Neutral Citation Number: [2024] EWCA Civ 105

Case No: CA 2023 001968

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE,
FAMILY DIVISION
Mr Justice Poole
FD23F00044

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 14/02/2024

Before:

LORD JUSTICE LEWISON
LADY JUSTICE KING
and
LADY JUSTICE FALK

- -

Between:

Re AB (a child) (Habeas Corpus)

- -
- -

The Appellant appeared In Person.
The Respondent did not attend and was unrepresented.

Hearing date: 1 February 2024

- -

Approved Judgment

This judgment was handed down remotely at 11.00am on 14 February 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....

Lady Justice King:

1. This appeal is brought by the Appellant, SJ ("the mother"), against a decision of Mr Justice Poole, sitting in the Family Division of the High Court. By an order dated 22 September 2023, the judge dismissed the mother's writ for habeas corpus by which she sought the return to her care of her daughter AB. AB currently lives with the Respondent, DH ("the father"), by virtue of a child arrangements orders made on 21 January 2022 and confirmed on 27 May 2022.

2. At the heart of the case are two central contentions made by the mother: i) that AB is not a person for the purposes of the Children Act 1989 ("CA 1989") and that as a consequence, the courts have no jurisdiction to make any orders under that Act; and ii) in those circumstances AB is being "unlawfully detained" by the father, notwithstanding the making by the Family Court at Wakefield of the child arrangements and prohibited steps orders on 27 May 2022 providing for her to live with her father and to have no contact with the mother.

3. As a writ of habeas corpus relates to the liberty of the subject, permission to appeal against the refusal to make an order does not require the granting of permission to appeal (Section 15(1) of the Administration of Justice Act 1960). It follows that the mother appeals as of right and there has been no consideration as to whether pursuant to CPR52.6(1)(a) and (b) the appeal would have a real prospect of success or whether there is some other compelling reason for the appeal to be heard.

4. The father has taken no part in these proceedings. The mother appeared before the court as a litigant in person assisted by an informal McKenzie friend. She made her submissions courteously and with dignity but was clearly in some considerable distress at her continued separation from her daughter.

Background

5. The parties were involved in long running and acrimonious litigation in relation to AB who then lived with the mother. In December 2020 the father reported AB, then a little over three years old, as missing.

6. It was not until 18 January 2022 that AB was located in Port Talbot following a neighbour having raised concerns about her care to the authorities. The mother was living in a property leased to a group called the Universal Law Community Trust (ULCT). The mother lived with the group from whom she says she has received considerable support. Having been found, AB was made subject to Police Powers of Protection. She was placed overnight with the local authority, but on the following day, 19 January 2022, she was taken to her father with whom she has remained ever since. The mother was arrested and subsequently bailed.

7. A case management order was made on 21 January 2022 before DJ McLaughlin at Wakefield. The mother did not attend. The father and solicitors instructed to represent AB were present. The order records that the mother had not been served, her whereabouts was unknown although it was believed that she might now be at a caravan in Port Talbot, notwithstanding that she was on police bail to a property in Castleford.

8. By the order of 21 January 2022, AB was to live with the father until further order with no contact to the mother. A prohibited steps order was made prohibiting the mother from taking any steps 'in the exercise of her parental responsibility in respect of [AB] until further order.'

9. The local authority were directed to carry out a s37 Children Act assessment of AB which was to include trying to ascertain where AB and her mother had been living and to assess the role ULCT had had in her life, including a consideration of any harm AB may have suffered as a consequence of the organisation's involvement in her life.

10. The order set out the following in bold typescript: "If you were not told about the hearing you may ask the court to reconsider this order". Ramsdens solicitors, who represented AB, sent a message to the mother which she received (and she has included in her bundle) telling her of the date for the next hearing due to take place on 7 February 2022 and that she had been ordered to attend. The mother filed a document entitled 'Statement of Truth' for that hearing. This was a lengthy document filed by someone identifying themselves as "Minister Emoven 1842, a Minister of the ULTC", who described himself as the "once creditor of legal person entity account [SJ]".

11. The Court has not seen an order for 7 February 2022 and the next order shown to this Court is dated 27 May 2022, a hearing, again before DJ McLaughlin. The father appeared in person, the guardian was present as was a local authority solicitor. The mother was not present. The Cafcass report prepared on behalf of AB set out a number of concerns about the mother including her involvement with ULTC.

12. The order once again records that if she was unaware of the hearing, the mother could ask for the reconsideration of the order. The order was in largely the same terms as that made on the 21 January. This Court has only the most limited information as to the matters which fed into the district judge's welfare analysis. I do not know, therefore, what features led to an order being made in these unusually draconian terms in that the mother is not allowed to know where AB is living, to have any information as to her educational progress, to have any contact with AB or to exercise her parental responsibility in any way. The fact remains however that for the reasons set out below, this is a lawful order which remains in force and which has not been the subject of an appeal.

13. The mother told the court that she had not received copies of the orders until recently and it was for that reason she had not filed a notice of appeal or made an application for a reconsideration of the order. What she did do, however, was on 10 October 2022, file at the Wakefield Civil Justice Centre a N244 Application Notice seeking an order to "set aside/void all orders derived from FD20P00486 ab initio, nuc pro tunc". The mother told this Court that other than a request to provide some information necessary for fee remission, she has had no further contact from the Civil Justice Centre and she has had no notice of the listing of her application.

14. I have no idea why the mother has heard nothing from the Civil Justice Centre at Wakefield in relation to her N244 application. It should however be noted that N244 is one of the suite of civil court forms applicable to applications in the County Court. These forms are not used in the Family Court. Where an application for the discharge or variation of a Child Arrangements Order is made, it is started under the Family Procedure Rules 2010 r.5.1 on a form called the C100. It follows that the Family

Court would have had no reason to be aware of this application which, given its terms, would not in any event facilitate a reintroduction of the mother to AB.

15. The mother told the court that having made no progress through the N244 route, she made the present application for habeas corpus on 19 June 2023. The application was transferred to the Family Division by Hill J on 21 June 2023 pursuant to the Senior Courts Act 1981, Schedule 1, para.3(aa). The application for a writ was dismissed on paper pursuant to CPR rule 87.4(f) by Poole J on 27 June 2023 and again dismissed pursuant to CPR 87.5(f) following an oral hearing on 22 September 2023, the order being sealed on 16 October 2023.

16. The Court has seen a transcript of the hearing which took place before Poole J. The hearing, no doubt because the application was misconceived and had to be dealt with in the midst of a busy court day, was conducted robustly by the judge.

Standing to apply for a writ of habeas corpus

17. The circumstances in which a third party may apply for a writ of habeas corpus is considered in *The Law of Habeas Corpus* by Farbey, Sharpe and Atrill (3rd edition). At p237 it is said by the authors that it is desirable for there to be flexible rules governing applications for a writ of habeas corpus:

> "If third parties were not allowed to initiate proceedings, a captor acting unlawfully would only have to hold his prisoner in especially close custody to prevent any possibility of recourse to the courts. To a certain extent, the technical nature of habeas corpus rejects this need. The writ issues in the name of the sovereign and represents the prerogative power to have an account of any subjects who are imprisoned. The applicant, whether the prisoner or simply a concerned third party, is, strictly speaking, not so much a party to the proceedings as an informant."

18. In my judgment it follows that regardless of the merits, there was nothing to prevent the mother from initiating these proceedings notwithstanding that the order of 27 May 2022 says that "the mother is prohibited from taking any steps in the exercise of her parental responsibility in respect of the child until further order".

19. The order made by the judge following the oral hearing on 22 September 2023, records that the mother had confirmed to him that she had not sought to appeal the orders of 1 January 2022 or 27 May 2022 and that he had reminded her that the Court was not an appellate court. The critical part of the order goes on:

> "**AND UPON** the Court being satisfied:
>
> i) The Court orders of the Family Court at Wakefield dated 1 January 2022 and 27 May 2022 were lawful orders made by a properly constituted court exercising its powers under the Children Act 1989;

ii) The child [AB] was the subject of these orders

iii) The child [AB] is living with the Defendant [the father] pursuant to these orders

iv) The Defendant [the father] is not lawfully detaining the child

v) The Claimant's [the mother's] submission that the child is not a person and therefore that the Family Court had no jurisdiction is wholly misconceived. The child [AB] is a natural person under the age of 18 and so the Court had powers under the Children Act 1989 to make the orders it made."

The Appeal

20. It is against this order that the mother now appeals. The mother introduced her written grounds of appeal by stating that AB had been "abducted/kidnapped under the colour of law and is being forcefully detained from her natural mother and primary natural guardian". Her grounds of appeal come under the following headings:

i) Ground 1: "Breach of duty and obligation to obey legal authorities, follow due process and to uphold and further the rule of law". This relates to the allegation that the judge was in breach of his judicial oath and failed to uphold the rule of law because he did not accept that AB was not a person and was therefore forcibly detained.

ii) Ground 2: "Disregard of verified legal definitions, admissible evidence, and failure to accurately apply the law to the facts". This again goes to the judge's alleged failure to "accept the interpretation written in law".

iii) Ground 3: "Dismissal of the application without due deliberation". This related to the judge's alleged failure to "conduct a full assessment of the legal violations and interferences with Convention or Constitutional fundamental rights".

iv) Ground 4: "Failure of the Respondent and the Court to evidence claim". The onus of proof it is alleged in this ground, is on the father to prove the "unsubstantiated claim" of the "self-evident fact that her daughter is not a child or person as defined in the Children Act 1989 or the Interpretation Act 1978".

v) Ground 5: "Alleged bias comprising impartiality". This relates to the fact that Poole J is the Family Presider for the North Eastern Circuit which includes the area covered by the Wakefield Family Court.

21. The mother told this Court of her considerable distress, that she felt AB should never have been taken from her, that the guardian had been dishonest, that the process was against her and that she had been discriminated against her because of her spiritual beliefs. She could accept, she said, that a court would have to intervene where a child

was abused, but she had never harmed her daughter who she said, would be missing her and would not understand why she was not with her.

22. The basis upon which the mother alleged that AB is being unlawfully detained, and that a writ should therefore be made by way of habeas corpus requiring AB to be returned to her care forthwith, is not only because AB should never have been taken away from her, but fundamentally because the CA 1989 has no jurisdiction over her daughter.

23. The appeal can most conveniently be considered by taking Ground 4 first as it captures the mother's primary argument that a child is not a "person".

24. The argument can be summarised as follows:

    i) Section 8 CA 1989 purports to permit the court to make child arrangements orders with respect to children. This includes orders relating to "with whom a child will live, spend time or otherwise have contact".

    ii) By section 105(1) CA 1989 "'child' means… a person under the age of eighteen".

    iii) The Interpretation Act 1978 ("Interpretation Act") Schedule 1 says that: ""Person" includes a body of persons corporate or unincorporate."

    iv) It follows, argues the mother, that as a 'child' is not specifically included in the definition of person in the Interpretation Act 1978, he or she is necessarily excluded from the CA 1989 by virtue of the dicta *expressio unius est exclusio alterius* and *designatio unius est exclusio alterius, et expressum facit cessare tacitum*[1].

    v) That whilst AB is her daughter, a child is not a person for the purposes of the CA 1989 and as a consequence, the court has no jurisdiction to make an order in respect of a child under the Act and any order purporting to do so is unlawful.

    vi) The child arrangements order placing AB with the father is illegal and AB has therefore been kidnapped and is being unlawfully detained. A writ for habeas corpus must be made releasing her and requiring her return to the care of her mother.

---

[1] *Expressio unius est exclusio alterius:* the express mention of one person or thing is the exclusion of another. A maxim for the construction of statutes and other legal documents.
Designatio unius est exclusio alterius, et expressum facit cessare tacitum: to mention one thing is to exclude another, and when you mention a thing expressly, anything which you have not mentioned is out of the matter.

Ground 4: Definition of 'Person'

25. *Bennion, Bailey and Norbury on Statutory Interpretation* (8th Edition)*(Bennion)* at section 19.8 states that in relation to the definition of 'person':

> "While the definition appearing in the Interpretation Acts makes it clear that 'person' includes bodies of persons they do not otherwise affect the width of the term, which must therefore be given its ordinary meaning."

> "Acts are normally drafted on the basis that 'person' covers companies and other bodies of persons as well as natural persons. The definition in the Interpretation Acts makes it unnecessary to mention companies or other bodies separately on each occasion, unless there is something about the context that could be taken to indicate a contrary intention.."

26. The ordinary meaning as defined in the Oxford English Dictionary is: "'person' An individual human being; a man, woman or child."

27. As recently as 1 February 2024, in *Savage v Savage* [2024] EWCA Civ 49 *("Savage")* consideration was given by the Court of Appeal as to the effect of section 15(3) of the Trusts of Land and Appointment of Trustees Act 1996 ("TOLATA") which provides that "the matters to which the court is to have regard *also include* the circumstances and wishes of each of the beneficiaries who is…. entitled to occupy the land under section 12". *(my emphasis).* The issue before the court in *Savage* was whether the words "*also include*" served to limit consideration to those specified beneficiaries and did not permit consideration of the circumstances and wishes of other (minority) beneficiaries.

28. Snowden LJ considered the proper approach to interpretation which in that case, as in this, was concerned with the limitations or otherwise of the phrase 'including'. He said that in relation to the proper approach to statutory interpretation:

> "16. The Judge was correct that in carrying out this exercise, there is a presumption – or, more accurately, a starting point - that Parliament intended the words used to have their grammatical meaning. As Lord Nicholls put it in Spath Holme at 397, "an appropriate starting point is that the language is to be taken to bear its ordinary meaning in the general context of the statute".
>
> 17. However, as Lord Nicholls' dictum itself indicates, even when considering the grammatical meaning of words, the words should not be considered in isolation. As a matter of pure linguistics, it is possible that words can have more than one "ordinary" meaning depending on the way that they are used (so-called "semantic" or "syntactical" ambiguity). But it is also possible that the words can have more than one "ordinary" meaning depending on the context in which they are used

> ("contextual" ambiguity). Accordingly, when deciding the ordinary meaning of the words used and, in particular, when determining which of any linguistically available meanings is the meaning that Parliament intended, the court must have regard not only to the way in which the words are used in the statutory provision in issue, but also to the relevant context in which they are used.
>
> 18. In this exercise, the relevant context naturally includes the structure and contents of the part of the statute in which the relevant provision appears, as well as the statute as a whole. However, it is not limited to such matters. The relevant context can also include the historical background against which the statute came to be passed, and its legislative purpose. Those matters may be apparent from the wording of the remainder of the statute itself, which must be the primary focus."

29. Significantly, Snowden LJ went on at para. [20]:

> "20. As regards the use of so-called "canons of interpretation", such as the "*expressio unius*" maxim, it is important to bear in mind that such canons are merely interpretative tools that reflect the use of language generally, and hence should not be applied rigidly: see e.g. *Bennion, Bailey and Norbury on Statutory Interpretation* (8th ed) ("*Bennion*") at [20.1] citing *Cusack v Harrow LBC* [2013] UKSC 40 at [58]-[60] *per* Lord Neuberger.
>
> 21. As regards the *expressio unius* maxim itself, it is clear that this is not an absolute rule and should not be applied where there is some reason, other than the intention to exclude certain things, for mentioning some but not others. So if it appears that particular items were singled out for mention merely as examples, there is no room for the maxim to apply: see *Bennion* at [23.13]."

30. Upon consideration of the ordinary meaning of the word 'person' by reference to the manner and context in which the word 'person' is used in the statutory provision concerned, here the CA 1989, it is, in my judgment, abundantly clear that the expression *expressio unius* has no role to play. The reference in the Interpretation Act to 'person' including "a body of persons corporate or unincorporate" is not intended to limit the ordinary meaning of the word by excluding human beings, but rather to include in the definition a class, namely "a body of persons corporate or unincorporate" who on the ordinary meaning of the word, would not otherwise be within the class. One example given by *Bennion* is a club, which has no separate legal existence apart from the members of which it is composed, but does constitute a person for the purposes of the definition in the Interpretation Acts

31. Common sense alone would tell one that where an Act was introduced as "An Act to reform the law relating to children" with the welfare of children under eighteen years stated to be the paramount consideration (section 1(1) CA 1989), the definition of a child as a 'person' "under the age of eighteen" must inevitably and could only be, by reference to the ordinary meaning of the word.

32. If further analysis is necessary, the Family Court has interpreted 'person' within the context of the CA 1989, not because there was any doubt as to whether a child was a person, but in order to consider whether a particular residential institution could be considered to be a person for the purposes of the CA 1989. There have been a number of cases where the issue of placing a child in Scotland has been considered by the courts. Specifically, the question arose as to whether placement in a residential unit in Scotland could by reference to the Interpretation Act, be permitted in circumstances where the provision at paragraph 19(3), Schedule 2 to the CA 1989 which allows a placement outside the jurisdiction, is for placement to be with "with a parent, guardian, special guardian*, or other suitable person*"*(my emphasis).*

33. In *Re X and Y (Secure Accommodation: Inherent Jurisdiction)* [2017] Fam 80, at para.[29], Sir James Munby said that 'other suitable person' in that context did not extend to a corporate or other organisation or body (ie a residential home in Scotland). "It means", he said, "a natural person". (See also *In Re C (A Child)* [2019] EWCA Civ 1714 at para.[4] and *OM (A male child)* [2021] NI Fam 126 at paras.[29-30]).

34. The mother accepts that abused children must be protected, if she is correct and a child is not a person, there could be no state intervention under the CA 1989 to institute care proceedings in respect of a child who has been subjected to, or is at risk, of significant harm.

35. It follows in my judgment that the mother's submission that a child is not a person is, as the judge said, misconceived.

Grounds 1 -3: Unlawful detainment

36. Having concluded that a child is a 'person' and therefore subject to the CA 1989, I turn to consider whether, even so, AB has been unlawfully detained. Grounds 1 – 3, as developed at length in the mother's written material, go substantially to her submission that AB is being unlawfully detained.

37. In *Re B-M (Care Orders)* [2009] EWCA Civ 205 at para.[39], Wall LJ remarked that the writ of habeas corpus is now "obsolete in family proceedings". More detailed analysis is found in *S. v Haringey London Borough Council* ('*Haringey*') [2003] EWHC 2734 (Admin).

38. *Haringey* concerned an application for habeas corpus made by the mother of four children who were removed from her care. Interim care orders were made, and all four children were placed in foster placements. The mother asserted that her children were being held by the local authority unlawfully under the interim care orders made by the Family Division. On the appropriate forum for the dispute, Munby J (as he then was) held that rather than an application for habeas corpus, the mother should have challenged the interim care orders in the care proceedings or have appealed those orders before the Court of Appeal.

39. Munby J described at para.[25] the application for habeas corpus as "hopelessly misconceived". He goes on at para.[26] and [28] (emphasis added):

> "26. In the first place, whatever defects there may have been, either in the process by which the police removed the children on 3 January 2003 or in the process by which the emergency protection orders were granted on 6 January 2003 (and, to repeat, I make no findings to that effect), those defects cannot affect the validity of the children's current placements nor, insofar as the children are being 'detained', the lawfulness of that detention. The children are not where they are pursuant either to the actions of the police on 3 January 2003 or to the emergency protection orders granted by the family proceedings court on 6 January 2003. *Rather they are where they are pursuant to the interim care orders that have been made from time to time*, most recently the interim care orders that I made on 3 June 2003, 25 June 2003, 27 June 2003, 24 July 2003, 25 July 2003, 22 August 2003, 15 September 2003, 29 September 2003 and 27 October 2003. *It is those interim care orders that clothe the local authority with the parental responsibility and with the other statutory powers that make it lawful for the authority to put and maintain the children in their foster placements.*"
>
> 27……
>
> 28. The third point is more fundamental. Habeas corpus ad subjiciendum is a remedy protecting the citizen or subject against an unlawful detention or imprisonment. Detention need not be at the hands of the state or public authority…But there must be a detention. The children in the present case are not in secure accommodation. *They are not being detained. They are simply living with foster parents in exactly the same type of domestic setting as any other children of their ages would be, whether living at home with their parents or staying with friends or relatives.* Habeas corpus does not lie because a parent, or other person in loco parentis, makes it a rule that a child of tender years is not to leave the house unless accompanied by some suitable person or because an exasperated parent has sent a naughty child to his room and told him to stay there for two hours or because a rebellious teenager has been 'grounded' or subjected to a parentally enforced curfew, any more than habeas corpus lies if the headmaster of a boarding school forbids his charges to leave the school premises except at permitted times and for permitted purposes. And it makes no difference for this purpose that the domestic rule is actually enforced by the turning of a key in a lock."

40. By extension, if children under interim care orders with foster parents are not being detained, it is impossible to see how a child in the care of another parent could be said to be detained. The child is simply living her life with her father, albeit with the prohibited steps order in effect against her mother. This cannot amount to detention in circumstances where the orders were lawfully made.

Ground 5: Bias

41. Lewison LJ explained to the mother during the hearing of her appeal that the fact that Poole J is a leadership judge covering an area which includes Wakefield cannot, without more, give rise to bias. The mother seemed to accept and understand that to be the case, but for completeness I would reinforce that the mere fact that the two judges are professionally connected would not satisfy the test for bias set out in *Porter v Magill* [2002] 2 AC 357, namely whether the "fair minded and informed observer" having considered the fact would conclude that there was a "real possibility" of bias.

Judicial Review

42. Within the mother's claim form she makes, in addition, an application for permission to make an application for judicial review in order to seek a Quashing Order, Mandatory Order and Injunction pursuant to CPR Part 54. That application is further supported by her written submissions but was not developed in oral argument.

43. The application is significantly out of time, being neither prompt nor within the three-month time limit under CPR 54.5. No application for an extension of time is before the court.

44. Further, the mother has not exhausted her available remedies.

45. Whilst always sympathetic to the challenges presented to a litigant in person, *Barton v Wright Hassall LLP* [2018] UKSC 12; [2018] 1 WLR 1119 UKSC at para.[18] makes it clear that whilst that fact "will often justify making allowances in making case management decisions and in conducting hearings", litigants in person do not form a class of people for whom the rules are modified or disapplied and "it is reasonable to expect a litigant in person to familiarise himself with rules which apply to any step which he is about to make". I note that the mother was able to put the judge at first instance right when he erroneously thought that permission to appeal was necessary in order to appeal from a refusal to grant an application for habeas corpus and that she has coped admirably with the procedural requirements in order to pursue this appeal.

46. The mother did not return to the court as permitted under the terms of each of the orders made in 2022, or appeal the orders now challenged and has not issued an application to vary the child arrangements order.

47. Rather than taking any of those three courses, the mother prior to the present application for a writ of habeas corpus, made a rather obscure application in civil proceedings by way of the N244. By that application the mother did not seek contact or a "live with" order, but invited the court to 'void' the orders alleging amongst other things that the Family Court is an unconstitutional court operating without lawful

right or jurisdiction and that there has been an "unlawful conversion to *ens legis entities*".

48. No restriction has been placed upon the mother whether by way of an order under s91(14) CA 1989 requiring leave to be made before an application can be made, or otherwise. It follows that there is nothing to prevent the mother from making an application on a C100 in the Family Court for a variation of the child arrangements order made in May 2021.

49. Permission to commence judicial review proceedings is therefore refused.

Outcome

50. AB is not only a child but also a person. As such she is protected by and subject to the provisions of CA 1989. The district judge made lawful orders in relation to her living arrangements in May 2022 which have not been challenged by the mother through any of the routes available to her. It follows that AB is not, and never has been, detained and the application for a writ of habeas corpus is, as Poole J held, misconceived and the appeal is accordingly dismissed.

Lady Justice Falk:

51. I agree with the judgments of King LJ and Lewison LJ. For the reasons that they give AB is a child for the purposes of the Children Act 1989.

52. SJ's significant distress was evident at the hearing and is wholly understandable. As King LJ has explained, remedies are available in the Family Court, including an application to vary the child arrangements order. But an application for a writ of habeas corpus is unfortunately misconceived.

Lord Justice Lewison:

53. The mother is, understandably, clearly deeply distressed that her daughter has been removed from her care. She was, at times, distraught during the hearing of this appeal. It is impossible not to be impressed by the enormous amount of legal research which went into the compilation of her detailed written argument. She argued her case with persistence and conviction. But since, like King LJ, I do not accept the lynch pin of the mother's argument, I wish to explain in my own words why I have come to that conclusion.

54. The mother accepted that, in ordinary language, her daughter is a person. But, she argued, that her daughter was not a "person" as defined by section 105 of the Children Act 1989. Section 105 defines "child" as "a person under the age of eighteen." But Schedule 1 to the Interpretation Act 1978 contains certain definitions. Section 5 of the Interpretation Act provides that:

> "In any Act, unless the contrary intention appears, words and expressions listed in Schedule 1 to this Act are to be construed according to that Schedule."

55. The relevant definition with which we are concerned is "person". Schedule 1 says:

> "Person includes a body of persons corporate or unincorporate."

56. On the face of it, this simply extends the ordinary meaning of "person" (i.e. a human being) to bodies of persons. Some of those bodies of persons will not take human form at all (for example a limited company). Others might do (for example a partnership).

57. But the mother relies on the venerable principle of interpretation (in its Latin form) that expressing one thing excludes another. So where an Act mentions one or more things, by implication it excludes other things of the same kind.

58. Here the Interpretation Act specifically mentions two types of body: bodies of persons corporate and bodies of persons unincorporate. By necessary implication, therefore, the definition does not extend to human beings.

59. I cannot accept this argument. First, the definition in the Interpretation Act is what is called an inclusive definition. In *Robinson v Barton Eccles Local Board* (1883) 8 App Cas 798 Lord Selborne LC said of such a definition:

> "An interpretation clause of this kind is not meant to prevent the word receiving its ordinary, popular, and natural sense whenever that would be properly applicable; but to enable the word as used in the Act, when there is nothing in the context or the subject-matter to the contrary, to be applied to some things to which it would not ordinarily be applicable."

60. The other Law Lords agreed with him. So the form of the definition in this case does not prevent the word "person" receiving its ordinary popular and natural meaning. This is confirmed by section 19.8 of the textbook on Statutory Interpretation that King LJ has quoted. The current editors of that book are both highly experienced drafters of Acts of Parliament.

61. Second, the definition only applies if there is no contrary intention in the Children Act 1989. It is obvious, in my view, that the Children Act 1989 is intended to deal with the welfare of real human children; that is to say human beings under the age of 18. If the principle of interpretation on which the mother relies had any traction, it would be inapplicable because of a contrary intention in the Children Act 1989.

62. Thus I cannot accept the lynch pin of the mother's argument. Once one has concluded that the mother's daughter is a child (as defined), the whole basis for the application for a writ of habeas corpus falls away, for the reasons that King LJ has explained.

63. The only other point I wish to make is to endorse King LJ's approval of the decision of Munby J in *S v Haringey London Borough Council.*

64. I know that this will come as a profound disappointment (and perhaps even shock) to the mother, but it is the only outcome that is consistent with the law. I, too, would dismiss the appeal.