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Couple who refuse vaccines for newborn son lose appeal against a High Court ruling

Registering his son's birth will cause him 'to become controlled by a state which [the father] perceives as authoritarian and capricious'



A couple who refused to have their son vaccinated because it would make him “a creature of the state” have lost their appeal against a High Court ruling.

The parents, who cannot be identified for legal reasons, decided not to register their newborn son's birth and later decided against getting him vaccinated.

The 1953 Birth and Deaths Registration Act required a birth to be registered within 42 days of a child being born.

However, in June last year the couple lost their High Court battle relating to the registration of the boy's birth - which had already surpassed 42 days.

The boy's father had objected to the youngster becoming a "creature of the state", while his mother raised concerns about vaccinations making him ill.

As a result of their decision, Tower Hamlets Council, in London, stepped in as the boy's "institutional parent" in a bid to get him vaccinated.

Today the parents took their case and the High Court's decision to the Court of Appeal where judges assessed the local authority's powers under section 33(3) of the Children Act 1989 to consent to vaccination for children subject to care orders.

However Court of Appeal judges rejected their appeal. Lord Justice McCombe, Lady Justice King and Lord Justice Peter Jackson reserved their judgement and said that their reasons for rejecting the parents' case will be set out in due course.

Chris Barnes, barrister at 4PB representing Tower Hamlets council, described the Court of Appeal's decision as "an important marker on an issue that generates considerable public debate", which could have potential ramifications for parents that refuse to vaccinate their children.

It also marks an "an important opportunity for the Court of Appeal to consider vaccination and the ambit of a local authority's power to consent to vaccination for children in their care" he said, in a move which could "place significant burdens on local authorities right across the country". "The appeal could not be more timely in light of falling rates of vaccination, the rise of the 'anti-vax' movement, and, of course, the current global health emergency."

Earlier this year the High Court ruled that the parents of the little boy - who is now under the care of the local authority and lives with foster carers - did not have their child's best interests at heart.

In his judgement, Mr Justice Hayden also concluded that vaccinations were in the little boy's best interests and that his parents' objections to them were "tenuous and tendentious".

At that hearing he also indicated that the couple's decision not to register the birth derived from the father's "unusual and somewhat eccentric" beliefs about the concept of personal "sovereignty".

He added that the boy's mother was "not prepared" to register the birth herself, but was "not opposed" to somebody else registering it.

"The essence of the father's objection is his belief that registration will cause his son to become controlled by a state which he perceives to be authoritarian and capricious," the judge said in his ruling.

"It is manifestly in (the baby's) best interest for his birth to be registered, in order that he may be recognised as a citizen and entitled to the benefits of such citizenship."

Today's decision centred on whether vaccination falls within a category of "grave" cases concerning "medical treatment" which require an application to the Court to determine a dispute between a local authority and parents or whether, as Mr Justice Hayden considered, they fall outside that category and are instead "a face of public preventative healthcare intending to protect both individual children and society more generally".