

Court of Appeal Clarifies Approach to "Pool Findings" in Serious Non-Accidental Injury Case

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1. Our team, comprising [June Venters KC](#) and [Rachel Temple](#), represented the intervenor in the significant Court of Appeal decision of [Re B \(A Child: Uncertain Perpetrator\) \[2026\] EWCA Civ 1024](#).
2. The case concerned a young child who had suffered multiple serious non-accidental injuries over a number of months. Following a 13-day fact-finding hearing, the trial judge made extensive findings that the intervenor had deliberately inflicted a series of grave injuries, including fractures and facial injuries. The court also found that the child's mother had failed to protect the child and had failed to seek appropriate medical attention.
3. The appeal did not challenge the overwhelming majority of those findings. Instead, it focused on three areas of bruising in relation to which the trial judge had concluded there was only a "pool" of possible perpetrators, namely the mother or the intervenor.
4. On appeal, the Court of Appeal allowed the mother's challenge to those limited findings. Delivering the leading judgment, Lord Justice Peter Jackson concluded that, when the evidence was viewed as a whole, the trial judge should not have remained in a state of uncertainty. The court held that the wider factual matrix, including the intervenor's responsibility for numerous other injuries, meant that it was more likely than not that he had also caused the three disputed bruising injuries. The pool findings were therefore set aside and replaced with positive findings against the intervenor.
5. Although the appeal was successful, the decision is notable for the Court of Appeal's strong endorsement of the trial judge's handling of the wider case. The court described the first instance judgment as "impressive and well-organised", recognised that it contained correct legal self-directions, and emphasised that the extensive findings relating to the

intervenor's responsibility for eight separate injuries were supported by "compelling reasoning". Those findings were not appealed and remained undisturbed. [1](#)

6. The judgment provides important guidance on the proper approach to uncertain perpetrator cases. The Court of Appeal reaffirmed that where there are only two possible perpetrators, the court should rigorously compare the evidence against each individual and seek, where possible, to identify the actual perpetrator rather than defaulting to a pool finding.
7. This case demonstrates the complexity of serious fact-finding proceedings in the Family Court and the importance of careful appellate scrutiny where findings concerning perpetration may have significant welfare consequences. It also highlights the value of specialist advocacy in cases involving complex medical evidence, credibility assessments and uncertain perpetrator principles.

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