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Neutral Citation Number: [2025] EWHC 1427 (Fam)

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Case No: FD24P00633

THE SENIOR COURTS ACT 1981
THE UK-PAKISTAN PROTOCOL OF 17 JANUARY 2003

BETWEEN

The Mother

Applicant

And

The Father (1)
The Paternal Grandmother (2)

Respondents

Rachel Cooper (counsel) instructed by Dawson Cornwell Solicitors
for the Applicant (“the Mother”)

Mani Singh Basi (counsel) instructed by Makin Dixon Solicitors
for the First Respondent (“the Father”)

Mavis Amonoo-Acquah (counsel) instructed by Willis Croft Solicitors
for the Second Respondent (“the Paternal Grandmother”)

Re C (A Child: Summary Return to Pakistan)

JUDGMENT

Nicholas Stonor KC sitting as a Deputy High Court Judge

Sitting on 20 and 21 February 2025

Judgment handed down on 04 March 2025

1. Introduction

1. This is an application for the summary return to Pakistan of a young boy, A, who is now aged just seventeen months. A has dual British and Pakistani nationality.
2. The application was brought on 19 December 2024 by A's mother, R ("the mother"). She is a Pakistani national and has lived in Pakistan all her life. She has been represented by Ms Cooper, counsel. In short, it is the mother's case that A was wrongfully removed by his father from Pakistan at 3am on 15 August 2024; that two documents (which I refer to below as "the Consent Letter" and "the Affidavit") purporting to show that she agreed to A's removal and relocation to the UK were obtained by deceit; and that it is in A's welfare interests for him to be return to Pakistan swiftly.
3. The application is opposed by A's father, T ("the father"). He has dual British and Pakistani nationality, and lives in the North of England. He has been represented by Mr Basi, counsel. In short, the father asserts that A's removal was done with the mother's full knowledge and consent, as reflected in those two documents; and that whatever view the court takes about the removal, it is in A's welfare interests for him to remain in the UK.
4. The application is also opposed by A's paternal grandmother, N. She has dual British and Pakistani nationality and lives with the father in the North of England. In short, the paternal grandmother maintains that the mother agreed to the removal. She has been represented by Ms Amonoo-Acquah, counsel.
5. The matter was listed before me on 20 and 21 February 2025 as a hybrid hearing using the Court Video Platform. The court bundle ran to 311 pages and included statements from all parties. The mother attended remotely from Pakistan. The father attended in person. The paternal grandmother attended remotely from the North of England. The mother and paternal grandmother were assisted by Urdu interpreters. On the first day, I heard oral evidence from the mother and the father. On the second day, I heard oral evidence from the paternal grandmother. I then heard oral submissions supplementing the very helpful position statements which each counsel had prepared. I then took time to reflect. I announced my decision orally, with brief reasons, on the afternoon of 21 February 2025. I subsequently handed down this written judgment.
6. I am grateful to counsel and their instructing solicitors for their assistance.

2. Background

7. The mother has an older child ("C") who is now aged six. The mother and C live in the mother's home city in Pakistan. The father has an older child ("B") who is now a teenager. The father told me that B lives with his mother and step-father and that he (the father) has not seen B since around 2020.
8. The father and paternal grandmother travelled to Pakistan in late 2022. He and the mother met in early December 2022 and were married in an Islamic ceremony later that month. The father has claimed that he only agreed to the marriage because he had eaten a banana which had been drugged by the maternal family. There is no other evidence to support this claim.

9. The mother alleges that her relationship with the father was characterised by domestic abuse perpetrated by him against her. For the purposes of this application, it has not been necessary for me to investigate and determine those allegations.
10. The mother quickly became pregnant. In March 2023, the father and paternal grandmother returned to the UK.
11. A was born in September 2023. The father and paternal grandmother visited Pakistan between early December 2023 and early January 2024. During this period, the father says that he grew increasingly concerned about the mother's ability to care for A. He claimed, for example, that shortly after his arrival in December 2023, he had to seek urgent medical attention for A who was extremely unwell and that A was ultimately diagnosed with pneumonia ("the pneumonia episode"). The father said that the mother had been reluctant to seek help and seemed not to care about A. The mother says that there was no pneumonia episode and that the father has simply made it up. Whilst the father's statement exhibits medical notes which purport to relate to the pneumonia episode, the father accepted in evidence that they related instead to some medical attention which A received in late December 2023 for minor ailments. The father claimed that the medical notes relating to the pneumonia episode had been stolen from him in Pakistan, something which he had not mentioned before in any of his written evidence to the court.
12. The medical notes produced by the father also included notes relating to an occasion in early January 2024, after the father and paternal grandmother had returned to the UK, when the mother sought medical attention for A after he had had a cough for one day ("the cough episode"). When pressed to accept that the cough episode reflected well on the mother's parenting capacity, in that she had sought help appropriately for a minor condition, the father was very reluctant to agree.
13. In the months that followed, the mother remained living in Pakistan with A and C, and the father remained living in the North of England with the paternal grandmother. The mother facilitated regular and lengthy video calls between A and the father. The father recorded many of these calls. He exhibited two short video clips taken from much longer recordings to his statement in support of his assertion that the mother was not caring for A properly. He highlighted two episodes: one, on 29 May 2024 where he says that the mother threw A down before changing his nappy, and another, on 19 June 2024, where A was eating and appeared to be choking for a few moments and the father had to draw that to the mother's attention before she then comforted A. I have viewed in full the two videos from which the father took short extracts. They do not support the father's claims but instead show the mother managing well the demands of a very young baby, with warm and loving interaction between herself and A. In evidence, the father did not accept that the videos showed a positive relationship between A and his mother.
14. The overall plan, as the mother understood it, had been for the mother to travel to the UK with A and C so that they could then live as a family with the father. The mother and the father had numerous discussions about the mother's difficulties in securing a spousal visa.
15. In June and July 2023, as reflected in voice-notes on the mother's phone which have been translated, the father urged the mother to agree to him taking A to the UK without her. The plan discussed in the voice-notes was that the father, who was apparently due to undergo back surgery in the UK, could then tell the UK immigration authorities that the

mother's spousal visa application should be expedited because he could not care for A on his own. The voice-notes show the father repeatedly pressurising the mother to agree to this plan and the mother resisting and maintaining that she could never leave her children.

16. The father's comments included the following extracts:

"I was saying before that the operation has been delayed hence why, god knows when it will be, then I'll do the operation then your work will be done quicker as I can't look after myself hence call her."

"If this is it then I can get on the plan and can get it done for [A]. No don't do my head in."

"You must take the sour [sic] step. What if they refuse the case? What will you do then? We don't have that money to give for the case from the start again. It is £30,000 now, where will we get it from?"

"I've told you before, and I'm telling you again you know this is my last time. That's why I am saying I'm going to take, medical exemption is the only way now, will come here. Il [sic] tell them I can't look after so send my wife. Now it's your choice what you want to do."

17. The mother's comments included the following extracts, the last of which would prove portentous:

"I don't give birth to these kids for me to be away from them";

". . . I have never heard that the kids go first then wives go. God knows how long it will take; how can I leave without them, I already made the decision, I already made decision on parting ways with my family. I can never think like this please. Sorry this cannot happen."

". . . I know that you are double minding me a lot, I know you will take [A] and never call me. [A] is here hence you call otherwise you will never ask me. . . ."

18. In evidence, and despite the content and apparent tenor of the voice-notes, the father maintained that the plan for him to take A without the mother had in fact been suggested by the mother.

19. In early August 2024, the father and paternal grandmother arrived back in Pakistan. The mother and A joined them at a home belonging to the paternal family.

20. The mother says that on 09 August 2024, at that home, and in the presence of the father, paternal grandmother and a lawyer arranged by the father, she was asked to sign a number of documents relating to her visa application. The mother has a rudimentary knowledge of English (as reflected in some messages that I have read). The mother says that it must have been during this "signing session" that she signed and finger-printed the Consent Letter and the Affidavit. She says that she was put under pressure to sign the documents quickly with the father in particular getting angry and telling her to hurry up. She says that pressure also came from the paternal grandmother and that she too was telling her to

hurry up. The mother accepted that in her written evidence she had referred to the paternal grandmother being present but not that she had exerted any pressure. The paternal grandmother insists that she was not present at all during the signing session.

21. The Consent Letter is dated 23 July 2024. The father says that it was drafted for him by an immigration lawyer in the UK prior to him travelling to Pakistan. No evidence has been filed from such a lawyer. In evidence, the father told me that the mother had in fact told him to obtain such a letter. He accepted that this assertion had not featured in his written evidence. The letter is headed in bold “**Consent Letter**”, is expressed to be from the mother “**To Whom It May Concern**” and stipulates: “*I . . . **hereby confirm** that I consent to granting custody and parental responsibility of my child [A] to my husband [T] and father of the above mentioned child as I am finding it difficult to cope with him and my other children. I confirm that I am doing this of my own volition and have not been pressured into action. Yours faithfully . . .*”. The father insists that the mother signed this letter willingly.
22. The Affidavit has a court seal and date stamp of 06 August 2024. It is expressed to be valid until 13 August 2024. It is headed in bold and underlined “**AFFIDAVIT**” and “**NO OBJECTION CERTIFICATE**” and stipulates that: “*I . . . do hereby solemnly affirm and declare as under:-*
 2. *That my above mentioned husband is intending to residing purpose Abroad (**UK**).*
 3. *That I am allowing my real minor children namely **[A]** . . . with my husband / real father of minor **[T]** to go to abroad and **I have no objection** whatsoever on their with their real father. . . .*”.
23. The father says that the mother and her uncle obtained the Affidavit from court and then presented it to him for the first time on 14 August 2024.
24. On 12 August 2024, the father had booked return flights to the UK for himself, A, the paternal grandmother and another family member, leaving in the early hours of 15 August 2024. The father says that the mother knew that return flights had been booked. The mother told me that she did not.
25. On 14 August 2024, the mother says that the father told her that he wanted to visit another city in Pakistan to collect her passport, visit relatives and check on arrangements for a forthcoming family wedding. The mother says that the father became angry when she insisted that she wanted to accompany them, and so she relented. The mother says that the paternal grandmother indicated that she would accompany the father and A, though the paternal grandmother told me that she had stayed at home that day.
26. The father says that he took A with the mother’s full knowledge and consent that they were going to travel back to the UK without her.
27. The paternal grandmother told me that it was on 14 August 2024 that she became aware for the first time of the plan for A to travel without the mother. She says that the mother herself had told her that this is what she wanted to happen. The paternal grandmother insisted that she was shocked by this. She told me that she had no knowledge of the discussions between the parents in July 2024, as reflected in the voice-notes.

28. Telephone records show that, over the course of 14 August 2024, the mother made numerous and increasingly anxious attempts to contact the father and the paternal grandmother. The father responded occasionally with messages saying variously that he was busy, or on his way to the other city in Pakistan, or at a restaurant. The paternal grandmother did not respond at all. None of the messages make any reference to what the father and paternal grandmother insist was by then an agreed plan – that they should go to the airport and fly back to the UK with A.
29. On 14 August 2024, the mother first reported her concerns to the Police in her home city in Pakistan. On 15 August 2024, the mother contacted the Home Office in the UK reporting that her child had been abducted. The mother returned to the police in her home city in Pakistan on 15 August 2024.
30. Meanwhile in the UK, on 19 August 2024, the father pronounced Talaq before witnesses in the North of England. The father in his oral evidence stated that he had orally divorced the mother on 16 August 2024, the day after he returned to the UK with A. On the 19 August 2024, the father sent threatening and unpleasant messages to the mother.
31. The alleged abduction was also reported to a Midlands Police Force and a North of England Police Force, and later to Children’s Services in the North of England.
32. Whenever the father was spoken to by police officers and/or social workers, he would refer to the Consent Letter and the Affidavit, and no further action was taken.
33. On 18 September 2024, the mother applied to the High Court in her home city in Pakistan and an order was subsequently made for the local Police to produce A to court the following day on 19 September 2024. That order was of course not implemented.
34. The mother contacted another firm of UK solicitors but there were unfortunate delays (for reasons which have not been explored during this hearing). The mother was then able to instruct her current solicitors, who acted promptly on her behalf.
35. On 19 December 2024, the mother applied without notice for orders under the inherent jurisdiction. On that day, Judd J made a Tipstaff passport order and the matter was listed for an on notice hearing on 14 January 2025. At that hearing, Arbuthnot J made A a ward of this court and gave directions towards a summary return hearing on 20 and 21 February 2025. An order was made for indirect contact by means of daily video calls between A and the mother, with the father also directed to provide the mother with updates about A’s progress.
36. It is one of the many striking features of this case that between 14 August 2024 and the hearing on 14 January 2025, a period of five months, there was no contact whatsoever between A and his mother (or C).
37. Further directions were given at a pre-trial review before Cusworth J on 31 January 2025. All parties agreed that, in the circumstances of this case, there was no need for the involvement of CAFCASS prior to this hearing.

3. Legal Framework

38. The applicable law is agreed between the parties.

3.1 Summary Return to Pakistan

39. Whilst Pakistan has ratified the 1980 Hague Child Abduction Convention, the Convention does not operate bilaterally between the UK and Pakistan because the UK has not accepted Pakistan's accession.
40. Accordingly, this is a "non-Convention" case. In those circumstances, the key guidance comes from the decisions of the House of Lords in *Re J (Child Returned Abroad: Convention Rights)* [2006] UKHL 40, and the Supreme Court in *Re NY (A Child)* [2019] UKSC 49.
41. The principles are well-known and it is not necessary for me to list them. For the purposes of this judgment, I simply highlight:
- (1) A's welfare is my paramount consideration and I am likely to find it appropriate to consider the first six aspects of the welfare checklist in s.1(3) of the Children Act 1989.
 - (2) It is for the court to determine the extent to which it may be necessary to inquire into aspects of the welfare checklist or other disputed matters.
 - (3) Whatever view I take about issues of habitual residence and wrongful removal, these will feed into my welfare evaluation but are by no means determinative of outcome.
42. In January 2003, judges from the UK and Pakistan signed the *Protocol Child Abduction Cases between the UK and Pakistan*. The Protocol includes the following recitals which reflect its underlying "spirit":
- "(a) Desiring to protect the children of the UK and Pakistan from the harmful effects of wrongful removal or retention from one country to the other;*
 - (b) Mindful that the UK and Pakistan share a common heritage of law and a commitment to the welfare of children;*
 - (c) Desirous of promoting judicial cooperation, enhanced relations and the free flow of information between the judiciaries of the UK and Pakistan; . . .*
 - (d) Recognising the importance of negotiation, mediation and conciliation in the resolution of family disputes;".*
43. The Protocol goes on to record a number of matters which are agreed between the UK and Pakistan. Pursuant to paragraph 1, it is agreed that: *"In normal circumstances the welfare of a child is best determined by the courts of the country of the child's habitual/ordinary residence"*. Paragraphs 2 and 3 provide that where there has been a removal or retention in circumstances where the left-behind parent has a *"custody/residence order or a restraint/interdict order from the court of the child's habitual/ordinary residence"*, jurisdiction in the country to which the child has been removed will ordinarily only be exercised to the extent necessary to make a return order. Pursuant to paragraph 8, it is *"further recommended that the judiciaries, the legal practitioners and the non-governmental organisations in the UK and Pakistan use their best endeavours to advance the objects of this protocol."*
44. It seems to me that the order made by the High Court in the mother's home city in Pakistan is not such as to engage paragraph 2 or paragraph 3 of the Protocol. However, there is good authority to support the mother's submission that the spirit of the Protocol is nonetheless engaged (see Wilson J (as he then was) in *Re H (Child Abduction: Mother's Asylum)* [2003] EWHC 1820, and Francis J in *Y v. S* [2017] EWHC 1020). Ms Cooper

has also helpfully referred me to the cases of *NG v. CJ* [2024] EWHC 338 (Jonathan Glasson KC sitting as a Deputy High Court Judge) and *S v. A* [2022] EWHC 2300 (Paul Hopkins KC sitting as a Deputy High Court Judge).

3.2 Fact-Finding

45. There are important factual disputes in this case. I keep well in mind the well-established principles relating to fact-finding. These include: the burden is on the party asserting that any particular fact is true; the standard of proof is the balance of probabilities; I must consider all of the evidence in the round, whatever the nature of the evidence; in relation to oral evidence, I must be cautious when drawing any inferences from a witness's demeanour and must make allowance for the fallibility of memory; people tell lies for all sorts of reasons; just because a person has lied about one matter, it does not mean that they have lied about other matters.

4. The Oral Evidence

46. The mother gave evidence in a straightforward manner. Though clearly angered by the way in which she perceives the father and paternal grandmother to have behaved, she answered questions in a composed manner and without any obvious embellishment. There was a show of what seemed to me to be genuine emotion when she said that, whatever had happened in the past, a child needed both parents and she would do what she could to promote A's relationship with his father. The mother's oral evidence largely reflected her written evidence and it chimed with evidence from other sources, most particularly the voice-notes, phone messages and the parties' actions. Whilst her account of the paternal grandmother putting pressure on her during the signing session had not featured in her written evidence, I had no sense that this detail was fabricated. There was frankly no need for the mother to make that up.

47. The father's love for A is not in question. But I am afraid I found him to be a wholly unsatisfactory witness. In many respects, some of which I have referred to in the 'Background' section above, his oral evidence differed markedly from his written evidence. He was quite prepared to make assertions which, on any proper view by reference to the other evidence available, were quite simply preposterous. He was, at times, simply making it up as he went along. I am satisfied that his aim at all times was to try to show himself in a good light whilst denigrating the mother.

48. When considering the paternal grandmother's evidence, I make allowance for the fact that she is in her mid-seventies and that giving evidence cannot have been at all easy for her. I acknowledge, by reference to generational differences and, potentially, cultural differences, she may not have been privy to some of the matters which had been discussed between the mother and the father prior to August 2024. However, there were aspects of her evidence which, like her son's evidence, were simply preposterous. For example, her claim that she did not know that she was flying back to the UK until 14 August 2024 itself. I was left with the strong impression that she was not trying to assist the court but, like her son, was motivated by showing him (and her) in a good light whilst denigrating the mother.

5. Discussion

49. I have considered the oral evidence of the parties alongside all of the other evidence which I have read and viewed. I have also considered the parties' actions (and inactions) – deeds as well as words. Most particularly:

- (1) If the father really was concerned about the mother's care of A, why did he leave A in the mother's care for so long? Why did he not report his concerns? (In this regard, the father's vague evidence that he had contacted "the Embassy" is not supported by any other evidence).
 - (2) If the mother really did consent to the removal, why do all the available messages and voice-notes from the parties suggest otherwise?
 - (3) If the mother really did consent to the removal, why were the Consent Letter and Affidavit created at all? There would have been no need for either of them. The only purpose of those documents being created was to refute any suggestion that the removal had been wrongful.
 - (4) If the mother really did know about the return flights on 15 August 2024, why did she send those messages to the father and paternal grandmother on 14 August 2024?
 - (5) If the mother really did consent to the removal, why did she promptly report her concerns about abduction to the various authorities in Pakistan and in the UK?
 - (6) If the removal really had been part of an agreed plan which would have resulted in the mother joining them (with C) on a spousal visa, why did the father divorce the mother within days of his arrival back in the UK?
50. Where the evidence of the mother differs from that of the father and/or paternal grandmother, I have no hesitation in preferring that of the mother.
51. On all the evidence, I am satisfied that:
- (1) A was habitually resident in Pakistan on 15 August 2024 (which is not in dispute).
 - (2) A was being very well cared for by his mother.
 - (3) The father's criticisms of the mother's care are self-serving and wholly unjustified.
 - (4) The plan for A to travel to the UK without his mother was suggested by the father. The mother was emphatic and consistent in expressing her opposition to that plan.
 - (5) The father obtained the Consent Letter and the Affidavit with a view to carrying out the plan which he knew the mother was opposed to.
 - (6) The paternal grandmother may not have known about the various discussions which the father and the mother had had about the plan, but she was well aware of the plan itself and of the mother's opposition to the plan.
 - (7) The mother signed the Consent Letter and Affidavit without realising that she was doing so. She was pressured into doing so by the father and by the paternal grandmother who knew that the mother was being deceived.

- (8) The father and the paternal grandmother deceived the mother about their movements with A on 14 August 2024.
 - (9) A was removed from Pakistan without his mother's knowledge or consent. This was a wholly wrongful removal.
 - (10) Between 14 August 2024 and 14 January 2025, a period of five months, the father and paternal grandmother, by their actions and inactions, failed to promote any contact between A and his mother.
 - (11) Whilst the father was the driving force behind the wrongful removal and the refusal of contact between A and his mother, the paternal grandmother was fully aware of the father's harmful behaviours and did nothing to mitigate them.
 - (12) The father and the paternal grandmother have lied to the court about important matters.
52. I turn to consider A's welfare. The fact that he was habitually resident in Pakistan as at 14 August 2024, and that his removal was wrongful, are by no means determinative of the outcome of this application.
53. Whilst the spirit of the UK-Pakistan Protocols is engaged, it constitutes guidance but no more than that. I make it clear that, on the facts of this case, even if the Protocol did not exist, my decision – based on welfare grounds – would be exactly the same.
54. Wishes and feelings: A is too young to express a view but I readily proceed on the assumption that he would wish to have a meaningful relationship with both of his parents.
55. Needs: A has all the ordinary needs of a seventeen-month old child, but he is likely to have additional emotional needs as a consequence of the disruption he has encountered during his short life. At the age of ten and a half months, he was removed from his mother who had been his primary carer all of his life (and who was still breast-feeding him). He has had no physical contact with her since and had no contact with her whatsoever for some five months.
56. Change of Circumstances: Since his arrival in the UK, A has lived with his father and paternal grandmother. A return to Pakistan now will involve disruption for A in the short term. However, if A remains in the UK, then the prospects of him having a meaningful relationship with his mother are vanishingly remote given her immigration status. Mr Basi urged caution on the court, submitting that there was considerable uncertainty about what penal consequences may flow for the father if he were to return to Pakistan. Ms Cooper submitted that penal consequences are highly unlikely. I am satisfied that in any event, if A were to return to Pakistan, there is a very real possibility of him having a relationship with both parents – either by the agreement of his parents, or by court order in Pakistan.
57. Age, Sex, Background: A's dual nationality should be promoted positively.
58. Capability of Parent: The mother has shown herself to be very capable of meeting A's physical and emotional needs. In evidence, she showed impressive insight into A's

emotional needs going forward in terms of the importance of him maintaining a relationship with his father. The father has shown himself to be very capable of meeting A's physical needs, but incapable of meeting his emotional needs. The father's behaviour has been downright cruel to the mother but, more importantly for the purposes of this application, to A as well.

59. Harm Suffered / Risk of Harm: The father's actions have caused serious emotional harm to A. For so long as A remains in his father's care, he is at risk of serious emotional harm.
60. For so long as A remains in the UK, given his mother's immigration status, there is precious little that the court can do (whether under statute or in the exercise of the inherent jurisdiction) to promote a meaningful relationship between A and his mother. The court can exercise its inherent jurisdiction to provide for A's swift return to Pakistan where, if necessary, the Pakistani court can make appropriate welfare decisions for A.

6. Conclusion

61. For the reasons I set out above, I am entirely satisfied that the mother's application should be granted. I wish her well in her resumption of A's care.
62. The focus now should be on securing A's return to Pakistan swiftly and safely and in a way which minimises the risk of him becoming distressed. The father and paternal grandmother both assured me that they would respect my decision if I were to make a return order.
63. The father in particular has a key role to play in this process and will remain a very important person in A's life. The father told me that he would travel to Pakistan with A and hand over A to the mother at Islamabad airport. He agreed that it would be in everyone's interests if police or other officials could be present to supervise the handover. Whilst I have found that the father has behaved cruelly and has shown a complete disregard for A's emotional welfare, he now has an opportunity to show that he can in fact prioritise A. How the father now conducts himself will doubtless influence future decision-making in Pakistan about the extent to which he should play a meaningful role in A's life.
64. I respectfully request, in the spirit of the UK-Pakistan Protocol, that the Pakistani authorities provide such assistance as they can with a view to ensuring that A's return to his mother's care is managed smoothly.
65. I make a return order. I will now hear counsel on the precise wording of the order.
