:

“No court in this land will allow a person to keep an advantage which he has obtained by fraud. No judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved it vitiates judgments, contracts and all transactions whatsoever”

[59] I have been referred to the English case of *B v C* [2023] EWHC 2524 which related to acquisition of parental responsibility by operation of Spanish law and whether, through the provisions of the Hague Convention 1996, that acquisition of parental responsibility should be recognised in the United Kingdom. The background facts were an extreme example of criminal and moral turpitude. A male entered into a relationship with the mother and using a stolen passport falsely claimed to be called ‘D’, the owner of the passport. He then fathered a child and purported to register himself as the father of the child using the name ‘D.’ Under Spanish law the male ‘D’, a stranger to the mother and to the child, acquired parental responsibility, with no power to remove it.

[60] MacDonald J was clear that to apply Spanish law by virtue of the recognition provisions of the Hague Convention 1996 in these circumstances would be contrary to public policy, although he did integrate welfare considerations into his reasoning. At [84] he stated, referring to the child as A, the genetic father as C and the stranger from whom the passport was stolen as D:

“I am satisfied that it is near axiomatic that it is not in A’s best interests for parental responsibility, arising by operation of law founded on a fraudulent deception by a now convicted sex offender, to be held by a stranger who has no biological, psychological or emotional link with him. Such a situation results in an unrelated adult unknown to A having, by reason of a fraud practised on a foreign competent authority, all the rights, duties, powers, responsibilities and authority which by law a parent of A has in relation to him and his property. Whilst it is unlikely that D would ever seek to press his rights and powers, to allow his parental responsibility arising out of a fraudulent registration to subsist in this jurisdiction would leave A exposed to continuing inaccuracy, uncertainty and insecurity regarding his legal proof of identity and civil status. A would remain uncertain as to the status of D in relation to him and in relation to D’s ability to take decisions concerning fundamental aspects of his life. Again, whilst it is unlikely that D would ever

seek to press his rights and powers, from the *child's* perspective A would be required to live with the possibility that at any given moment D might decide to intercede in his life. This cannot in my judgment be in A's best interests given the foundational implications of registration and the existence of parental responsibility for his identity and emotional development."

[61] The important difference between this case and the one before me is that by virtue of the criminal act an innocent stranger acquired the benefit rather than the criminal act being perpetrated by the one seeking to benefit himself from the act.

[62] A judgment of the English Court of Appeal, albeit by a majority, in *J v ST* [1996] EWCA Civ 1016 may be of more relevance. It held that the perjury committed by a party to a marriage (following a false declaration that the party was a bachelor and there was no impediment of lawful hindrance to the marriage when in fact the party was a female) resulting in the marriage being declared void did not in itself prevent that party from pursuing an ancillary relief application. Potter LJ (in the majority) stated that unlike the commission of the offence of bigamy which went to the very heart of the institution of marriage and following *Whiston v Whiston* [1995] Fam 198 public policy would defeat any claim for ancillary relief, the perjury was a collateral matter. However, the unanimous decision of the court, was that as "the ... Act intends that all matters of conduct as between the parties should be brought into a discretionary post-decree balancing exercise as far as ancillary relief is concerned" public policy considerations could be taken into account in the exercising of the court's discretion. Ward LJ dissented as he considered *Whiston* should apply but summarised the final unanimous view that the application be dismissed as follows:

"the facts of this case boil down to an attempt to gain benefit which accrues only through wrongdoing ... the claim is against public policy and for my part I do not shrink from so finding nor from dismissing the appeal on that basis."

[63] This case determines the impact of perjury on a claim for ancillary relief and the stage that public policy applies is not at a preliminary stage but rather at the balancing exercise stage. It clearly is relevant in relation to the Matrimonial Causes Act 1973, but I question its relevance to the acquisition of parental responsibility under the CO. Article 7(1)(a) of the CO states that parental responsibility flows from the birth certificate and it is not a matter of discretion after conducting a balancing exercise. AB's perjury was therefore not a collateral matter but rather went to the heart of any acquisition of parental responsibility.

[64] The registration of births requires certainty as the document issued by the Registrar General will be used for a variety of important reasons relating to the

child's life continuing into their adulthood. I am satisfied that anyone who commits perjury which includes the wilful giving of false information and the intention to import false information into a birth certificate cannot be allowed to benefit from that deception. The mother is equally complicit in the criminal actions by her own conduct, but she has gained nothing from it as parental responsibility always vests in the mother under the CO.

[65] AB, by virtue of his conduct, could never have lawfully acquired parental responsibility for the child. To adopt and adjust the language of Lord Denning - no court in this land will allow a person to keep an advantage which he has obtained by this perjury as it unravels everything. To hold otherwise would be an affront to justice.

Conclusion

[66] Although this ruling means that the court does not need to consider the other questions that would have arisen had AB held parental responsibility for the child, the issues relating to the child's welfare will not be side-lined as the case progresses. The status of AB's psychological fatherhood will need to be examined, as will the child's emotional needs and the capability of the meeting of those needs by the mother and CD (his lawful parents) as well as by AB.

[67] I will therefore make the declaration sought by CD (and the mother) that AB, by virtue of his perjury and the operation of public policy, did not acquire parental responsibility for the child.

[68] For the avoidance of doubt, AB shall continue to be a party to the care order proceedings in relation to the child given his role in the child's life. This will allow the aspect of his psychological parenting to be dealt with in the course of the proceedings.