

THE HIGH COURT

[2026] IEHC 462

[2023/SS/368]

IN THE MATTER OF ARTICLE 40.4.2 OF THE CONSTITUTION

BETWEEN

N. B. (THROUGH HIS NEXT FRIEND MOTHER AND GUARDIAN P. B.)

APPLICANT

AND

CHILD AND FAMILY AGENCY

RESPONDENT

Judgment of Mr. Justice Brian Cregan delivered on 8th July 2026

Introduction

1. This is a most unfortunate case. Ms. B. appeared in court on numerous occasions and sought to make numerous, disparate, ex parte applications. However, as no plenary summons had been issued in respect of any proceedings, no ex parte applications could be made. Ms. B., however, repeatedly indicated that there were issues that the court had to consider and she handed in a significant amount of papers. As it appeared to concern her son, and as she was arguing that something had happened to her son, I reviewed the papers to see if there was any

application which could be considered by the court. In the course of this review, I came across a habeas corpus application in 2023 (with the above record number) which did not appear to have been made by Ms. B., or considered by the courts.

2. In the circumstances, I decided to hear this habeas corpus application in order to satisfy Ms. B. – and the court - that her son was not being unlawfully detained, as she contended. As this is a habeas corpus application, and as the courts have frequently emphasised the relative informality of such an application, I was of the view that this habeas corpus application should be considered – even though it was three years since it had been drafted.

The application

3. The application was grounded on an affidavit sworn by Ms. B. on 13th March 2023. In the course of this affidavit, Ms. B. stated that she was the mother of two sons, including N.B. She indicated that she was making this application on the grounds of *"medical emergency as mother and children are being denied healthcare and fundamental personal constitutional and human rights negatively affecting health welfare and safety of the public aswell as applicants family"*. [sic]

4. She stated at paragraph 2 of her affidavit that *"criminal proceedings issued against the accused [the respondent] this year and partial discovery of new title errors on fraudulent District Court Family Law proceedings [DC TM 2022/00163 F. and M. R. v. TUSLA] which they were not entitled to apply for gaining fraudulent orders regards my young son without HSE and parental consent."* [sic]

5. At paragraph 3, she said she was making the application on the grounds of *"8 months of delay being violently blocked attacked and canceled in proceeding in the District Courts against the accused and others named on the new TMDC order."* [sic]

6. She stated at paragraph 6 that *"I discovered I had recovered from depression and cervical cancer around the time the subject N my second son was born in the Rotunda Hospital with the help of my GPS Keirnan at Watergate Medical Centre Navan Co Meath."*

7. At paragraph 9, she states: *"I was diagnosed with stress syndrome in 2015 and no mental disorder was seen by psychiatrists when [N.] was born in January 2016. It was the happiest time of my life but then we were targeted and assaulted shortly after birth in breach of the Health Act, unfairly and disproportionately treated and robbed of our dignity and security and healthcare since February 2016."* [sic]

8. She says, at paragraph 10: *"I had moved on and was successfully overcoming the trauma after being threatened in a case of mistaken identity, false impersonation and medical identity theft and in both of my family homes at [address] where my maternal family reside..."*

9. She says, at paragraph 11: *"I say I am mother of detained child [N. B.] (aminor) whos birth was registered by his mother by the [date] and who was taken illegally and held hostage while TUSLA made illegal demands and threats to take on LBC medical identity to cover up fraud in the court by TUSLA and [C.] family."* [sic]

10. At paragraph 2, she says: *" I say subject of proceedings [N. B.] (a minor) is applicant's youngest of two sons a 7 year old to which I'm updated whom is looking for his mother his home and his Christmas and birthday presents still in March 2023 as he's forbidden to talk to me and held in false custody in an estate in school in [N] town by [M] and [F] due to [C] family TUSLA file getting forged into our names resulting in the child missing from his home, community, school in [place] after being kidnapped from Rotunda Hospital and bored out in Lourdes hospital in a case of alleged mistaken identity as per garda and case of medical identity theft according to HSE Client Identity Service Medical Card Dept of HSE in Finglas."* [sic]

11. She says:

"I say I make this affidavit to support this ex-parte application to have my son N. released from false detention today urgently on health and safety grounds due to ongoing criminal behaviour by partes unknown to me and partial discovery of more identity theft in the Courts Services and health insurance company's breach of fundamental personal rights of the child's and his mother's rights inherent in Articles 40, 41, 42, 43 and 44 of the 1937 Irish Constitution." [sic]

12. The affidavit is lengthy, in many respects unclear, and makes numerous allegations against the respondent and various other parties.

13. It is clear to me from the various submissions made by Ms. B. that her primary concern here is what has happened to her son. In the circumstances, the sole focus of this judgment is the consideration of her habeas corpus application.

14. Having considered the papers, and in the light of the concerns expressed by Ms. B., I opened a habeas corpus enquiry and requested the Child and Family Agency to file a replying affidavit in this matter.

The response of the Child and Family Agency

15. On 3rd June 2026, Mr. Eoin Redmond, a principal social worker employed by the Child and Family Agency, who has responsibility in relation to the child, the subject matter of these proceedings, swore a replying affidavit on behalf of the Child and Family Agency.

16. He set out the circumstances of this case. He stated that the applicant is the mother of N.B., that N.B. was born on 20 January 2016 and that he is now 10 years of age. He states that the applicant was known to the Child and Family Agency prior to the birth of N.

17. Mr. Redmond, at paragraph 12 of his affidavit, exhibits a medical report of Dr. John D. Sheehan dated 22nd January 2016 – two days after N. was born. Dr. Sheehan was the consultant psychiatrist at the Rotunda Hospital and he saw P.B. for an hour on 22nd January

2016. In this medical report, Dr. Sheehan stated that *“diagnostically, Ms [B.] has a severe personality disorder. She has strong paranoid and persecutory ideas.”* He also said: *“Given her severe personality disorder and instability, I do not think she will be fit to have responsibility for her baby.”*

18. Based on concerns for the safety of the child, N. was first taken into the care of the Child and Family Agency by order of Dundalk District Court dated 19th February 2016 pursuant to section 17 of the Child Care Act 1991.

19. A second psychiatric report was furnished by Dr. Barbara Farraher, a consultant psychiatrist who met with Ms. B. on 28th June 2016 and also concluded that Ms. B. suffers from a paranoid personality disorder. She stated: *“from a mental health perspective her diagnosis is one of paranoid personality disorder.”*

20. Dr. Sheehan provided an updated report dated 16th December 2016 in which he stated that Ms. B.’s mental state was essentially unchanged since his last assessment. He stated:

“Ms [B.’s] mental state is essentially unchanged from my assessment in January 2016. She has a severe paranoid personality disorder, she has no insight and she is socially isolated. However, she clearly loves her son. Due to her mental health difficulties, I think it would not be possible for her to provide consistent and adequate care for her son.”

21. The District Court order was extended on various occasions, as required by section 17 of the Child Care Act 1991, until a care order was made by the Dundalk District Court pursuant to section 18 of the Child Care Act 1991 on 11th July 2017 with respect to N. until he reaches the age of majority. Mr. Redmond exhibited a copy of the said order.

22. Mr. Redmond states that the applicant was not present during the hearing, even though she was aware that the hearing was due to take place and that the matter would

proceed in her absence, and she was given ample opportunity to be present. The applicant's solicitor was however in attendance for the hearing.

23. Ms. B. continued to dispute the issue of her mental health before the District Court, and, by order of the District Court dated 14th March 2019, the Child and Family Agency were directed to procure an updated report with respect to the applicant's mental health. Unfortunately, however, the applicant persistently avoided engaging with any updated assessment.

24. The applicant appealed against the order of the District Court dated 11th July 2017 and her appeal was heard by the Circuit Court (Judge Colin Daly) sitting at Dundalk Circuit Court over a period of three days - on 18th and 19th May 2021 and 21st June 2021. The applicant represented herself throughout the course of this hearing. The court heard evidence from the social work team leader and two social workers. The court also heard from Dr. Emer Rutledge (consultant psychiatrist Mental Health Services Navan Community) on behalf of the Child and Family Agency. The court also heard evidence that the child's health development and welfare would be unavoidably impaired and neglected unless the court made an order pursuant to section 18 of the Child Care Act 1991 and that it was in the best interests of the child that the order be made until he reached the age of majority.

25. A guardian ad litem was appointed on behalf of the child; she gave evidence and was cross-examined by the applicant.

26. The applicant gave evidence on her own behalf and was afforded ample time to raise all issues regarding her objections to her son being in the care of the Child and Family Agency. The applicant was also provided with ample time and opportunity to cross-examine all witnesses which she duly did.

27. The Circuit Court gave its decision in which it summarised all the evidence and concluded that it was satisfied that the threshold for a section 18 care order had been made

and that it was proportionate that the care order would be made until the child reached the age of 18. The Circuit Court affirmed the order of the District Court granting a care order pursuant to section 18 of the Child Care Act 1991 until the child reached the age of 18.

28. It is clear, therefore, that there were grounds for the respondent to take the applicant's child into care and it is also clear that the child has been lawfully taken into care pursuant to orders of the District Court and Circuit Court.

29. Mr. Redmond also stated that, unfortunately, the Child and Family Agency has ongoing serious concerns about the applicant's mental health, and her behaviour, and the impact these matters would have on the child should he be returned to the care of the applicant.

30. Mr. Redmond also stated that following the child's admission to care, access took place on a regular basis for the first years of N.'s life. However, although many access visits were positive, other access visits were negative, due, he said, to Ms. B.'s behaviour and her inability to manage her emotions in the presence of the child.

31. Mr. Redmond states that there has been no access between the applicant and her son since January 2019, due to concerns about the applicant's behaviour during access, including the applicant refusing to return the child to the social worker after access, attempting to leave the access room with the child, resulting in the gardai being called, and the applicant becoming aggressive towards members of the social work department while holding the child.

32. Importantly, Mr. Redmond also states at paragraph 18 of this affidavit:

“The Child and Family Agency have offered the applicant alternating fortnightly face-to-face appointments and telephone calls in order to provide the applicant with regular updates on her son but these have been refused.”

33. Mr. Redmond, in his affidavit, also indicated that the applicant had brought numerous applications before the District Court, the Circuit Court and the High Court challenging the validity of her child being in the care of the Child and Family Agency. In particular, Ms. B. previously brought a judicial review application and an Article 40 application in respect of her child being in the care of the Child and Family Agency. The High Court (Meenan J.) delivered its judgment on 28th November 2022 in the case of *P.B. v. The Child and Family Agency* [2022] IEHC 654.

34. Mr. Justice Meenan stated in his decision at paragraph 3:

“It would appear that these Judicial Review proceedings were opened in Court on 22 December 2021. In addition, the applicant also sought relief pursuant to Article 40 of the Constitution in proceedings having record number 2021/1830SS. By order of the High Court, 22 December 2021, both the Article 40 application and the within Judicial Review proceedings were adjourned to 17 January 2022 to be heard together.”

35. At paragraph 4, he states:

“At a hearing on 28 March 2022, this court determined that as the issues set out in the Article 40 application were a replication of the issues in the Judicial Review proceedings, the matter would proceed by way of an application for leave for Judicial Review.”

36. Meenan J. stated at paragraph 13:

“In the course of numerous affidavits and submissions the applicant has failed to identify any want of jurisdiction, lack of fair procedures, or any legal infirmity in the manner in which her appeal was heard in the Circuit Court in May/June 2021.”

37. At paragraph 15, Meenan J. stated:

“By reason of the foregoing, I am dismissing both the Judicial Review proceedings and the Article 40 proceedings (Record number 2021/1830 SS).”

38. Mr. Redmond states in his final paragraph:

“I say that the Child and Family Agency would be gravely concerned for the health development and welfare of [N.] should he be returned to the care of the Applicant, and I say (...) that it is in his best interest and welfare that he continues to be placed in the care of the Child and Family Agency.”

39. Mr. Redmond also states in his affidavit that

“8. N.B. presents as happy, settled, and comfortable within his foster family. N. has developed a strong attachment to his foster carers and foster sibling. N’s foster carers continue to provide a stable and nurturing home environment which allows N. to thrive.

9. I say that N.B. is proceeding through adoption and contact has been made with the Applicant in this regard which has led to her presenting with significant emotional dysregulation.”

40. Ms. B. was offered an opportunity to put in a replying affidavit but she declined to do so.

Conclusion

41. This is an application by the applicant for a habeas corpus enquiry as to whether her son N. has been lawfully detained. It is a narrow and focused enquiry under Article 40.4.2 of the Constitution in which the court enquires into the legality of the detention of a particular person. I am satisfied, based on the evidence put before this court by the Child and Family Agency, that N.B. is in the lawful care of the Child and Family Agency, that he is being well cared for and that this court should not interfere in these arrangements. It is clear that the District Court, and the Circuit Court on appeal, have made valid and lawful care orders in

respect of the child. I am satisfied that N.B. is lawfully in the care of the Child and Family Agency and that he is not unlawfully detained. If Ms. B. wishes to obtain greater access to N., her proper course of action is to bring a further application to the District Court.