

The Strange Case of the Male Mother

Freddy McConnell, a “trans man” who became pregnant and gave birth, but legally became a man when the child was born, has been pursuing a legal challenge against the General Register Office as the administrator of the registration of births and deaths in England and Wales. This week he lost at the Court of Appeal in an attempt to be registered on the child’s birth certificate as the child’s father.

Last year Sir Andrew McFarlane, president of the Family Division of the High Court and the most senior family court judge in England and Wales, concluded that people who had given birth are legally mothers – regardless of their gender – and that there is a “material difference between a person’s gender and their status as a parent,” *The Telegraph* reports.

McConnell, a journalist, wants to be registered as “father” or “parent” and believes that forcing him to be recorded as the child’s “mother” breaches his human right to respect for private and family life. However, the Government argued that he must be the “mother” because he gave birth to the child, who has a “right to know the identity of the person who carried him or her”.

Having lost a High Court challenge last September, McConnell mounted an appeal, but three Court of Appeal judges have now ruled against him. This evidently means that parents will be recognized by biology, rather than legally recognized gender on birth certificates.

After considering the arguments tendered at the earlier hearing, Lord Chief Justice Lord Burnett, who is the most senior judge in England and Wales, Lady Justice King and Lord Justice Singh upheld the earlier ruling. Lord Burnett said

that the Gender Recognition Act, which required Mr McConnell to be registered as the mother ... did not violate his rights to private and family life, as set out in the European Convention on Human Rights.

He also ruled that the Children Act of 1989 provided that a mother has automatic parental responsibility for a child from the moment of birth. He said:

“No-one else has that automatic parental responsibility, including the father. There is no need for any registration document for that purpose. The fact of giving birth to a child has that effect as a matter of operation of law. It can readily be understood why this could be important in practice. From the moment of birth someone must have parental responsibility for a newly born child, for example, to authorize medical treatment and more generally to become responsible for its care.”

Undaunted, McConnell tweeted: “Disappointing, conservative decision but we knew this would be a long fight. Don’t lose hope. We are applying to the Supreme Court. Trans parents will get legal recognition”’ (‘Transgender father loses Court of Appeal case after fighting against being called ‘mother’ on birth certificate’, [Telegraph online](#), April 29, 2020).

Despite the serious social ramifications of such a challenge succeeding, lawyer Michael Wells-Greco, Partner at Charles Russell Speechlys, commented:

“Maintaining the label of ‘mother’ may in the future force the child to disclose his or her procreational history, which should be a private matter. Some will say a birth certificate it’s just a piece of paper, but that undermines its enormous significance. Beyond the law, society says he is the child’s father, and it’s time for UK law to recognize this for all purposes of law.”

In similar vein, Tammy Knox, a specialist family solicitor at

Penningtons Manches Cooper, acting on behalf of the AIRE Centre, a human rights charity which intervened in the case on behalf of children born to transgender parents, said:

“It’s important to remember that Mr McConnell’s case does not exist in a vacuum; it’s set against the backdrop of a significant societal and legislative shift around trans rights and more widely, legal parentage. If the case moves to the Supreme Court the final ruling is certain to have a huge impact on generations of transgender families, whatever the outcome, and could well trigger a change in primary legislation in the future.”

Clearly, there is more than one interest vested in this case, but the judges maintained that the issues raised involved complicated “interlinked” legislation, and that any reform of the law was a matter for Parliament. In their written ruling, according to *The Telegraph*, “they said that the Government and MPs could be lobbied by anyone with an interest, and legislators could acquire information from the widest possible range of opinions, and that any legal changes would be a matter for Parliament.”

In other words, the Gender Recognition Act of 2004 was passed with little reference to other laws and their implications for the family and for society. Let us hope that Parliament does not legislate to further disadvantage children by passing a law stating that a woman can become a father, or indeed that a man can become a mother.

No doubt politicians will come under pressure from activists, backed by legal advisors fearful of the trans bandwagon being stopped in its tracks. They may even be joined by campaigners fearing that giving children the right to a mother might lead to them being given the right to veto parental break-up – the right to have a mother and a father actually living in the same home.

Sadly, no child killed in the womb will be able to mount a legal challenge for their right to life, but as a single parent, McConnell has already removed the child's real father from their life, and now wishes to leave him or her legally motherless. How this is supposed to benefit the unfortunate child is a mystery, but so far no one has mentioned that he or she should be removed for the sake of his or her mental health.

Feminists in particular should be worried about the danger of airbrushing mothers out of the legal picture, but given their obsession with the right to deprive mothers of their children and children of their mothers – “the right to choose” – the rest of us must be concerned about this campaign to psychologically damage children and wreck the foundation of society. All for the sake of a woman who, unable to become a real father, wishes to become a father in law.

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