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Neutral Citation: [2025] EWFC 122

Case No: LS 24 C 50383

IN THE FAMILY COURT

Leeds Civil Hearing Centre

SITTING AT LEEDS

Coverdale House, Leeds

Date: 2 May 2025

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF EZ (A MINOR)

Before :

Mr. Recorder Tyler KC, sitting as a Deputy High Court Judge

Between :

Leeds City Council
- and -
(1) A Purported Mother
(2) A Purported Father
(3) EZ (A Minor)

Applicant

Respondents

**RE EZ (A MINOR) (CARE PROCEEDINGS: NIGERIAN FERTILITY CLINIC AND
MATERNITY HOSPITAL)**

Hearing dates: Tuesday 4 – Friday 7 March 2025

Judgment circulated in draft on 3 April 2025

Final judgment handed down on 2 May 2025

JUDGMENT

Lorraine Cavanagh KC & Louise McCallum of counsel (instructed by the legal department)
for Leeds City Council

Stefano Nuvoloni KC & Wendy Frempong of counsel (instructed by Living Spring Solicitors)
for the first respondent, **the purported mother**

Martin Kingerley KC & Philippa Wordsworth of counsel (instructed by Williscroft Solicitors)
for the second respondent, **the purported father**

Darren Howe KC & Vikki Horspool, solicitor, (instructed by Ramsdens Solicitors) for the third
respondent child, **EZ**

Parties, application, issues, positions

1. This case involves the interests and future of a little girl whom I shall call throughout this redacted judgment Eleanor (not her real name). Eleanor was reportedly born in Nigeria on [a date in] June 2024. If this date is correct, she was 9 months old at the point of the hearing before me, 11 months old at the point of this reserved judgment.
2. The issue which has been the focus of this four-day fact-finding hearing has been Eleanor's true provenance and her true parentage. Was she, as the first and second respondents claim, conceived through assisted reproductive techniques (the implantation of a donor embryo – IVF) but carried to term and naturally delivered, in Nigeria, by the first respondent, or was she, as the local authority which brings the case and the children's guardian contend, a baby bought in and knowingly trafficked from Nigeria to the UK by the first and second respondents?
3. Eleanor is the subject of proceedings brought under Part IV of the Children Act 1989 (**"the CA 1989"**) (care proceedings) by Leeds City Council (**"the LA"**).
4. The LA has been represented before me by Lorraine Cavanagh KC and Louise McCallum. The social workers are [SW1] and [SW2], whose team manager is [TM].
5. The first and second respondents claim to be Eleanor's parents. (Exactly what they mean by that term, and the way in which their case has developed on this point, I expand on below.)
6. The first respondent is the purported mother of Eleanor (**"PM"**). PM has been represented before me by Stefano Nuvoloni KC and Wendy Frempong.
7. The second respondent is the purported father of Eleanor (**"PF"**). PF has been represented before me by Martin Kingerley KC and Philippa Wordsworth.

8. **Eleanor** has been represented before me, through her children's guardian, Beverley Kelsey ("**the CG**"), by Darren Howe KC and Vikki Horspool.
9. The Nigerian Embassy has been put on notice of these proceedings throughout but has not chosen to engage with them in any way.

The factual issues – a summary

10. PM and PF moved to the UK from Nigeria, with their two sons, to whom I shall refer as **J** and **K**, at the beginning of June 2023. At various points in 2023 and 2024, PM came into contact with frontline medical services in England. While these encounters were generally in relation to another health issue, PM asserted on a number of occasions to the various doctors and nurses that she was pregnant. The usual pregnancy tests and scans said otherwise, all confirming that PM was not pregnant.
11. On 3 June 2024, PM travelled alone from the UK to Nigeria. She returned on 6 July, together with Eleanor, then a small baby. PM had the requisite UK entry clearance for Eleanor and a Nigerian birth certificate recording PM as Eleanor's mother and PF as her father. PM was arrested by police on landing at Gatwick and Eleanor was removed from her care. Initially pursuant to police powers of protection, and since 9 July 2024 pursuant to an interim care order, Eleanor has remained in local authority foster care to date.
12. PM's case, as it has developed, is that she conceived Eleanor through the IVF implantation of a donor embryo. PM and PF contend that this explains the absence on DNA testing of any genetic nexus between Eleanor and them. The IVF implantation took place, PM asserts, on [a date in] May 2023. PM further asserts that the implanted embryo became a viable foetus, which she carried, until Eleanor was naturally born to

her, in Nigeria, on [a date in] June 2024, some 55 weeks and 6 days after the implantation of the embryo.

13. The issues for determination by me, then, can be refined into four distinct questions:
- a. Is Eleanor the biological child of PM and PF?
 - b. Was PM ever pregnant with Eleanor?
 - c. Did PM give birth to Eleanor?
 - d. What was and is the state of mind of PM and, separately, of PF, in relation to Eleanor's true parentage?

As will be seen below, the first three questions must necessarily be answered in the negative. The principal issues for me, then, arise from the fourth question, and are these:

- Has this been a preplanned and sustained deception on the part of one or both of the purported parents, up to and including presenting a knowingly false case to the court on oath?
- Or has one, or have both, of them at any stage, or on an ongoing basis, genuinely believed themselves to be the genetic and/or gestational parents of Eleanor?
- Or is the truth somewhere between these two extremes?

These have been more complicated questions to resolve.

The fact-finding hearing

14. I heard evidence over the three days from Tuesday 4 March to Thursday 6 March 2025 from:

- Mr Gerald Jarvis, Consultant Obstetrician and Gynaecologist;
- Henrietta Coker, Independent Childcare Consultant;
- Ms B, PM's employer;
- the purported mother, PM; and
- the purported father, PF;

and oral closing submissions from the parties' counsel on the fourth day, Friday 7 March 2025.

15. I have read the 1,000+ page bundle and various individual documents filed, and have been referred to and have read as appropriate the various particularly relevant parts of the 250+ page medical disclosure bundle and the 1,200+ page electronic extraction bundles. I have also viewed a number of videos, notably of what has been presented as the scene immediately preceding and immediately after PM's having given birth to Eleanor.
16. Self-evidently, given the vast volume of documentation before me and the scholarly detail of the submissions made to me, I will make no attempt in this judgment to record every relevant fact from the evidence nor every submission from counsel. This should not be taken as suggesting that I do not have all relevant details and arguments firmly in mind.

Background

17. The relevant background can be briefly stated.
18. PM was born in 1975, so she is 49 years old. PF was born in 1980, so he is 44 years old. They married in 2007 and have two older children, J, 15 years old, and K, 13 years old.

19. PM and PF report that they had a baby, whom I shall refer to as L, who died when just a month old, in Nigeria, in November 2022.
20. The family lived in Nigeria until moving to the UK in June 2023, PM having obtained permission to enter as a care worker sponsored by a provider of care services. PM was granted Leave to Remain in the UK, valid until March 2027, subject to the standard conditions. PF and the children were granted leave to remain as PM's dependents with the same expiry date and conditions. Eleanor was also granted the same permission, enabling her entry to the country on 3 July 2024.
21. PF works as a delivery driver and J and K are settled in schools in England. By all accounts, the boys are well looked after and well-behaved young men, no concerns having arisen at any stage in relation to the parenting they receive, except for the issues arising out of the facts which led to these proceedings being issued.
22. The family was unknown to the LA's social services department until, on 14 June 2024, the Children's Social Work Service received a referral from the local Teaching Hospitals Safeguarding Team. This arose due to PM's sustained insistence that she had been pregnant despite all medical evidence to the contrary and her later having told the hospital that she had indeed given birth to a baby.
23. It has been a feature of PM's case that she asserts that she carries the babies with which she is pregnant for prolonged periods of time. She says that she was pregnant with J for 21 months, with K for 13 months and with L for some 30 months. Nor, she claims, do her pregnancies show up on either ultrasound, or blood / urine testing. (That said, it was part of her oral evidence that she has set the beginning of each of these supposedly prolonged pregnancies with reference to her feeling of pregnancy symptoms rather than

any medical confirmation.) It is in this context that says that she does not consider it unusual that she was pregnant with Eleanor for about 56 weeks.

24. PM claims that she undertook fertility treatment in Nigeria in the form of IVF in May 2023, shortly before the family moved to England in June. She says that she had initially thought that the procedure had not worked, as she was spotting blood a few days after the procedure, but that she later recognised that she was pregnant.
25. In July 2023, she was admitted to hospital in [a town in the East of England] with elevated blood pressure. She told the hospital that she was pregnant, whereas hCG pregnancy testing confirmed that she was not. Imaging confirmed that she was not pregnant; rather, medics noted a potentially cancerous abdominal mass. Further imaging, both ultrasound and CT, took place in December 2023 and January 2024. Again, pregnancy was discounted, but malignant abnormalities were noted. Throughout the first half of 2024, PM had various encounters with medics, who became gradually more concerned that PM was insisting that she was pregnant and thus refusing treatment for what the medics increasingly thought was a potentially fatal cancerous growth. Seen for psychiatric assessment in May 2024, PM presented with *'a single fixed idea of being pregnant,'* asserted that she has habitually experienced abnormally long gestations, but reported that pregnancies can last for up to five to seven years in Nigeria and that the scans undertaken in such cases often do not detect the foetus. The psychiatrist summarised *'a diagnostic conundrum,'* considering the options of *'delusional disorder versus pseudocyesis,'* before inclining towards the latter.
26. On 8 May 2024, PM attended her GP, setting out that she was travelling to Nigeria on 1 June to have the baby. Her employer was asking for a completed maternity certificate (MAT-B1) and PM also needed a form completing by the GP for the airline to confirm that she was safe to fly while pregnant. The GP records having had a *'long chat'* with PM,

during which she *'went through scans'* and set out *'significant concerns for ?possible cancer'* which required further exploration. When the GP explained to PM that the scans showed a polyp which, if left for another six months, would be likely to be incurable, PM is reported to have replied, *'I am telling you, I do not have cancer. I keep trying to tell you all, I am pregnant, this happened with the last two pregnancies, [which were] unable to [be seen] on scan [...].'* The GP tried another tack, asking whether PM would consider the possibility that she was both pregnant and had a concerning, possibly cancerous mass. PM said, *'Absolutely not.'* PM told the GP that she had booked her return flight from Nigeria to the UK for 12 July 2024 and that she would then bring in her baby and show it to those at the surgery. She would undergo all necessary investigations and tests in relation to the suspected cancer then, but not while she was still pregnant.

27. On 14 May 2024, a colorectal surgeon wrote to PM's GP, but in language intended for and directed at PM, explaining the conclusions in relation to the abdominal abnormalities and repeating the warning that *'there is a chance that [the tumours] will shorten your life expectancy which means that your children won't have a mother to look after them in the near future'*.
28. On 3 June 2024, PM flew from London Gatwick to Lagos, Nigeria. PF stayed behind, working and looking after the children. From Nigeria, PM contacted the hospital in England, to inform medics that she had had her baby and was to return to the UK shortly afterwards.
29. PM returned to England on 6 July 2024, together with Eleanor. PM was arrested by Sussex Police and Eleanor was taken into police protection. Eleanor was taken to hospital to be medically checked, and was discharged the same evening. She was initially placed in foster care in West Sussex, before being taken to Leeds on 9 July. She stayed in a single foster placement in Leeds until 7 December 2024, when she was moved, with my approval, into an Early Permanence Placement (that is to say a foster placement with

carers who are approved as and could in due course become adopters) with a carer whose heritage is Black African (specifically Nigerian).

The purported parents' accounts

Eleanor's conception

30. M was interviewed by police in Sussex on 7 July 2025, the day after she was arrested. She gave an account of having conceived Eleanor naturally by sexual intercourse with PF. She was asked in terms whether there was any reason why Eleanor's DNA would not match hers and PF's and said there was not. She had travelled to Nigeria to give birth, she said, because she needed to take '*herbal medicine*' in order '*to settle the baby back so I am able to deliver*'.

31. This was the same account PM gave in her statement, unsigned, but approved on 23 July 2024, in which she wrote:

I have engaged with the DNA testing and when the results show that I am Eleanor's mother, I want her to be returned immediately to my care.'

32. The DNA results came back. They did not show PM to be Eleanor's mother, nor PF to be her father. The initial reaction from the purported parents was to contest those DNA results. They sought permission for another test, from a different company, using fresh samples, which permission I granted at the hearing on 13 August 2024. In results received on 28 August 2024, these tests also confirmed the absence of any genetic link between Eleanor on the one hand and PM and PF on the other.

33. In her statement of 9 August 2024, a date after receipt of the first negative DNA tests and just before the 13 August hearing, M stated:

Prior to my relocation, I had an IVF procedure sometime in May 2023, but I felt that it was not successful because I had some spots of blood after the procedure. My husband was not aware of this. I used an unknown donor for this fertility treatment.'

This was the first occasion on which this had been mentioned (to authorities) by PM, she having said the opposite to police. (Of course, a significant difficulty, from the point of view of PM's case, with her revised evidence that the pregnancy was the result of fertility treatment in Nigeria is that, in order to account for Eleanor's birth, the period of gestation between the IVF procedure and birth on [a date in] June 2024 would have to be more than a year in duration.)

34. The statement, as above, spoke only of 'an IVF procedure', and did not specify what the 'unknown donor' (singular) donated, the natural inference perhaps being sperm. This inference is fortified by the fact that PM pursued the further DNA testing at the hearing after her statement had landed: if her case was that Eleanor was the product of both donor egg and donor sperm, this testing would scarcely have been sought on her behalf. The skeleton argument / position statement in support of the further testing produced by his solicitors on PF's behalf contained this submission:

'It is submitted that it is of the utmost importance that any uncertainty as to the paternity [sic] of the child [Eleanor] is removed. The putative parents of the child, [PF] and [PM], are certain that the child is their baby and that a mistake must have been made in the DNA process which has led to the wrong DNA profile being give. Without proving paternity [sic] they will be prevented from having contact with the child which will lead to huge emotional distress and loss to both the putative parents and the child.'

35. The social worker's viability parenting assessment of PM and PF records the conversation between PM and the social worker in relation to these issues:

'[PM] reported she was told to not have sexual intercourse with [PF] following embryo implantation. However, she stated this did occur after believing she lost the baby, hence, she believed Eleanor was naturally conceived and why DNA was pursued. Social workers questioned why [PM] would not be forthcoming at the hearing on 23rd July 2024 that she used a donor as both she and [PF] disputed the DNA testing, maintaining Eleanor was their child. No answer could be provided however, [PM] stated she made [PF] aware of using a sperm donor after the court hearing on 13th August 2024 and her statement dated 9th August 2024.

'[PM] was asked why she also failed to mention she had used an egg donor as she reported during a visit to family on 21st August 2024. [PM] reported it was after the August court hearing she 'remembered' she had used an egg donor. Social workers challenged [PM] about this suggesting it was doubtful one would fail to remember such an important piece of information, especially when initial DNA testing confirmed Eleanor was not their child. More so, this was not raised independently to professionals, and it is unclear what was their expectation of further DNA as if egg and sperm donors used, Eleanor would never show as their biological child. No answers could be given.'

36. PF's evidence was that he had believed that Eleanor was his genetic baby until PM told him at the hearing on 13 August 2024 that she had used a donor. He had been angry with PM when he had learned this, although he was very reluctant in his oral evidence to consider the non-disclosure to him by her of this fact for well over a year was an example of dishonest conduct. His case, right up to the conclusion of his oral evidence, was that, whatever the origin of the gametes which led to Eleanor's conception, she was carried by and given birth to by PM.
37. In support of her contention that she received, and Eleanor's birth was the result of, fertility treatment in Nigeria, PM attached to her second statement a letter on paper headed with the name and purported details of the '[DB] Medical Center' in Enugu, Nigeria.

The letter, bearing a signature above the name 'Dr. [X].', and an official seal over the date '20/9/24' reads:

'The above named patient presented to our clinic on 25th April 2023 with a history of secondary infertility, having been unable to conceive for over 2 years despite regular attempts. After a thorough evaluation, including hormonal profiling, imaging, and other necessary investigations, a diagnosis of sub-fertility was made. The patient elected to undergo assisted reproductive therapy through in vitro fertilisation (IVF) using donor eggs and donor sperm cells.

On [a date in] May 2023, the IVF procedure was successfully performed. Two embryos, delivered from 1 egg, were implanted into the patient's uterus. A blood pregnancy test confirmed a positive result, and subsequent transvaginal ultrasound showed early gestational development consistent with successful implantation.

Our clinic regularly performs IVF procedures with a success rate of over 90%. Based on the confirmed pregnancy test and ultrasound findings, the procedure for [PM] was successful at the time of evaluation. The patient was lost to follow up after the procedure and did not return for further evaluation or care.

This letter is provided at the patient's request. Should you require any further information or clarification please do not hesitate to contact us through the contact information on the letterhead.'

Eleanor's birth

38. PM maintains that she carried Eleanor through (a prolonged) pregnancy and that she gave birth to her on [a date in] June 2024, in Nigeria, by vaginal delivery. To the police she gave an account consistent with an episiotomy (*'It was natural birth, but when they know that it's not coming, I think they used blade.'*). She has spoken and written of a 'leaf' being plucked from a tree or bush, and of drinking some 'herbal medicine', which brought on the labour.

39. PM is insistent not only that she carried and gave birth to Eleanor, but that she was fully conscious throughout the labour and birth.

40. PM has produced a letter, signed, stamped, dated [a date in] June 2024 and on headed paper purporting to be from '[V] Hospital' in [D] State, Nigeria. The letter reads:

To whom it may concern:

Medical reports:

Confirmation of holiday travel and care for [PM] and her newborn

This is to certify that my client [PM] travelled abroad from the United Kingdom to Nigeria for delivery purpose.

On examination she was term on [a date in] June 2024. Delivery was safe vaginal delivery on [a date in] June 2024.

[PM] is the biological mother of Eleanor and has been regular in attending to all necessary hospital appointment for her child health and well being since birth.

Should you require any further information please do not hesitate to consult me.

Yours Faithfully,

Dr [O] D.A.

Medical Director'

41. M's account is that she initially attended at [J] Hospital to give birth, but was directed instead to [V] Hospital. She said that she requested from the hospital details of other staff members present at the time of delivery, but was told that these cannot be supplied

for reasons of data protection. She says she was charged NGN 50,000, which she paid in cash and for which she was issued with a receipt which she cannot subsequently find.

42. PM has produced a number of exhibits supportive of her assertions that she was both pregnant with and gave birth to Eleanor. These include:

- a. photographs, taken, she says, when she was in Nigeria in June 2024, showing her exposed midriff to be significantly distended;
- b. photographs, taken, she says, in the labour suite, showing her just before and just after giving birth, including of her, naked, with what looks to be a fresh placenta, umbilical cord still attached, between her splayed legs;
- c. a photograph of a newborn baby, eyes closed, moist (as though just delivered) and with an umbilical cord present (albeit that the point of attachment to the baby is obstructed by something, possibly a gloved hand);
- d. a photograph of a newborn baby being bathed; and
- e. a number of videos, some showing her pacing up and down, she says, just before delivery, and, others showing what she says is her naked body just after giving birth, with both her genital area and the placenta (as above) visible.

43. M freely admits that the purpose behind these videos and photographs having been taken was to persuade the sceptical (in England) that she had indeed been pregnant and that she had indeed been delivered of the baby who is Eleanor. Notably, there are no videos of the purported birth itself, i.e. of a baby exiting its mother's body via birth canal and vagina, which, if the identity of the person giving birth could have been clearly shown to have been PM, would have established beyond any question that she had given birth to a child on the day the video was taken. PM says that this omission is simply because in

Nigeria, no one is allowed to be in the birth suite except for medics until the baby and placenta have been delivered; hence PM's sister was able to capture the before and the immediately after but not the moment of birth itself.

Other witness evidence

44. The only other (non-expert) witness who gave evidence before me was PM's employer, Ms B.
45. Ms B is the managing director of the company for which PM works, a care provider offering support to people with care needs, such as the elderly and those with various impairments or dementia.
46. In her statement, Ms B confirmed that PM has worked for the company since 17 November 2023 and that she is diligent and popular with the various clients with whom she works. Ms B had a meeting with PM shortly after Christmas 2023, at which PM was asked if she was pregnant and confirmed that she was. PM went on to say that this country does not understand her pregnancies, and that she is pregnant for two or three years at a time. It so happens that Ms B is a trained midwife. She replied that such a pregnancy is impossible. Ms B says that she asked if she could feel PM's abdomen, which PM permitted. Though distended, Ms B says that she could not feel a baby, explained this to PM and was told, *'My babies are always hidden.'* Ms B explained that she would need a MAT-B1 form completed by a midwife for proof of pregnancy in order to authorise maternity leave and pay, to which PM replied, *'This country doesn't believe I'm pregnant, but I am under a consultant.'* Of course, no MAT-B1 was forthcoming, in consequence of which, the leave which PM took in order to travel to Nigeria in June and July 2024 was taken out of her paid holiday entitlement and, in part, unpaid leave.

47. In her oral evidence, Ms B gave more detail of her examination of PM's abdomen. A trained midwife, she knows what she is feeling for and did not feel a baby, but a *'very hard abdomen'*; where normally there is movement in the distended abdomen of a pregnant woman, PM's was *'just solid'*.
48. Ms B also told me in her evidence that, after she had given her statement to the LA solicitor, PM telephoned Ms B's compliance manager *'incredibly upset'*, *'screaming down the 'phone.'* PM said that Ms B was a liar, and in particular asserted that Ms B had not examined her, had not felt her abdomen.
49. Ms B was at pains to point out that PM is a valued member of the team: *'From a work point of view, she is amazing.'* She spoke of all of PM's service users *'think[ing] the world of her'*, that PM goes *'above and beyond'*, even delivering food in the snow, and rightfully winning *'employee of the month'* several times.
50. Ms B was challenged in cross-examination: it was put to her that she had not touched or examined PM's abdomen. Ms B replied, somewhat bemused, *'But I do have two witnesses.'* She was adamant that she had done so, recalling much of the detail of the scene and the conversation. Ms B confirmed that, during this (denied) examination, M was absolute and unshakable in her assertion that she was, in fact, pregnant.
51. Ms B was an impressive witness. She was careful throughout to be fair to PM, and pointed out, without prompt, what an excellent and well-valued employee she is. It is difficult to discern any reason why Ms B would give false evidence about PM, or any way in which she could be mistaken in her memory of something as distinctive and memorable as physically examining a staff member's abdomen and being confounded by the absence of a baby in conjunction with sustained claims of pregnancy. I was left with the immediate impression that Ms B was an honest and accurate witness, and that impression survives

my having heard and considered all of the other evidence, including PM's denial that this ever took place. Why PM should have sought to deny the incident, which I am perfectly satisfied did take place, given that all other examining professionals formed a similar view to Ms B, is difficult to surmise.

Expert evidence: Mr Gerald Jarvis, Consultant Obstetrician and Gynaecologist

Credentials and purpose of instruction

52. Mr Jarvis is Emeritus Consultant in Obstetrics & Gynaecology at St James's University Hospital in Leeds. He qualified in medicine more than five decades ago and is a Founder Member of the Society of Expert Witnesses.
53. Mr Jarvis provided a report and gave oral evidence at the hearing. The topics about which his evidence was of particular use were fourfold:
- whether PM could have been pregnant in a way not discernible on imaging, and blood and urine testing;
 - the photographs of PM's distended abdomen and possible causes of this;
 - PM's assertions that she has pregnancies of excessive duration; and that Eleanor was the product of a 55-week pregnancy;
 - the video footage and still photographs said to depict the moments just after PM's having given birth to Eleanor.

Undetectable pregnancy

54. Valiant though Mr Nuvoloni KC's efforts were during cross-examination, Mr Jarvis was unshakeable. In short, beyond about six weeks of pregnancy, detection on ultrasound scan is virtually absolute. Mr Jarvis has never known an ultrasound during the middle or third trimester of pregnancy which reported no baby in the uterus when there was one present.
55. Similarly, hCG – human Chorionic Gonadotropin – testing is all but infallible, and regardless of whether the foetus was naturally conceived *in utero* or implanted as an embryo after *in vitro* creation. While there may be some small scope for human error if, say, the patient rather a medic somehow misuses a urine pregnancy test, if undertaken correctly, there is simply no scope for a negative test, whether urine or blood, in the case of a woman who is more than one week pregnant with a live foetus.

Abdominal distension.

56. Mr Jarvis agreed that the photographs of PM's exposed abdomen suggested significant distension, even allowing for her being clearly overweight in any event. He recalled the 'five Fs' taught to medical students as differential diagnoses in cases of abdominal distension, that is, fat, fluid, flatus, faeces and foetus. To that list can be added tumour, although, given that the growth visible on imaging of PM was just 7.5 cm in size, that could be excluded in the present case as the cause of the very significant distension. Also excluded, with reference to the scans, were fat, fluid (i.e. ascites: an accumulation of free fluid within the abdomen, generally associated with liver or malignant disease) and faeces (constipation). As above, the presence of a foetus was excluded by imaging and the presence of a live foetus was excluded by hCG testing. All that was left was gaseous distension. Mr Jarvis had not previously heard of the practice (described below) of women being given drugs or other substances with the view to mimicking signs of

pregnancy but was able to visualise how preparations could be created in order to cause gaseous distension and thereby imitate the shape of an expectant mother.

Unusually long pregnancies

57. Mr Jarvis noted that PM's assertions that she has had four pregnancies all far longer than the standard duration are not based on or supported by any objective, still less medical, evidence. Pregnancy, according to Mr Jarvis's expert opinion, uncommonly extends beyond 42 weeks (measured from the date of the last menstrual period, so about two weeks longer than a dating system running from the moment of ovular fertilisation) and 'rarely' beyond 44 weeks. The average gestation associated with the spontaneous onset of labour in the UK is 40 weeks + 2 days. In Mr Jarvis's half-century in obstetric practice, he has never been involved with a confirmed gestation beyond 44 weeks. The literature references the longest confirmed gestation being 55 weeks, in 1945, in the USA, but Mr Jarvis points to this preceding the introduction of obstetric ultrasonography in the 1960s and 1970s. In the post-ultrasound era, Mr Jarvis could find no authenticated example of a pregnancy of anything close to this duration. Appropriately measured, even understated, in his use of the written language, Mr Jarvis described PM's claims of a 56-week pregnancy as 'improbable'. Taking his evidence as a whole, I interpret Mr Jarvis's view as being rather more unequivocal: that a pregnancy of such a length would be unknown to modern medical science, to the point of being vanishingly unlikely. PM's broader assertion that she has had, and other Nigerian women commonly have, pregnancies measurable in a small number of years, Mr Jarvis thought represented a concept which 'can only really be explained as delusional'.

The videos and photographs said to be immediately post-birth

58. In relation to the various videos and photographs, said to show PM and Eleanor immediately postpartum, Mr Jarvis wrote:

From these videos I can conclude that there is a placenta and cord, recently delivered as appears fresh and moist with some blood. I conclude that there is a newly born baby as judged by remnant of umbilical cord attached to the baby. I conclude that there is a naked woman with legs apart. I have no means of identifying either the woman or the baby. The implication is that the woman has delivered the baby but there is no specific evidence to confirm this implication as fact.'

59. Reminded that PM had told the police that the birth had involved an episiotomy, Mr Jarvis, while noting the poor quality of the footage, considered that there was no suggestion of frank blood, which he would have expected to have seen trickling away from the incision site.

Expert evidence: Henrietta Coker, Independent Child Care Consultant

Credentials and purpose of instruction

60. Henrietta Coker is a British trained Social Worker with nearly 30 years post-qualified experience. During the last ten years, Ms Coker has worked as an independent social worker in Africa, providing expert reports for UK authorities, dividing her time between Nigeria and the UK, although also working on cases involving other African countries, including Cameroon, Ghana, Angola, Egypt, Uganda, Senegal, South Africa, Zimbabwe, Gambia, Ivory Coast, Tunisia, Congo and the Republic of Benin.
61. The purpose of Ms Coker's instruction in this case was essentially two-fold. First, she was able to provide a highly informed expert opinion in relation to various practices and cultural beliefs prevalent in certain parts of Nigeria (and other parts of West and Central

Africa). Secondly, she visited Nigeria, and in particular the clinics which PM claimed both provided her with fertility treatment and were involved with the delivery of Eleanor.

The practice of 'baby farming' in Nigeria

62. Ms Coker described in some detail a practice known colloquially as 'baby-farming', although she pointed out that it is, rather, a form of human trafficking.
63. Baby-farming is, in essence, a means by which a baby is transferred from the custody of its birth mother or parents to that of another person, in an unregulated and almost always illegal manner.
64. There are a number of ways in which this can occur; there is a spectrum along which the birth mother can be adjudged to have given up her baby of her genuine free will; and there are a range of motivations driving the recipient of the baby.
65. Ms Coker explained a number of underlying factors, beliefs and societal norms, a basic comprehension of which is helpful, in order the better to understand the practice in all its guises.
66. One such norm is that infertility throughout large parts of Africa, including much of Nigeria, Ms Coker reported, still comes with considerable shame. This, coupled with the significant influence of the extended family, will sometimes lead to pressure on married but childless couples to divorce, to give each partner a better chance to have children. Alternatively, childless women may find their husbands taking on a second wife. Ms Coker went on, citing research, to point to the societal stigma many childless couples will face, the brunt of which will be borne disproportionately by the woman.

67. A further norm, still prevalent to a greater or lesser degree, is the ideology that biological ties are fundamental to family relations, this leading to *'general stigmatising beliefs about adoption, which may cause both the adoptee and adopted parents to feel socially marginalised'*.
68. Another factor, relevant to this 'industry' is that Nigerian abortion laws make it *'one of the most restrictive countries regarding abortion'*, with significant terms of imprisonment facing both the mother who chooses to terminate her pregnancy and the doctor who facilitates this.
69. As to women who give birth to the babies who form the subject matter of this industry, they will fall into different cohorts, which I categorise (I hope not over-simplistically) from her evidence as follows:
- a. Many pregnant, young women, particularly if unmarried, will know that they do not have the financial means or the familial or societal support to look after their baby, when born. Ms Coker pointed to an official statistic (from the governmental Nigerian Economic Summit Group (NES)) that out of a population of 250 million, 100 million Nigerians face food insecurity. For many, then, with no means consistently of feeding themselves, let alone a child, giving their baby up for adoption, and so a better life, may seem a logical choice.
 - b. There is a group of women for whom the decision is less independently reached, and against whom coercion and exploitation, to whatever degree, are used:

'Sometimes teenage girls without support are encouraged to enter into mother and baby homes for the duration of their pregnancy. After they give birth, they are made to give up their child in exchange for the free feed and housing they have had during the course of their pregnancy.'
 - c. Ms Coker also described some who are even more brutally treated:

'There have been several cases of young girls being kidnapped, raped, and forced to give birth several times. Sometimes these girls are released, or other times they die during childbirth or are murdered and placed in the grounds of the organisation.'

Research suggests that the victims within this group may be as young as fourteen years old, are likely to be subjected to physical and psychological as well as sexual violence (in the form of repeated rape), with a high risk of exposure to HIV and other sexually-transmitted diseases.

70. As to the fate of the babies trafficked in this way, many are used for illegal adoption. Ms Coker reported that some children, however, are bred to be sold into servitude or, shocking and unreal though it may seem, with a view to the harvesting of their bodily organs or even for use in ritual human sacrifice.
71. Accurate assessment of the scale of the problem of baby farming in Nigeria is not possible as there are, for obvious reasons, no reliable and comprehensive data, but an indication can be gleaned from the fact, reported by Ms Coker, that around 200 underground baby factories have been shut down over the last five years, according to Nigerian security agencies. Ms Coker went on to add that new factories will quickly open to replace those closed down.
72. Another facet of this industry in the trafficking of babies is the phenomenon of so-called '*miracle babies*' and '*miracle clinics*'. Ms Coker described having worked on a number of cases in which infertile women have visited '*miracle clinics*' in Nigeria and as a result have had a child, although, on further investigation, the child has not turned out to be theirs, but rather the result of a scam.
73. The scam involves women being given an injection or herbal remedy to drink, which causes their stomachs to swell. The woman is told that any pregnancy test they take will

be negative as they are *'carrying the child towards the back'*. They are further told that the baby can only be delivered in the special (scam) clinic. Ms Coker said:

When it is time to deliver, the women are often anesthetized; their vaginas are cut to fool them into thinking they gave birth. Many of these women genuinely believe they gave birth. Others suspect, but the pressure to have a child and avoid social stigma is so overwhelming that they are prepared to ignore their intuition.

[...]

In my experience, it is common practice for miracle clinics/traditional healers to give women substances to cause their stomachs to expand. The purpose is to either trick women into believing they are pregnant or, alternatively, to allow women to fool their extended family members and community that they are pregnant. This allows the woman to adopt a child without either the child or the woman facing the stigma of adoption, which is still prevalent in Nigeria. The herbs to do this can be acquired from a clinic; they can equally be supplied by roadside sellers.'

74. As suggested in the above, there is clearly a spectrum when it comes to the state of mind and knowledge of the recipient woman or couple. At the one end, there are those who are completely duped into believing that they are pregnant and that they have been naturally delivered of a baby (with or without supernatural or divine intervention); at the other end, there are those who are entirely aware that they are buying a baby, via a broker, from a more or less willing birth mother; in between the two, there seems to be scope for a vulnerable or suggestible childless woman or couple to allow themselves to be carried along by a process, putting aside natural scepticism or suppressing the recognition at an intellectual level that what is said to be happening to them cannot in fact be taking place.

Ms Coker's investigations in Nigeria

75. As part of her court-sanctioned instruction in this case, Ms Coker travelled to Nigeria in November 2024 to investigate, to the extent that she was able, the various institutions which PM claimed played a part both in her fertility treatment and in the subsequent purported delivery of Eleanor.
76. As set out above, PM has produced a letter, ostensibly from the [DB] Medical Center *[sic]*, setting out that PM had successful IVF treatment comprising the implantation of two embryos (created from donor eggs and donor sperm cells) on [a date in] May 2023.
77. Ms Coker visited the [DB] Medical Centre *[sic]* on 16 December 2024. She spoke to someone who appeared to be the matron on duty, who confirmed that the photocopied letter (as above) which Ms Coker was holding had not been written by the Centre and that the letterhead was not that of the Centre. Ms Coker was shown the Centre's actual headed writing paper to confirm this, also demonstrating a slight error in the address on the counterfeit letter. Staff confirmed that they had never heard of Dr. [X].
78. Subsequently, the LA has obtained a letter from the [DB] Medical Centre *[sic]*, written by its Medical Director, Prof. [E] and dated 23 February 2025. The letter reads:

I write in response to the order of court and an e-mail sent to [DB] Medical Centre seeking information and clarification in the ongoing court proceedings relating to a female child allegedly born to [PM] on [a date in] June, 2024.

I am the Medical Director and founder at [DB] Medical Centre (herein also referred as the "Hospital") and on behalf of the Centre, I hereby state and affirm as follows: that:

- 1. The hospital does not have any record, trace, nor any history of IVF treatment involving [PM] [...]. There was no egg nor sperm donation in her interest.*

2. *[PM] did not have any IVF treatment at the hospital with implantation taking place on [a date in] May, 2023. The history given by [PM] as to her treatment at the hospital is false and inaccurate.*
3. *Dr. [X] has never worked at the hospital. There is no former nor existing medical doctor or any staff by the said name “Dr. [X]” in our employee record. We have no association with the said Dr. [X].*
4. *[PM] did not agree to nor pay any money to the Hospital either by cash or transfer.*
5. *The letter dated the 20th of September, 2024 did not emanate from the Hospital. The letterhead of the letter of 20th of September, 2024 is not and has never been the hospital’s letterhead. The said letter does not contain the correct address and street number of the Hospital.’*

79. In PM’s second statement in these proceedings, she wrote:

I gave birth to Eleanor [...] on [a date in] June 2024 at [V] Hospital [...], [D] State after I received some herbal medications to induce the labour and manage the pain.’

In her third statement, PM added:

‘Initially I went to [J] Hospital to have the baby, however, I was directed to go to [V] Hospital.’

In her fourth statement, PM wrote:

I travelled to Nigeria on 3rd June 2024, I had Eleanor on [a date in] June 2024 at [V] Hospital. The doctor that delivered her was [Dr O]. He was assisted by other members of staff; I do not know their names. My sister [...] was in the labour room with me. She was the one taking the pictures and videos during my delivery.’

80. Ms Coker traced and visited [V] Hospital, which she describes as *'an unregistered establishment', 'a private medical facility that is government approved and displayed their approval licences'*. The hospital, as confirmed by Ms Coker's photographs, is, in fact, a three-bedroom flat, one of many flats in a large tenement building. The conditions were poor and unsanitary, with stained walls and dirty and dusty carpets, floor, taps, tiles, skirting boards etc. *'Overall, the conditions were unhygienic,'* Ms Coker wrote. On her arrival, she was met by *'three young teenage girls sitting in the reception with nurses' uniforms on,'* and, when she asked to speak to the matron privately, was *'ushered into the kitchen, where a teenage girl was eating rice'*.
81. Ms Coker managed to speak with Dr O, the doctor who, on PM's account, delivered her of Eleanor, and who, it seemed clear to Ms Coker, in common with many doctors, both works for the government and *'also runs their own medical practice'*. Dr O was seen by Ms Coker at D Hospital, where he is employed. He is clearly, in Ms Coker's view, a registered practitioner, also having a connection with V Hospital. Dr O admitted that it was his signature on the letter produced by PM (as referred to above). He claimed that a woman had given birth to a baby at V Hospital and registered it at D Hospital. However, shown a photograph of PM, he claimed that this was not the person he had met with, explaining, *'You know, impersonating people is common in this part of the world.'* He later suggested to Ms Coker that the person (i.e. PM) might have *'bought the baby'*. When Ms Coker explained that for her, the difficulty was in knowing whether or not the baby in question had been voluntarily relinquished, he told her that he believed that the baby would have been given up voluntarily. Ms Coker was left unsure as to the extent and nature of Dr O's involvement in Eleanor's birth and with PM.

The law

General principles

82. This has been a fact-finding hearing. The legal principles to be applied in such cases are well known. While I set out the following propositions only in bullet point form below, I have firmly in mind the longer (and repeatedly cited) quotations from the various appellate authorities from which are drawn:

- It is for the LA to prove its case and each fact it asserts.
- Corollary to this, and very importantly, there is no burden or pseudo-burden on the respondents to prove their innocence. It is for the LA to disprove a reasonable explanation put forward by a parent (or other respondent). Where a party seeks to establish an alternative explanation, but fails to do so, that failure does not, of itself, establish the LA's case, which must still be proved to the requisite standard.
- The standard to which the LA must prove the facts for which it contends is the simple balance of probabilities. The inherent probability or improbability of an event is a matter to be taken into account, as appropriate, on the facts of any individual case, when weighing the probabilities and deciding whether, on balance, an event occurred.
- The court can proceed only on the basis of proven facts, which can include inferences from proven facts, only to the extent that those inferences are reasonably drawn.
- The court must survey the broad canvas of evidence, considering each piece of evidence in the context of all the other evidence.
- Expert evidence is only one part of that canvas. It must be weighed together with the other evidence including, very importantly, the evidence of the parents (and other respondents and interveners).

- The evidence of family members (in which category I class, for this purpose, PM and PF) is of the utmost importance, and the court should form a clear assessment of credibility and reliability. In that context, however, the court must bear in mind the dangers inherent in drawing conclusions as to truthfulness from witness demeanour. Greater assistance is likely to derive from matters such as internal consistency, logicity and plausibility, detail given (or not) and consistency with other sources of evidence (including what the witness has said on other occasions) or other known or probable facts.
- Although not determinative in themselves, I should have in mind, when considering any findings, the presence or absence of any other risk or protective factors.
- Lies are not necessarily probative of guilt save in the very constrained context of the so-called revised *Lucas* direction.
- The repeated telling of a story can lead to innocent inaccuracies.
- Testimony based on memory is intrinsically fallible.

Inferences to be drawn from proven lies

83. In light of the way in which the evidence in this case has developed, and the closing submissions made on behalf of the LA, I set out in greater detail, if only to ensure that it is at the forefront of my mind, the approach I must take to proven dishonesty.
84. In the event that I conclude that a particular witness has lied, I must exercise caution in attributing significance to the lies told, bearing in mind that a witness may lie (whether during an investigation or in preparation for or during a trial) for many reasons, including shame, misplaced loyalty, panic, fear and distress. The fact that a witness has lied about some matters does not mean that he or she has lied about everything (see *R v Lucas* [1981]

QB 720). Where the court is satisfied that a lie is capable of amounting to corroboration of an allegation (having regard to the four conditions set out in R v Lucas) in determining whether the allegation is proved, the court must weigh that lie against any evidence that points away from the allegation being made out (see H v City and Council of Swansea and Others [2011] 1 FCR 550). The application of the principle articulated in R v Lucas in family cases should go beyond the court merely reminding itself of the broad principle. The four relevant conditions that must be satisfied before a lie is capable of amounting to corroboration are set out by Lord Lane CJ in R v Lucas as follows:

'To be capable of amounting to corroboration the lie told out of court must first of all be deliberate. Secondly it must relate to a material issue. Thirdly the motive for the lie must be a realisation of guilt and a fear of the truth. The jury should in appropriate cases be reminded that people sometimes lie, for example, in an attempt to bolster up a just cause, or out of shame or out of a wish to conceal disgraceful behaviour from their family. Fourthly the statement must be clearly shown to be a lie by evidence other than that of the accomplice who is to be corroborated, that is to say by admission or by evidence from an independent witness.'

85. The approach to be taken in the family court to the treatment of proved lies is no different to that which applies in the Crown Court (see Re H-C (Children) [2016] EWCA Civ 136, [2016] 4 WLR 85 and Re A, B and C (Children) [2021] EWCA Civ 451, [2022 1 FLR 329]).

Similar reported cases in the courts of England and Wales

86. This case is not the first time similar issues have arisen in cases heard by Judges in the Family Court or the Family Division of the High Court in England and Wales. I am aware of at least five other cases, with broadly similar issues arising, that is so-called 'miracle births' (or, at least, births which do not accord with established and accepted (Western) scientific and medical norms), following 'treatment' in West and Central Africa, as follows.

87. Ryder J delivered judgment on 12 November 2004 in **Haringey LBC v C, E and Another Intervening** [2004] EWHC 2580 (Fam), [2005] 2 FLR 47. The case involved a childless couple having joined a religious group described as ‘*an eclectic mix of traditional African custom and charismatic Christian belief*’. The wife believed that not only had the power of this group cured her sickle cell anaemia and asthma, but that it had caused, on her travelling on each occasion to Kenya, her delivery of three ‘*miracle children*’, one after a supposed 12-month gestation, undetected by English authorities, the second after a gestation of less than one month, the third after a 7-month gestation, again, not detected by English medical services. The clinics at which the births had supposedly taken place had not been registered. The founder of the ministry had intervened and gave evidence in the case. In circumstances in which the couple asserted that the explanation for the child’s existence was that he had been born of the wife, the conception having been the product of ‘*divine intervention*’, the learned judge found that the third child (the subject of the Part IV, CA 1989 proceedings) was not the child of the couple, but was the natural child of unknown parents from whom he had been removed by unknown means and that his identity was unknown. Ryder J further found that the child would be caused harm if brought up with a false understanding of his provenance:

‘[84] All children should be able to understand where they come from and where in the context of life they belong. C cannot do that because he has no accepted identity with Mr and Mrs E. The claimed relationship with Mr and Mrs E would be founded on a lie which when discovered would likely lead to a profound disruption. If the basis of his existence is denied there will be adjustment problems, feelings of grief, loss and rejection. The risk is great. The lack of any family medical history may present C with additional difficulties as he grows older.’

88. On 15 December 2011, Coleridge J delivered judgment in **A Local Authority v S and Others** [2013] EWHC 3764 (Fam), [2014] 1 FLR 1313. The case involved a Nigerian

couple, living in England, who were eager for a second child, in the particular circumstances of the death of their first child. Concerns were raised in this country when the mother returned from Nigeria with a young baby. The mother produced a video of herself apparently in the aftermath of labour, a newborn baby nearby, still attached to the placenta. DNA testing established the baby was not biologically related to the couple, a result said to have ‘stunned’ them. The learned judge found that the couple had been innocent and unwitting participants in a ‘baby exchange scam’, pointing to the mother’s particular suggestibility as a result of the death of her child and her immersion in a religious environment in which miracles were not regarded as impossible.

89. In that case, Coleridge J received evidence in the form of contemporaneous journalistic material from the Nigerian Port Harcourt *Vanguard*, which the learned judge described thus:

‘[35] [...] I shall read two sections from the article. I have already read the banner headlines about baby factories and it contains a number of black and white photographs. These passages are to be found in the article:

‘Our findings reveal that the unpublicised native maternity homes use illicit means to procure babies for childless couples on the payment of huge amounts of money ranging from N750,000 to N1 million, depending on the sex of the baby. We gather that twins go for about N1.5 million or more. The delivery date depends on the baby seekers. While some opt for a nine month period, some go for a fast deal of one month or two, also depending on the availability of the baby from the sources. Investigations reveal that for those who go for a nine month period a pregnancy would be framed and a delivery date given. The delivery date can be postponed indiscriminately based on the availability of the baby. Their patrons are desperate women ranging from high society women,

clergymen and women who most times hide the arrangements from their husbands. Most of these centres are found in ...'

[36] *It mentions three towns including Port Harcourt. Then under the heading, 'How Pregnancy and Deliveries are Framed' it reads:*

Investigations reveal that these clinics administer certain substances on the patients that form a sort of tumour in the womb of the expectant mothers, making them believe they were pregnant. Occasionally, a movement is caused in the belly making it look as if a baby is kicking. The women are warned not to go to any hospital or undergo ultrasound or any sort of scan as they would lose the pregnancy or baby in the process.'

[37] *It goes on in similar vein and it contains this passage further on:*

Further investigations reveal that when it is time for delivery another substance is administered on the woman which gives a false impression labour. Part of the growing tumour will come out through the vagina and it is cut to discharge blood and make it look as if there was an actual delivery. A baby is then sneaked in and made to cry. The woman is also made to believe she has been delivered of a baby. In Precious Ogbana's case, she told the reporter that when she had one of the babies it was recorded to a friend's cell phone but she deleted the video a few days later. She regretted deleting the stuff, fearing her husband would not like it, especially if the video got to a third party, adding that she went into labour and gave birth to the kids.'

[38] *There are a number of case studies set out in the course of that lengthy, double page article. Having seen that article, there cannot be any doubt at all that this far-fetched story is rooted most solidly in reality and that this kind of practice is common in certain parts of Nigeria. I have described the process as a baby exchange.'*

90. Just a few days after the judgment of Coleridge J in that case, on 19 December 2011, Parker J gave judgment in *London Borough of Lambeth v Mr and Mrs O & E (By her Guardian)* [2011] EWHC 2453 (Fam). That case involved a couple who asserted – despite the contrary having been established by three separate DNA tests – that the child at its centre was biologically theirs, having been delivered of the wife, they said, at a supposed maternity clinic in Port Harcourt, Southern Nigeria. The purported mother had maintained that the child had been delivered naturally, by her, labour having been ‘induced’ with herbs, and that she had been pregnant for well over a year before the birth. The purported father had told the judge that he had known his wife had been pregnant even though the British medical investigations had concluded that there was no evidence of her having been pregnant, and that this was one of the reasons why she had gone to Nigeria, because ‘*that kind of pregnancy occurs over there*’ (*viz.* a pregnancy during which scans show an empty uterus, but at the end of which a baby is born). The learned judge found that the couple were not the birth parents of the child, who was not biologically related to them. The real question for the judge related to the purported mother’s state of mind: did she genuinely and honestly believe the baby to be hers? The judge noted that certain parts of the evidence were consistent with a false labour process, but also with a knowing deception, for example:

‘a drink of herbs to ‘induce labour’ leading to internal pain, a midwife putting a hand inside her and a gush of fluid which she interpreted as her waters breaking, could have been created to deceive her: but the account is just as consistent with a complete fabrication.’

Similarly, the judge noted parts of the evidence to be consistent with pseudocyesis but, again, also with frank deception:

‘Much of her presentation is consistent with pseudocyesis: for instance her swollen abdomen, which is documented and of which there are a number of pictures, and which would probably be

impossible to fake; but it is also consistent with simple weight gain. The picture from the medical records that she had presented herself as being pregnant consistently from July 2009 until November 2010 is also consistent with a pseudocyesis; but it may also be consistent with a consciously simulated pregnancy.'

91. Parker J ultimately concluded:

'84. Against all the other evidence I am unable to find that Mrs O has been duped, misled, or is living in a fantasy world. I cannot accept that she truly believes, particularly in the light of all she knows now, that E is her child. I do not accept that she truly believed that when she brought E into this country.

85. I am not asked to find that Mr O is a party to a conspiracy. I do not know what he truly believes; or indeed whether his beliefs are constant. I find it very difficult to accept that he truly believes now, having heard all the evidence, that E is his child.

86. I am quite satisfied that Mrs O has not told me the truth, and consciously so. In the case of Mr O, I am not satisfied that he has told me the whole truth as he perceives it.'

92. Coleridge J heard another similar case, giving judgment on 14 December 2012 in **Re D (Nigerian Fertility Clinic: Fact-Finding)** [2012] EWHC 4231 (Fam), [2013] 2 FLR 1417. This was another case in which a Nigerian couple living in England who were unable to have a child had sought assistance from a clinic in Port Harcourt, Nigeria. The wife travelled to and returned to Nigeria several times and seemingly believed herself pregnant, notwithstanding negative tests with her UK general practitioner. On her final return to the UK, with a small baby, she attended with the baby at her Nigerian doctor in the London. Concerns were raised, DNA testing established the child not to be related to the purported parents, and proceedings were issued. The judge found the couple, while biologically unrelated to the child, to have been innocent victims:

‘[36] I have come, once again, to the clear and unhesitating conclusion that Mr and Mrs O were completely duped and entirely innocent. Gullible they may well have been, dishonest they most certainly were not. They had no inkling of the scam in which they were involved and the light only dawned after the production of the DNA tests. That is the conclusion to which the police and the local authority each independently have come and I think they are right.’

93. Finally, in this sequence of cases, is **London Borough of Hillingdon v AO** [2014] EWHC 75 (Fam) in which, on 23 January 2014, Hogg J gave judgment. That case also involved a couple of Nigerian origin who had settled a few years earlier in England. Unhappily childless, and after expensive, unsuccessful and disheartening IVF treatment in the UK, they were put in contact by a friend with a couple who had overcome infertility through ‘herbal treatment’ in Nigeria. The couple found out the details and did the same. Within a few weeks of drinking the herbal infusion, the putative mother noticed changes in her body, including the cessation of menstruation, swollen ankles and legs, and abdominal distension. She had been told by the assistant of the Nigerian ‘doctor’ not to seek orthodox / western medical treatment and they were forewarned by her that the Nigerian treatment, being both herbal and spiritual, was so powerful as to render the foetus invisible on any scan. A doctor in the UK confirmed that the putative mother looked about 7 months pregnant, but did nothing to confirm the reported pregnancy. The purported mother described to the judge flying to Nigeria to give birth. The ‘birth’ was induced by more infused herbal drinks, she was told to walk up and down the corridor, and was led into a room, while the purported father waited outside. She described a natural, vaginal labour, feeling the baby emerging, head-first, from her, and then the passing of the placenta, at which point the purported father was allowed into the room, he reporting seeing, already delivered, baby, placenta and the cutting of the umbilical cord. On their return to the UK with the baby, the purported parents were

arrested, the baby was taken into police protection and was subsequently established, on DNA testing, to be biologically unrelated to the purported parents. During the fact-finding trial before Hogg J, the purported parents were said to have ‘struggled’ with the DNA results, but asserted that they had been told by the doctor’s assistant that ‘*the combination of spiritual and herbal treatments is so powerful as to be able to change DNA*’. In the face of a local authority and children’s guardian who were ‘*deeply suspicious*’ of the purported parents’ version of events, the judge ultimately concluded:

[84] In the end, having considered all the evidence before me and notwithstanding the inconsistencies in their account I am driven to conclude that in some way they allowed themselves to be duped by fraudsters. They so much wanted a baby. They come from Nigeria with the heritage of traditional herbal medicine and allowed themselves to fall under the spell of the herbalists, believing what was said to the mother, and acting faithfully upon the instructions given to them. Contrary to the submissions of the local authority and guardian, I do not find the parents were wilfully and knowingly involved with or parties to a wrongful removal of A from her mother, or that they cynically ‘bought’ a baby. Throughout this evidence the father referred to ‘a process’ they went through. I accept there was a process, a charade in which they were unknowing players, in which they were deceived.’

94. I set out this catalogue of cases and describe, in brief, their underlying facts and the judges’ ultimate conclusions in each, not because I look to them for any particular assistance in addressing the issues in this case, still less in order somehow to follow the process of previous judicial decision-making in what are, inevitably, highly fact-specific cases. Rather, I do so as a useful reminder both to myself and to readers of this judgment of the fact that what may look to our peculiarly Western eyes to be extraordinary facts or a wholly incredible belief system might appear rather differently if viewed through the prism of very different cultures prevalent in very different countries to our own.

Analysis

95. Eleanor's DNA has twice been tested against that of the purported parents, different samples having been used on each occasion. The results are unequivocally inconsistent with there being any biological connection between Eleanor and PM and PF.
96. Mr Jarvis is clearly a pre-eminent expert in obstetric and gynaecological medicine, with vast experience and impeccable credentials. His evidence was well-informed, measured, and fully reasoned. Moreover, it clearly represented mainstream opinion on matters of routine obstetric practice. Making all due allowance for the possibility of significant physiological variability between human beings and for the inevitability that future generations will consider our current 'cutting edge' medical knowledge to have been limited, even backward, I have no hesitation in finding that a 55-week human pregnancy (resulting in a live birth) is so vastly unlikely that I can entirely exclude it as having taken place in this case.
97. That is the inevitable conclusion on the evidence, even before one then considers the multiple negative blood, urine and ultrasound scans, all at times when – I accept Mr Jarvis's evidence – if pregnant, there is virtually no possibility of a single one of the tests having produced a false negative, let alone all of them having done so.
98. Accordingly, and turning to the first three of the questions I set out at the beginning of this judgment:

a. Is Eleanor the biological child of PM and PF?

The answer to this, incontrovertibly, is 'no'.

b. Was PM ever pregnant with Eleanor?

c. *Did PM give birth to Eleanor?*

Despite the purported parents' consistently maintained protestations to the contrary, the evidence can permit only one answer to these two questions: 'no'.

That, then, leaves as the only real issue for determination, the fourth question:

d. *What was and is the state of mind of PM and, separately, of PF, in relation to Eleanor's true parentage?*

99. I confess that the exercise of sifting through and analysing the evidence relevant to the determination of this question has been a more perplexing process.
100. One of the unusual aspects of the case has been the dissonance between, on the one hand, it being absolutely clear on the evidence that PM was not pregnant with Eleanor and did not give birth to her, and, on the other, PM's absolute and unwavering insistence that she was and that she did. PM insisted to a series of medical professionals throughout 2023 and 2024 that she was pregnant, an assertion she maintained over months and even when faced both with all but incontrovertible evidence to the contrary and with clear advice from medics that, by so insisting and in so doing, and in neglecting to have appropriate treatment for what medics thought to be a malign cancerous mass, she was bringing on the significant and avoidable prospect of untimely death. She continued to protest her parenthood of Eleanor throughout questioning by the police, her statements in this case, and her oral evidence to me, from the beginning until the very end.
101. Ms Coker records that the couple *'has been open about their belief in traditional African hearing and spirituality,'* raising the possibility that one or both had, at various points, genuinely believed in the fact of pregnancy. Moreover, both parents have insisted, again both up to and after having read and heard the evidence of Mr Jarvis, that it is not uncommon in

Nigeria for women to have pregnancies which far exceed the 38 + 2 weeks recognised as normal in all conventional (Western) medicine. While there has been some minor inconsistency in the detail of the numbers involved, both purported parents have asserted, even in their oral evidence, that PM carried J, K and L for some 21, 13 and 30 months respectively. If either or both of them believe such a thing to be possible, it makes more complicated the process of assessing whether or not they genuinely believed in other assertions which seem to Western eyes, ears and minds to be scientifically impossible to the point of being absurd.

102. Another important aspect of PM's emotional and psychological make-up to consider is the fact that her third child, L, died in infancy, just a few short years ago. While there is scant evidence before me about L and his circumstances, it is clear (and scarcely surprising) that PM continues to be profoundly affected by his loss at such a young age. If, as seems probable on the obstetric evidence, this coincided with PM reaching a point of menopausal infertility, the bereavement may have been the harder to process. Further, I note that while PM wanted another baby, PF did not feel such a need, content with the two happy, healthy older sons they had.
103. It is also relevant that PM and PF are both, by all accounts, respectable, law-abiding and hard-working people. PM is held in the highest esteem by her employer and is much liked by colleagues and the clients for whom she provides care alike. Other than in relation to the issues in this case, they have not attracted negative attention from the police or social services during their time in this country. And K and J are, by all accounts, nicely brought up, well cared for young men. This is not a family in which there are other obvious parenting deficits, and these are not adults who have otherwise demonstrated any tendency to deceive, to dissemble or to break the law.

104. Putting these factors together – an all-but-incomprehensible insistence on having given birth, despite all evidence to the contrary, a belief in traditional African healing and spirituality, the shattering loss of a child in infancy, and PM’s other, undeniably good qualities – Mr Nuvoloni urges on me a conclusion that, assuming I conclude that PM did not carry or give birth to PM (i.e. if I reject his client’s primary case), then an ‘innocent’ explanation is still permissible.
105. A number of other aspects of the evidence, however, coalesce to suggest a different conclusion.
106. First, there are the various things said and presented by the purported parents, PM in particular, which the LA assert must be deliberate lies or deceptions, including:
- a. the asserted pregnancy: PM has been pregnant to the point of birth on three prior occasions; she cannot, the LA argues, wrongly have considered herself so for the months leading up to Eleanor’s ‘birth’;
 - b. the asserted birth: in consequence of the above, PM has given birth on three prior occasions; her narrative is of her having been fully conscious during the ‘birth’; she can scarcely have believed that she did, in fact, vaginally deliver a baby;
 - c. the evidence PM has submitted of IVF: the LA relies on the accuracy and the authenticity of the written evidence of the [DB] Medical Centrere, asserting that the written evidence filed by PM from the [DB] Medical Centerer must represent a knowing deception on PM’s part;
 - d. the late assertion of IVF: PM told the police that Eleanor was naturally conceived by her and PF, that there was no reason why DNA would not establish their biological parentage of her; only on receipt of negative DNA testing was it asserted that Eleanor

had been conceived via IVF and a donor; further, the suggestion that both ovum and sperm were from donors came even later, being something ‘remembered’ only after the August 2024 court hearing.

107. Secondly, PM’s evidence also evolved in her description of the birth, including as follows:

- a. She initially said that Dr O had delivered Eleanor (including in her fourth statement: *‘The doctor that delivered her was [Dr O].’* However, at a point after it was known that Dr O had denied to Ms Coker ever having seen PM (having been shown a photograph of her), PM’s oral evidence, when pushed in cross-examination by the LA to identify precisely who had been present in the room when Eleanor was born, said that it had been another doctor: *‘I don’t know his name; not [Dr O].’*
- b. She had said in her statement that her sister had been present during the birth (*‘My sister [BO] was in the labour room with me. She was the one taking the pictures and videos during my delivery.’*). When asked by Ms Cavanagh KC why, that being the case, the video shows the before and the after but not the point of giving birth itself, PM asserted, for the first time, that in Nigeria all non-medics are excluded from the delivery room until after the placenta has been delivered.

108. Thirdly, the videos produced by PM which purportedly evidence the fact of her having given birth to Eleanor are highly relevant. PM is frank in her description of the reason for the videos having been taken:

‘I maintain that I am Eleanor’s mother I did not stage her birth. I gave birth to her, I decided to do the video and take photographs of her birth so that I would have evidence to show my GP who already had doubts about my pregnancy when I returned to the UK.’

Why, then, do the videos not show the birth itself? That, after all, would have been conclusive evidence that the person in the video had, in fact, given birth. The answer, clearly, is that the person, i.e. PM, did not give birth to Eleanor. That much, however, is already known: as set out above, PM was incontrovertibly (i.e. on the overwhelming other evidence which establishes this) not pregnant with Eleanor. More important, then, is PM's part in the videos. She features prominently, including lying on her back with a fresh-looking placenta and umbilical cord between her legs. She is clearly conscious and seems to be the person repeating the words, *'Thank you.'* Is it conceivable, then, that she could have been duped into believing that she had, just moments before, actually given birth to a live baby?

109. Fourthly, and also relevant to PM's account, and thus to her state of mind, are various messages discovered during the interrogation of her mobile telephone (a process which I directed at an earlier hearing). On 12 May 2024, so about four weeks before the alleged birth, PM sent a message to someone saved in her address book as *'Mum Oft Lagos Baby'*, reading:

'Good afternoon ma,

I have not seen the hospital items'

The same day, *'Mum Oft Lagos Baby'* responded:

'Delivery drug is 3.4 m

Hospital bill 170k.'

(Assuming the sums to be Nigerian Naira, these sums are in the region of £1,700 and £85 respectively.) The LA, pointing to the fact that these messages alone on PM's phone were set to automatic 'self-destruct' mode, assert that they represent, in all likelihood, evidence

of a deal being transacted for the purchase of a baby. PM's attempts in her oral evidence to explain these messages were – put charitably – difficult to follow and impossible to accept.

110. Fifthly, the interrogation of PM's mobile telephone also demonstrated a process whereby various drafts of the letter from Dr O purporting to certify PM as having given birth to Eleanor passed between PM and Dr O, he ultimately simply producing on headed paper, signed and sealed, exactly, and word-for-word, what he was asked to produce.
111. I take full account of PM's vulnerability and likely suggestibility after L's death and of the fact of her complete maintaining of her account of having given birth to Eleanor (even turning down potentially life-saving treatment based on an assertion of pregnancy and of her broadcasting to authorities her imminent return to the country with a baby). I make full allowance for PM genuinely having a belief system in which spirituality and traditional medicine may coexist with or even supersede conventional medical orthodoxy.
112. However, I am driven to conclude, by virtue of the cumulative effect of the factors I set out above, that PM knew that she was not pregnant, knew that she was travelling to Nigeria in order effectively to buy another woman's baby, and knew, at the point of answering the police's questions, authoring her statements in these proceedings, and giving her oral evidence to me, that she was doing so inaccurately and dishonestly.
113. I am prepared to accept that, when PM repeated to me, impassioned and distraught, *'She is my baby, she's my real baby,'* some part of her believes that Eleanor belongs with her and to her, and she with and to Eleanor, but this, in my judgment, is the product of the combination of her own psychological and emotional need to have another baby and the extraordinary lengths to which she has gone in order to obtain one, and not because she genuinely believes that she gave birth to Eleanor.

114. As to what in fact happened in [V] Hospital, it would be tempting for me to try to join together various more or less clearly defined dots. The video of the (non-)birth has someone (possibly PM) repeatedly thanking someone else. Ms Coker considers that this may be the true mother of Eleanor, who was being thanked for having handed over her baby as part of the transaction. Ms Coker goes on to give her opinion as to the likely back-story to the birth and sale of Eleanor:

In my opinion the most likely scenario is that a young, pregnant woman willing to give up her baby for a fee was identified. When this woman was ready to give birth [PM] flew in for the birth, arranged the paperwork then flew back to the UK.'

Ms Coker bases this in part on the content of the videos and in part on Dr O's assertion to Ms Coker when she expressed her misgivings that he thought that Eleanor *'would have been given up voluntarily'*.

115. Helpful though I have found Ms Coker's insights, the evidence, however, does not allow me to follow her in making this jump. The videos are staged: they purport to show (or to demonstrate inferentially) that PM gave birth to Eleanor, whereas it is clear that she did not. Whatever is contained in them is difficult to discern and to analyse. The translation from Nigerian Pidgin to English with which I have been provided is consistent with the staging of PM having just given birth taking place in the same place and at the same time as the actual mother was in fact giving birth, but that is not the only interpretation of what is said. It is as likely, it seems to me, that the person being thanked is a broker, the bringer of the baby, as it is Eleanor's birth mother. And, as virtually nothing can reliably be concluded about [Dr O]'s part in this process, it is impossible for me to conclude that he is more likely to be benignly performing the social good of allowing the desperate mothers of babies born into hunger, poverty or stigma to

relinquish them to a better life, than he is to being involved in one of the more sinister and abusive manifestations of the ‘baby farming’ industry.

116. It follows that I can reach no conclusion, one way or the other, about Eleanor’s true provenance and her birth mother’s true circumstances, or about PM’s state of knowledge or belief in relation to this.
117. What then of PF? Represented by a separate legal team from PM, and with full opportunity to consider the overwhelming evidence to the contrary, he was as insistent as was PM that Eleanor was carried and delivered by PM. He attested to having been angry with PM when he learned for the first time at court, at the point that PM had filed a statement asserting the same, that the baby he claims to have thought was his was conceived of (as was then suggested) donor sperm, but he was very reluctant to concede that PM having kept this fact from him represented any form of dishonesty on her part. He shed very little light on and expressed very little curiosity about the period just before he and PM left Nigeria, during which PM now claims she received IVF in the form of the implantation of a donor embryo (a process which, had it taken place, would have involved PM having taken, probably by a series of self-injections, a course of drugs before and after implantation as well as having a number of clinic appointments).
118. Equally, PF seems to have been largely unconcerned or uninterested in the possibility, or probability as it was being presented to him and PM, that PM had a life-threatening cancerous mass for which she was declining to accept any of the treatments urged on her with increasing fervour by a very worried group of clinicians.
119. There is an interesting email in the bundle of medical disclosure, in which a clinical nurse specialist in the colorectal nursing department wrote on 28 March 2024 to a colleague in the following terms:

I have attempted to call [PM] again, no answer and no facility to leave a message.

I have contacted the next of kin [...] and have managed to get through, however [PF] is no longer with his wife and wants to be taken off as next of kin, I did not take the conversation further.'

In his oral evidence before me, PF denied that this conversation with the nurse had ever taken place, denied that he had ever said any such thing and denied the underlying suggestion that – however temporarily – he had decided that he no longer wanted to be in a marriage with PM and had asked to be removed as her next of kin. However, it is very difficult to conceive of any circumstance in which a medic would have invented such a conversation or even have misconstrued what was said to the extent that PF is now suggesting must have happened. I accept that PF was contacted, and did impart the information described to the nurse. It follows that PF – and PM – have not been honest about what was happening in their relationship at this crucial period of time, that is, when the pressure was growing on PM, whose assertions of pregnancy despite all evidence to the contrary were attracting ever-increasing professional attention, to the point of consideration being given to compulsory MHA intervention. It also follows that PF lied to me about this on oath from the witness box.

120. PF is not an unintelligent man, and his obfuscation and dogmatic but unreasoned adherence in his oral evidence to what I consider to have been the script agreed between him and PM did him no credit.
121. I bear in mind PF's character, such as it can be discerned from his admirable work ethic, the absence of any other signs of antisocial, dishonest or unlawful behaviour, and his undoubted qualities as a good and devoted father to J and K. I also note that he, like his wife, seems to have, or at least professes, a belief in traditional, spiritual Nigerian

medicine, and that he too will have been profoundly affected by the death of his infant son not long before the events currently under scrutiny.

122. However, ultimately, I cannot accept that PF believed that his wife was in fact pregnant, certainly as the (non-)pregnancy progressed, nor that he was unaware that her trip to Nigeria was to procure a baby who was not theirs rather than naturally to give birth to one who was. The facts of his having told the nurse that he and PM were no longer together and his apparent lack of interest at various points perhaps suggest that he was the less prominent of the two of them in the planning of the trafficking of Eleanor into England, but I cannot accept that he was anything other than fully aware of the plan or that it took place without his imprimatur, even if his support wavered from time to time.
123. Having made these starkly expressed findings in relation to both PM and PF, I should add some further contextual observations.
124. I have no doubt that the motivation of PM and PF in their quest to find Eleanor and to bring her into the country was no more or less than a genuine desire to add another baby to their family, and to offer her the love, devotion and security they have given to their two sons. It is also clear to me that PM's yearning to add to the family was largely driven by the huge, I imagine largely unresolved, grief she has endured subsequent to the death in infancy of her son, L, just a couple of years ago. I entirely accept that they wanted nothing other than to give Eleanor the chance of a happy and fulfilled life with them, that they speak genuinely when they describe thinking of her as their *'princess'*. Nor do I doubt, given the huge hole in her life which L's death impelled PM to try to fill, the enormous efforts to which she in particular went in order to procure Eleanor and to bring her to this country, and the fact that she cared for and tended to Eleanor for the first few weeks of her life, that she feels a real and agonising bond to and connection with Eleanor. Almost the last question Mr Nuvoloni KC asked his client in her evidence-in-chief was,

'What does Eleanor mean to you?' Her answer, emotionally delivered, was: *'She means a big something to me. She's my princess, my queen. I cherish that girl too much. When I lost [L], I used Eleanor to console my heart.'* I have no doubt that, however many falsehoods and misrepresentations have been told as to the true provenance of Eleanor, this much is entirely true.

125. It is equally clear, however, that, as above, both PM and PF know that Eleanor is not their child and was not carried by PM, and that significant and ongoing emotional and psychological harm awaits a child who is brought up in the context of the sort of fundamental lie which underpins PM and PF's account of her origins.

The section 31 CA 1989 threshold criteria

126. I do not know the identity of Eleanor's birth parents, save only that I have excluded PM and PF as being her biological parents and PM as being her gestational mother. I accept Ms Coker's evidence that the prospects of discovering the identity of her true parents, even if a concerted effort were made, are very remote indeed and that, even if it were eventually possible, it is likely that they would not be in an economic (or social or familial) position to care for her.
127. Notwithstanding that Eleanor's true parents are not parties to the case and cannot be identified or traced, I consider that it is still appropriate for her future to be determined within proceedings brought under Part IV of the CA 1989 (rather than, for example, wardship), and I consider that the s.31 CA 1989 jurisdictional criteria are satisfied in these circumstances. (See, e.g., the *Hillingdon* case (*supra*), *per* Hogg J, *Re J (Children) (Care Proceedings: Unaccompanied Child Refugees)* [2017] EWFC 44, [2018] 1 FLR 582, *per* Peter Jackson J, and *A Local Authority v Child C* [2024] EWFC 336, *per* Peel J.)

128. Accordingly, adopting but somewhat modifying the wording proposed by Ms Cavanagh KC and Ms McCallum on behalf of the LA, my findings are as follows:

1. PM and PF are not the legal or genetic parents of Eleanor.
2. PM was not pregnant with Eleanor and did not give birth to her.
3. In order to mislead authorities and professionals, PM staged a scene that was video recorded and of which photographic images were taken, which she falsely claimed showed her giving birth to Eleanor, which it did not.
4. In order to mislead authorities and professionals, PM produced or procured documents falsely purporting to demonstrate (a) that Eleanor's conception had been the result of PM having undergone IVF treatment, and (b) that PM gave birth to Eleanor in Nigeria in June 2024.
5. PM and PF have brought Eleanor into the United Kingdom in circumstances which they are concealing.
6. The true date of birth of Eleanor is not known, save and insofar as may be known to, but is concealed by, PM and PF.
7. The true identity and whereabouts of the parents of Eleanor are not known, save and insofar as may be known to, but are concealed by, PM and PF.
8. The version of events put forward by PM and PF to explain how Eleanor came to be in their care is a fundamental lie told and maintained by both of them as to who Eleanor really is.
9. PM and PF have caused Eleanor significant emotional and psychological harm.

10. By reason of their lie as to who Eleanor really is, at the relevant date, Eleanor was likely to suffer significant emotional harm in the care of PM and PF.
11. For the purposes of s.31(2)(a) of the Children Act 1989, Eleanor suffered significant harm when her mother, a person unknown, was not in a position to exercise parental responsibility over her and she was brought to the United Kingdom without her mother or father but in the care of PM and PF.
12. Furthermore, the attributability requirements of s.31(2)(b) are satisfied on the basis of the care likely to be given to Eleanor by PM and PF if an order were not made, not being what it would be reasonable to expect a parent to give.

Next steps

129. PM and PF will have to respond to my findings and make such proposals or applications as they choose.
130. The LA will have to set out formally such further assessment, if any, as it proposes to undertake of PM and PF, and to make such further applications as it sees fit.
131. The CG will need to respond to both.
132. Very sensibly, the LA has already taken steps to establish the position in relation to Eleanor's nationality and immigration status and the steps which must be taken in order to regularise her current situation of being, it seems, stateless.
133. The matter should come back to me for directions as soon as possible after these steps have been taken.