Can the father of a child, born out of wedlock, insist on his name being added to the birth certificate?

Parties to an acrimonious relationship often struggle to put their personal feelings aside to focus on the best interests of their minor child. We so often see mothers who wish for their ex-husbands or the fathers of their children to be involved in no other way than having to contribute to the maintenance of the minor child.

Amongst other challenges that unmarried fathers face, they are often refused the right to have their names included on their child's birth certificate by the mother. This was also the case in *L v H and Another (2205/2016) [2018] ZAKZDHC 61,* which served before the Kwazulu-Natal High Court in Durban.

In the aforementioned matter, the unmarried father approached the court for an order requesting that the mother of the child take the necessary steps to ensure that his personal details are listed on the minor child's unabridged birth certificate as the biological father.

The father furthermore requested that the child's surname be double-barrelled on the unabridged birth certificate so that the child would also carry his surname.

In terms of section 28(2) of the Constitution of the Republic of South Africa, in every matter concerning a child, the child's best interests will be of paramount importance. As upper guardian of minor children, the High Court has extremely wide powers to determine what is in the best interest of minor children.

Having regard to the aforesaid, the court considered the importance of a surname when it comes to a child's identity and personality. A birth document undeniably provides a child with a sense of identity and belonging to both his/her parents.

The court also found that the father was clearly devoted to his son and committed to playing a meaningful role in his life. In the court's view, the alteration of the child's surname at the ripe age of five could therefore only be in the best interest

of the child.

By considering the long-term benefit, the court found that the alteration will afford the child the opportunity to maintain a healthy relationship with his father and give recognition to both his birthrights and both parents' commitment to him, ultimately ensuring that the child benefits in the proceedings, rather than either of the parents.

This case once again reminds us that in all matters concerning the care, protection and wellbeing of a child, the child's best interests will always be of paramount importance – more so than any of the agendas, wishes or rights of the parents.

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