IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

2024/CLE/gen/01092

IN THE MATTER of the Status of Children Act, Chapter 130 of the Statute Laws of the Commonwealth of The Bahamas.

And

IN THE MATTER OF The Application for declaration of Paternity and an Application for the purpose of replacing from the Births Register as the father of the said male child, **VICTONIO DION ZHYON KNOWLES** of the Island of Inagua one of the Islands of the Commonwealth of The Bahamas.

And

IN THE MATTER OF an Application by **VICTOR ALEX KNOWLES** of the Western District of the Island of New Providence.

Applicant

AND

VICTORIO DION ZHYON KNOWLES

Respondent

Before:	**The Hon. Madam Justice J. Denise Lewis-Johnson MBE**
Appearances:	**Mikia Cooper of Counsel for the Applicant**
	Mario Gray of Counsel for the Respondent

Hearing Dates: 19th February2025, 14th May 2025, 31st July 2024, 14th November 2025.

Paternity – Presumption of paternity – Rebuttal of presumption after death – Child's right to identity

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JUDGMENT

INTRODUCTION

1. By Originating Summons filed 3rd December 2024 the Applicant sought the following relief:
    a) A declaration pursuant to Section 8 or 9 of the Status of Children Act Chapter 130 of the Statute Laws of The Bahamas ("the Act"), that the First Respondent is not the putative father of the Respondent, **VICTORIO DION ZHYON KNOWLES** born on the 27th day of July A.D. 2006 **("the infant");**
    b) The name of **VICTONIO DION KNOWLES** be deleted for the Register of Births as father of the Respondent.
    c) There be an Order directing the Register General to make the changes set out in paragraph B.
    d) Such further Order that the Court deems just and fit.
2. The Originating Summons was supported by an Affidavit of Victor Alex Knowles filed 3rd December 2024.

BACKGROUND

3. The Applicant is the father of Victonio Dion Knowles (The Deceased) who died 20 December 2022 and the "presumed" grandfather of the Respondent.
4. The Deceased and Doris Pyfrom, the mother of the Respondent, were involved in an intimate relationship in 2005 and she gave birth to the Respondent 27 July 2006.
5. The Deceased and Ms. Pyfrom were not married. The Deceased signed the Respondent's birth certificate as father.

6. Ms. Pyfrom made application for child support on 28 November 2014. The Administrator ordered the Deceased to pay maintenance of $65 weekly until the ordered DNA results were received.
7. In 2012 the Deceased was approved for a grant of Crown Land, Lot Number 80, Burnside and Taylor Streets, Matthew Town, Inagua. He built a two bedroom, one bath home on the property. The grant was never perfected.
8. The Respondent now resides in the home. The Deceased died intestate 20 December 2022.

APPLICANT'S EVIDENCE

9. That he is the father of the Deceased, who had an intimate relationship with (Doris E. Pyfrom herein after called DP) the mother of the Respondent in 2005. That in 2006, the said DP gave birth to the Respondent, that the deceased signed the Birth Register, however after two years "his son received information from a credible source that the Respondent may not be his biological child"
10. The deceased and the Respondent had DNA testing done in November 2014 and the results were released on the 25th November 2014 which confirmed that the Deceased was not the biological father of the Respondent.
11. That the Respondent did not accept paternity and when the said DP took the deceased to the Island Administrator sitting in Magistrate's court in Inagua, at the hearing the deceased requested a DNA test. That DP was well aware of the DNA test. The court issued a letter directing a DNA test to be done.
12. That the deceased and the Respondent went to Genetic Testing Laboratories and had the DNA test done which proved that the deceased was not the father of the Respondent.
13. That in December 2014 the deceased appeared before the Island Administrator for the hearing of the DNA test results, "which confirmed that the Respondent was not the biological son of the deceased." That the Magistrate's Court ordered the child support payments to cease and the mother was ordered to reimburse the deceased for all previous child support payments made.
14. That the deceased informed him on numerous occasions that he had doubts about the Respondent being his biological child.

15. That once the DNA results were revealed, which said the deceased was not the father, DP pleaded with the deceased to continue to support the Respondent as she was embarrassed and did not want the community to know. That the deceased continued to provide financial assistance when he was able to.
16. That the deceased became ill in 2011 and frequently travelled to the Cleveland Clinic for treatment, he died on the 20th December A.D., 2022.
17. That the Deceased and the Respondent never resided together in Inagua or any other island in the Bahamas. In January 2024, the Respondent moved into the deceased's home in Inagua. That the Respondent is seeking to unlawfully disinherit the true and rightful beneficiary.
18. That the deceased lived in Nassau with the Applicant and his wife from the age of 4 until he graduated from high school, the deceased then returned to Inagua to his mother.
19. That on the 11th April, A.D., 2012 DP sent a letter to the Island Administrator regarding arrears of maintenance.
20. That on the 4th November A.D., 2014 DP sent a letter to the Administrator requesting assistance in collecting child support payments from the deceased.
21. That the deceased told me the Respondent was not his child and that the Respondent told the deceased he was not his father.
22. That the deceased was granted property in Inagua by the Department of Lands & Surveys, however he never paid the required amount. On the property is a two bedroom one-bathroom house. The Applicant asserted that the deceased owned many assets.
23. That as the deceased was not the biological father of the Respondent, the deceased name should be removed from the birth certificate.

RESPONDENT'S EVIDENCE

24. That I am the son of the deceased Victonio Dion Knowles, who signed for his name to be put on my birth certificate.
25. That I have only known one man to be my father and I have only called one man daddy, that is the deceased. I am told my daddy gave me my name which is a part of his name.
26. That my father recognized me as his son up to the time of his death.

27. That after my father died my grandfather has been trying to illegitimize me by producing a fake DNA test.
28. That the Respondent objects to the DNA test used as evidence, as the Respondent has never participated in such test.
29. That my father and I had a very good relationship. He taught me how to fish and dive. That my father spent a great deal of time at the home of my mother, even after their separation. That for the most part, he would spend weekends and some evenings with me.
30. That my father provided for me as best he could, he would contribute to school, new clothes and food. Two weeks prior to his passing, my father sent $200.00 as a contribution towards my trip to Orlando.
31. That while my father was alive, we would often go to Nassau during the summer and would spend time with the Applicant and his wife. The Applicant never made me feel uncomfortable in any way, and always treated me as a grandson, when we visited his homes in Nassau. At no time did the Applicant turn me away or treated me with any ill feelings or bitterness.
32. That if the Applicant's assertion is to be accepted that I am not the biological son of my dad and my dad knew this, then he respected my dad's wishes while he was alive, as the Applicant never made me feel unwelcomed but he now chooses to disrespect my dad's wishes after he died.
33. That at no time on any of our visits did I go to a lab to have a DNA test done, I was nine years old based on the test the Applicant wishes the court to rely on, and I would have remembered that.
34. That the Applicant rarely visited Inagua.
35. That it was really my grandmother that built the house on my father's property. That my father spent the last of his life living with his sister Elva Lindo, next door. That my grandmother always said, "If anything happened to Ton, Torio that house is yours." That my aunts, Faith Seymour and Anita Cartwright, swore Affidavits that I am the owner of the house.
36. That my mother and I made extensive renovations to the property and we entered into an agreement with BPL to pay off the outstanding balance, the bill was in my grandmother's name.

37. That the land on which the house sits never belonged to my father nor does the house that resides on it. The Applicant would not be entitled to inherit the house.
38. That I have one name and one father who treated me as his son. The Applicant is seeking to ruin and undermine the memories, relationship and bond by removing my name.

EVIDENCE OF DORIS PYFROM

39. That I am the mother of the Respondent. That at his birth the deceased Victonio Dion Knowles, named the Respondent and signed the birth certificate.
40. That from birth the deceased never questioned me or indicated that he had doubts about the Respondent being his son.
41. That I never took the deceased to court for child support or custody.
42. That I never took the Respondent to have a DNA test done and do not believe one was done without me being present.
43. That the deceased provided for the Respondent by buying clothes, travelling with him and he assisted financially up to the time of his death.

ISSUES

44. The issues by the Applicant are:
    a) Whether the deceased, Victonio Dion Knowles, is the biological father of the Respondent, Victorio Dion Zhyon Knowles?
    b) Whether the deceased's name ought to be removed from the Register of Births?
45. The issues by the Respondent are:
    a) Does the Applicant have Locus Standi as a person having proper "interest" as described in section 9 of the **Status of Children Act Ch 130** (SOCA)?
    b) Does the Act give the Court the authority to make a declaration and order for the deletion and removal of the name of the deceased from the register?

THE LAW

46. **The Births and Deaths Registration Act, Chapter 188 Statutes Laws of The Bahamas,** Section 14 which provides:

    In the case of the birth of a child born out of wedlock —

(a) no person shall as father of such child be required to give information under this Act concerning such birth;

(b) a registrar or assistant registrar shall not enter in any register the name of any person as father of such child unless at the joint request of the mother and the person acknowledging himself to be the father, such request taking the form of a written declaration witnessed by the registrar, or an assistant registrar, or justice of the peace or a notary public.

47. **Child Protection Act, Chapter 132,** Section 4(c) provides:

A child shall have the right —

(a) of leisure which is not normally harmful, and the right to participate in sports and positive cultural and artistic activities;

(b) to a just call on any social amenities or other resources available in any situation of armed conflict or natural or man-made disasters;

(c) to exercise, in addition to all the rights stated in this Act, all the rights set out in the United Nations Convention on the Rights of the Child (the Convention) subject to any reservations that apply to The Bahamas and with appropriate modifications to suit the circumstances that exist in The Bahamas with due regard to its laws.

48. **The Status of Children Act (SOCA) Section 8 and 9** provides:

7 (1) "Unless the contrary is proven on a balance of probabilities, there is a presumption that a male person is, and shall be recognized in law to be, the father of a child in any one of the following circumstances —

(a) the person was married to the mother of the child at the time of its birth;

(b) the person was married to the mother of the child and that marriage was terminated by death or judgment of nullity within 280 days before the birth of the child, or by divorce where the decree nisi was granted within 280 days before the birth of the child;

(c) the person marries the mother of the child after the birth of the child and acknowledges that he is the natural father;

(d) the person was cohabiting with the mother of the child in a relationship of some permanence at the time of the birth of the child, or the child is born within 280 days after they ceased to cohabit;

(e) the person has been adjudged or recognized in his lifetime by a court of competent jurisdiction to be the father of the child;

(f) the person has, by affidavit sworn before a justice of the peace or a notary public or by other document duly attested and sealed, together with a declaration by the mother of the child contained in the same instrument confirming that the person is the father of the child, admitted paternity, but such affidavit or other document shall be of no effect unless it has been recorded with the Registrar General;

(g) the person has acknowledged in proceedings for registration of the child, in accordance with the law relating to the registration of births, that he is the father of the child;

(h) the mother of the child and a person acknowledging that he is the father of the child have signed and executed a deed to this effect in the presence of a counsel and attorney, but such a deed shall be of no effect unless it is notarized and recorded with the Registrar General prior to the death of the person acknowledging himself to be the father;

(i) a person who is alleged to be the father of the child has given written consent to that child adopting his name in accordance with the law relating to the change of name; or

(j) a person who is alleged to be the father of the child has by his conduct implicitly and consistently acknowledged that he is the father of the child.

(2) Where circumstances exist that give rise to presumptions of paternity in respect of more than one father, no presumption shall be made as to paternity."

8. *"For the purposes of section 7, where a man and a woman, in good faith, go through a form of marriage that is void, they shall be deemed to be married for the period during which they cohabit, and the presumption referred to in paragraph (b) of section 7(1) applies accordingly."*

9. *"(1) Any person who — (a) being a woman, alleges that any named person is the father of her child; (b) alleges that the relationship of father and child exists between himself and any other person; or (c) being a person having a proper interest in the result, wishes to have it determined whether the relationship of father and child exists between two named persons, may apply in such other manner as may be prescribed by rules of court to the*

court for a declaration of paternity, and if it is proved to the satisfaction of the court that the relationship exists the court may make a declaration of paternity whether or not the father or the child or both of them are living or dead.

(2) Where a declaration of paternity under subsection (1) is made after the death of the father or of the child, the court may at the same or any subsequent time make a declaration determining, for the purposes of paragraph (f) of subsection (1) of section 7, whether any of the requirements of that paragraph have been satisfied."

16. (1) *All dispositions made before the commencement of this Act shall be governed by the enactments and rules of law which would have applied to them if this Act had not been passed.*

(2) Where any disposition to which subsection (1) applies creates a special power of appointment, nothing in this Act shall extend the class of persons in whose favour the appointment may be made, or cause the exercise of the power to be construed so as to include any person who is not a member of that class.

(3) The estates of all persons who have died intestate as to the whole or any part thereof before the commencement of this Act shall be distributed in accordance with any enactments and rules of law which would have applied to them as if this Act had not been passed.

(4) In this section "disposition" means a disposition of real or personal property whether inter vivos or by will or codicil executed before the commencement of this Act.

17. *Nothing in this Act shall be construed to require the Registrar General to amend any prior registration showing parentage other than in recognition of an order made under section 9, 10 or 12. Amendment of prior*

DECISION

49. I am satisfied that the Applicant had locus standi to bring this application by virtue of being an interested party. Section 9 of the **Status of Children Act** provides for an interested party to bring an action to rebut the presumption of paternity. While the Act does not define who is an interested party, I find that the Applicant being a potential beneficiary on intestacy gives him enough proximity to the deceased to make him an interested party.

50. The alleged DNA test results were released on the 25th November 2014 at a time when the Respondent was eight (8) year old. He denies going to take the test and he was certainly old enough to remember doing so, even if he did not appreciate the nature and significance of the test and its results. If the court were to accept that the test in fact took place, three notable things followed: Firstly, the Administrator sitting as Magistrate in Inagua did not consider it or accept the DNA results, as he Ordered the parties to take another DNA test, this was done on the 9th December A.D., 2014. Secondly, being armed with the 25th November 2014 results the deceased for eight (8) years did nothing, he took no definitive steps to rebut the presumption that he was the father of the Respondent and thirdly, with a clear opportunity given by the Magistrate to settle the matter legally by having the Court Order DNA done, he once again for 8 years failed and or refused to act. These three facts are compelling.

51. While both parties evidence may be self-serving for personal reasons of inheritance on an intestacy, the sisters of the deceased acknowledged the Respondent as the son of the deceased and the person entitled to inherit. Inheritance is not an issue for this court, was the Respondent acknowledged, treated and accepted as the deceased son is what must be determined. The Court finds the Respondent's evidence truthful, he asserts that he always had a close relationship with his father, that his dad taught him how to fish and dive. That he travelled to Nassau with his dad often and would visit with his grandfather who never made him feel uncomfortable and never showed him any "ill feelings". That his father took care of him financially, providing food and clothing up to weeks before his death. There is an affinity in calling the Applicant his grandfather and the deceased his dad, that suggest more than a casual relationship.

52. The Applicant alleges that the deceased told him he was not the father of the Respondent, however the Applicant led no evidence that he encouraged his son to take steps to have the presumption rebutted. The Applicant for eight (8) years or more did nothing to assist the deceased in having his name removed from the birth certificate, it is now after the death of his son he seeks to rebut the presumption. The court finds that eight years was long enough for the deceased or the Applicant to have acted if they believed or wished to have his name removed from the birth certificate. There was an opportunity to act on the Magistrate Court's Ordered DNA test that would have legally and definitively determined if he was

the biological father and the maintenance order could have been stopped if he wasn't, the deceased failed to act.

53. Finally, the court does not accept the Applicant's assertion at paragraph 9 of his Affidavit filed the 4th April A.D., 2025 where he alleges that the Administrator in December 2014 accepted the DNA test results and "ordered the deceased to discontinue making child support payments." By the Applicants exhibit in the same Affidavit, noting the Administrator's last entry on the 9th December 2014 which states "Victonio Knowles will confirm the date he will do DNA." There is no such declaration on paternity or an order to cease maintenance payments.

54. This court is not prepared to act on the results of the DNA test exhibited by the Applicant, the Administrator Ordered a test fourteen (14) days after the results were known, had the results been accepted by the Administrator it was in that courts power to declare that the deceased was not the putative father.

55. The law is clear by the **Births and Deaths Registration Act, Chapter 188 Statutes Laws of The Bahamas,** Section 14 which provides:

14. In the case of the birth of a child born out of wedlock —

(a) no person shall as father of such child be required to give information under this Act concerning such birth;

(b) a registrar or assistant registrar shall not enter in any register the name of any person as father of such child unless at the joint request of the mother and the person acknowledging himself to be the father, such request taking the form of a written declaration witnessed by the registrar, or an assistant registrar, or justice of the peace or a notary public.

This confirms that the deceased voluntarily, jointly with the mother, acknowledged himself to be the father by written declaration which had to be witnessed by "the registrar, or an assistant registrar, or justice of the peace or a notary public."

56. The Court accepts the presumption of regularity, as provided for in Section 90 of the **Evidence Act, Chapter 65** which states "Where a person is proved to have done any act in any official or judicial capacity, the court shall presume, until the contrary is shown, that all circumstances had happened and all conditions were fulfilled which were necessary to give validity to such act." I therefore accept that the birth certificate was properly issued

with the deceased listed as father. I find it to be accurate and that the required acts were taken, requisite procedure and formalities were complied with to have the deceased name placed on the birth certificate of a child born out of wedlock, that is, he signed a written declaration with the appropriate witness. This presumption has not been rebutted.

57. The deceased freely had is name listed on the birth certificate as the father and thus by the **Status of Children Act,** (SOCA) Section 7(1)g which states "the person has acknowledged in proceedings for registration of the child in accordance with the law relating to the registration of births, that he is the father of the child." This presumption lasts unless it is rebutted.

58. The SOCA further provides per Section 7(1)j that "a person who is alleged to be the father of the child has by his conduct implicitly and consistently acknowledged that he is the father of the child." By the evidence of the Respondent and DP, the deceased always acknowledged the Respondent as his child. In addition, the sisters of the deceased Felicia Seymour and Anita Cartwright both signed an Affidavit of Heirship stating that the Respondent was the son of the deceased. I reject the Applicant's evidence that the only reason the deceased acted was not to cause embarrassment to the mother of the Respondent. When the deceased was taken to court for child maintenance and the deceased requested a DNA test, all embarrassing matters were made public, and done away with by DP. He could have ceased any relationship with the Respondent and take steps to have himself removed as father. The deceased continued by his conduct for years to engage with the Respondent as if he were his son, he provided financial assistance beyond what was Court Ordered, such as a contribution to an Orlando trip for the Respondent. There is no evidence that he wished or took the necessary steps to unequivocally rebut the presumption of paternity.

59. For all the reasons stated above I am not satisfied that on a balance of probabilities the presumption has been rebutted.

60. The Applicant raised the issue of paternity fraud by the mother of the Respondent and based on that principle the deceased's name should be removed from the birth certificate. I do not accept that argument and do not find this to be a case of paternity fraud. The deceased was not misled into believing he was the father and acted to his detriment suffering loss. The deceased had every opportunity for eight (8) years to determine

unequivocally whether he was the biological father of the Respondent. He acquiesced, he failed to act, this suggests an acceptance of paternity.

61. The court's obligation is always to act in the best interest of the child, having regard for the welfare of the child. Justice C.V. Hope Strachan in **S.A.C. (A Minor) and S.M. and A.D. 2023/CLE/gen/00856** stated:

> *"These considerations are consistently recognized in court of countries that are signatories to the Convention and in the House of Lords decision of J V C (1969) 1 All ER 788 where Guest J citing with approval Lindley, J in Re. McGarth 9infants) (1893) 1 Ch. 143 stated:*
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> *"The dominant matter for consideration of the Court is the Welfare of the child. But the welfare of the child is not to be measured by money only, nor by physical comfort only. The word welfare must be taken in its widest sense. The moral and religious welfare must be considered as well as its physical well-being. Nor can the ties of affection be disregarded."*

62. The child has a right to an identity per the United Nations Convention on the Rights of the Child (the Convention) which has been incorporated into Bahamian law through Section 4(c) of the Child Protection Act. This right per Article 7 of the Convention states:

> *"1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible the right to know and be cared for by his or her parents."*

63. Further by Article 8 of the Convention states "parties undertake to respect the rights of the child to preserve his or her identity, including nationality, name and family relations as recognized by the law without unlawful interference."

64. Considering the above the Court is prepared to preserve the identity of the Respondent, noting that at the time of the deceased's death the Respondent was a minor.

CONCLUSION

65. The court having regard to all of the above, particularly that the deceased signed the Birth Certificate allowing his name to be put thereon, the deceased's conduct toward the Respondent, treating him as his child, the deceased's financial support and acknowledgement of the Respondent, the deceased failure to take steps for eight (8) years

to have his name removed from the birth certificate and thereby rebutting the presumption of paternity, the evidence of the deceased sisters, the law and the convention, finds that the deceased was and is the presumed father of the Respondent. The Court will not allow the Applicant to do in death what the deceased failed and or refused to do in life.

66. Having considered the evidence of the parties, the submissions of Counsel for the Respondent and the law, the Court orders as follows: -

    1. The deceased Victonio Dion Knowles is the biological father of the Respondent Victorio Dion Zhyon Knowles.
    2. The deceased name is not to be removed from the Birth Certificate of the Respondent.
    3. The Applicant has locus standi in the capacity as an interested person to bring this action.
    4. The court has the authority to make a declaration and order for the deletion and removal of the name of the deceased from the register.
    5. Cost to the Respondent to be taxed if not agreed.

Dated the 15TH day of July, A.D., 2026

The Hon. Madam Justice J. Denise Lewis-Johnson MBE