

# *The Father (Appellant) v Worcestershire County Council (Respondent)*

## [2025] UKSC 1

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*Matiss Krumins, 3PB, represented the local authority before the Supreme Court in respect of the father's appeal.*

1. The appeal concerns an application made by a father for a writ of habeas corpus seeking the release of his two children from the care of Worcestershire County Council. The children were placed under a care order made by a District Judge in the Family Court on 9 June 2023 under section 31 of the Children Act 1989. The father's application for a writ of habeas corpus was dismissed by the High Court on 15 April 2024, and the father's subsequent appeal to the Court of Appeal was also dismissed on 20 June 2024. The Court of Appeal agreed that the correct process for the father was to appeal the care order, not to apply for a writ of habeas corpus. The father appealed to the Supreme Court.
2. The Council argued that the children were not detained but living in a domestic setting with foster parents.
3. The Supreme Court considered whether the children were detained and whether habeas corpus was an appropriate remedy. The Court concluded that the children were not detained, as they were living with foster parents in a domestic setting. The Court also held that habeas corpus was not the correct process for challenging the care order. The proper procedures were an appeal against the care order or an application to discharge the order under section 39 of the Children Act 1989.
4. The Court emphasized that habeas corpus is a remedy for unlawful detention and is not appropriate for challenging care orders unless there are extreme or unusual circumstances amounting to unauthorized detention. The Court noted that the father had not pursued an appeal or an application to discharge the care order, which remained in force. The Court

also highlighted the procedural advantages of an appeal or discharge application, including the appointment of a guardian to safeguard the children's interests.

5. The Supreme Court dismissed the father's appeal, agreeing with the lower courts that the application for a writ of habeas corpus was inappropriate. The Court reiterated that the father should have used the available remedies under the Children Act 1989 to challenge the care order. The Court also noted that the father could still seek permission to appeal out of time or apply to discharge the care order.
6. In conclusion, the Supreme Court held that the children were not detained, and the father's application for a writ of habeas corpus was not the correct process for challenging the care order. The Court dismissed the appeal and emphasized the importance of following the proper procedures under the Children Act 1989 to protect the welfare of the children.

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