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Title :	R (A Child) (Contact: Human Fertilisation and Embryology Act 1990) (No.1), Re
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R (A Child) (Contact: Human Fertilisation and Embryology Act 1990) (No.1), Re

Family Division

20 September 2000

Case Analysis

Where Reported

[2001] 1 F.L.R. 247; [2001] Fam. Law 10

Case Digest

Subject: Family law

Keywords: **Assisted reproduction**; Children; In vitro fertilisation; Parental contact; Unmarried fathers

Summary: parental contact; in vitro fertilisation; absence of biological link to father

Abstract: B applied for contact and parental responsibility orders in relation to a child born to D as a result of fertility treatment involving the fertilisation of her egg by an anonymous sperm donor. Despite the breakdown of her relationship with B, D had told the hospital providing the fertility treatment that the relationship was continuing in order to rely on the previous consent to the treatment that they had both given. As a consequence, by virtue of the [Human Fertilisation and Embryology Act 1990 s.28\(3\)](#) B fell to be treated as the father of the child. D opposed the application, asserting that she had suffered from domestic violence and had been forced into non-consensual sex with B during their relationship. She maintained that B was not committed to the child and that to award him direct contact would damage her fragile emotional health.

Held, granting the application in part, that having regard to the clear terms of s.29(1) of the 1990 Act that B should be treated in law as the child's father "for all purposes", the lack of any biological link was immaterial. It was however apparent that the lack of a biological link might be relevant for the purposes of the [Children Act 1989 s.1\(3\)\(d\)](#) in relation to the child's "background". The allegations of D against B had not been established. In regard to the contact order, B had responsibly only pressed for indirect contact. It was clear that some indirect contact was in the best interests of the child. The possibility of direct contact should not, however, be ruled out in the future. In regard to the parental responsibility order, it was appropriate to adjourn the application in order to ascertain whether B would continue in his commitment to indirect contact.

Judge: Judge Hedley

Counsel: For the mother: Patricia Pratt. . For the child: Jacqueline Wall. . For the father: James Gatenby.

Solicitor: For the mother: Cobleys. . For the child: Official Solicitor. . For the father: Stephen D Brine.

Related Cases

R (A Child) (IVF: Paternity of Child), Re

[2002] 2 F.L.R. 843; Fam Div

R (A Child) (IVF: Paternity of Child), Re

[\[2003\] EWCA Civ 182](#); [\[2003\] Fam. 129](#); [\[2003\] 2 W.L.R. 1485](#); [\[2003\] 2 All E.R. 131](#); [\[2003\] 1 F.L.R. 1183](#); [\[2003\] 1 F.C.R. 481](#);

[\(2003\) 71 B.M.L.R. 157; \[2003\] Fam. Law 394; \(2003\) 100\(13\) L.S.G. 27; \(2003\) 153 N.L.J. 317; Times, February 20, 2003; Independent, February 25, 2003; CA \(Civ Div\)](#)

R (A Child) (IVF: Paternity of Child), Re

[\[2005\] UKHL 33; \[2005\] 2 A.C. 621; \[2005\] 2 W.L.R. 1158; \[2005\] 4 All E.R. 433; \[2005\] 2 F.L.R. 843; \[2005\] 2 F.C.R. 223; \[2005\] Fam. Law 701; \(2005\) 102\(21\) L.S.G. 33; \(2005\) 155 N.L.J. 797; Times, May 13, 2005; Independent, May 17, 2005; Official Transcript; HL](#)

Significant Legislation Cited

[Children Act 1989 \(c.41\) s.1\(3\)\(d\)](#)

[Human Fertilisation and Embryology Act 1990 \(c.37\) s.28\(3\)](#)

[Human Fertilisation and Embryology Act 1990 \(c.37\) s.29\(1\)](#)

Legislation Cited

[Children Act 1989 \(c.41\) s.1\(3\)\(d\)](#)

[Human Fertilisation and Embryology Act 1990 \(c.37\) s.28\(3\)](#)

[Human Fertilisation and Embryology Act 1990 \(c.37\) s.29\(1\)](#)

Journal Articles

Re G: a missed opportunity

Artificial insemination; Lesbianism; Parental contact; Same sex partners; Shared residence orders.

[Fam. Law 2007, 37\(Jan\), 53-56](#)

Contact: child born following donor insemination; mother's former partner the "father" by virtue of Human Fertilisation and Embryology (HFE) Act 1990.

Assisted reproduction; Contact orders; Parental responsibility orders.

[Ad. & Fos. 2001, 25\(1\), 69-70](#)

"Where did I come from, Mummy?".

Assisted reproduction; Contact orders; Parental responsibility orders.

[Fam. Law 2001, 31\(Aug\), 611-612](#)

Contact.

Assisted reproduction; Contact orders; Parental responsibility orders.

[Fam. Law 2001, 31\(Jan\), 10-11](#)