



**IN THE SUPREME COURT OF JAMAICA**

**IN CIVIL DIVISION**

**CLAIM NO. 2014HCV 03915**

**IN THE MATTER of Demar Lawrence Beech**

**and**

**IN THE MATTER of the Registration (Births  
and Death) Act**

<b>BETWEEN</b>	<b>LEON CHAMBERS</b>	<b>CLAIMANT</b>
<b>AND</b>	<b>LAWRENCE BEECH</b>	<b>1<sup>ST</sup> DEFENDANT</b>
<b>AND</b>	<b>LORRAINE SPENCE</b>	<b>2<sup>ND</sup> DEFENDANT</b>
<b>AND</b>	<b>ATTORNEY GENERAL OF JAMAICA</b>	<b>3<sup>RD</sup> DEFENDANT</b>

**Registration (Births and Death Act – Application to amend Register – Applicant is child’s biological father – Whether Court has jurisdiction to Amend Register – Registrar not a party to the proceeding.**

**Germaine Smith instructed by Nigel Jones & Co. for Claimant.**

**2<sup>nd</sup> Defendant in person.**

**Andre Moulton instructed by the Director of State Proceedings for the 3<sup>rd</sup> Defendant.**

**Heard: 30<sup>th</sup> April 2015, 22<sup>nd</sup> June 2015, 18<sup>th</sup> September, 2015**

**Coram: Batts J.**

[1] On the 18<sup>th</sup> September 2015 I granted the following declaration:

“It is declared that Leon Chambers of 89 Cipolla Drive East Hartford Connecticut 06118 USA is the biological father of Demar Lawrence Beech of Bannister District Old Harbour in the parish of Clarendon.”

I made no order as to costs.

[2] I promised then, due to the peculiar circumstances of the case, to put my reasons in writing. This judgment is the fulfilment of that promise.

[3] When the matter first came before me I directed that the office of the Attorney General be added as a Defendant and be served. This was because a novel question of law was involved touching on the construction of a statute and the operation of the office of the Registrar General. The Attorney General's department did send counsel. I am indebted to both counsel who appeared before me for the assistance provided.

[4] The facts can be shortly stated, and are not in dispute. The Defendants both filed Affidavits in support of the Claimant's application. Neither Defendant appeared by counsel. Leon Chambers, the Claimant now resides in the United States. In or about 1997 or 1998 he was intimately involved with Lorraine Spence the 2<sup>nd</sup> Defendant. She at the same time was on intimate terms with the 1<sup>st</sup> Defendant Lawrence Beech. The second Defendant got pregnant and had a child. She did not acknowledge the Claimant as the child's biological father. The 1<sup>st</sup> Defendant accepted the child as his own and was registered on the child's birth certificate as such. His relationship with the 2<sup>nd</sup> Defendant ended in or about 2001 and his support for the child has been sporadic.

[5] The Claimant lost contact with the 2<sup>nd</sup> Defendant but commenced a search for her in 2001. In 2013 he was able to locate her and persuaded her to do a DNA test as he was certain the child was his. The test results confirmed that he was the biological father. He has since then developed a relationship with the child and is in frequent contact. The Claimant has applied to this court for

Declarations and an Order that the Registrar General amend the Birth Registration Form of Demar Lawrence Beech. He has done this because as he said in Para 25 of his affidavit,

*“That it has burdened me mentally that I am not legally recognized as the child’s father and I want to exercise all my legal rights in relation to him, and I want him to benefit from all the legal rights to which he is entitled as my son.”*

[6] Having heard the submissions and read the written submissions of Claimant’s Counsel and Counsel for the Attorney General I have come to the conclusion that this court has no power to direct the Registrar General to amend the Register in the circumstances of this case. This is not an application for mandamus or some other relevant public law remedy. There is no suggestion that the Registrar General has acted unlawfully or unreasonably in the Wednesbury sense. Indeed the Registrar General is not a named party to this litigation. Therefore in the absence of an expressed statutory power this court cannot make the orders claimed.

[7] Section 19b (2) of the Registration (Birth and Deaths) Act (hereinafter referred to as the Act), on which the Claimant relies, gives the court power on application by

“a person whose name is entered in the register ... as father.”

The 1<sup>st</sup> Defendant, who is the person registered as father, has not made an application to this court. He filed an affidavit in support of the Claimant’s application. Neither is Section 51 of the Act relevant as it is the Registrar who is thereby empowered to correct errors, not this court. I therefore agreed with the submissions of Counsel for the Attorney General that there is no jurisdiction to direct the Registrar General to amend the Register in the circumstances of this case.

[8] However, and this also was the position of counsel for the Attorney General, declaratory relief was possible. This is because there is no contest on the facts in this matter. The Claimant wishes the court to say having examined the evidence, that he is the biological father. I can see no impediment to my doing so.

[9] It was for the reasons stated above that I granted the Declaration in the term as prayed. It is however for the Registrar General to decide having regard to all material circumstances whether an amendment to the Register is appropriate or advisable. On that question, I express no opinion whatsoever.

**David Batts**  
**Puisne Judge**  
**2<sup>nd</sup> October, 2015**