

**A MOOT PRESENTED BY THE CALIFORNIA LAWYERS ASSOCIATION  
IN ASSOCIATION WITH THE INNS OF COURT COLLEGE OF ADVOCACY,  
INTERNATIONAL COMMITTEE**

**CONVENED AT THE HONOURABLE SOCIETY OF THE INNER TEMPLE  
ON 9 APRIL 2024**

**IN THE COURT OF APPEAL (CIVIL DIVISION)  
ON APPEAL FROM THE HIGH COURT OF JUSTICE  
FAMILY DIVISION  
MRS JUSTICE JONES**

**Royal Courts of Justice  
Strand  
London, WC2A 2LL**

**B E T W E E N:**

**JENNY ADÃO**

**Appellant**

**-and-**

**JEREMY FOOKS**

**Respondent**

**Before:**

**LORD JUSTICE ANDREW MOYLAN**

**MRS JUSTICE LIEVEN**

**HIS HONOUR JUDGE MICHAEL SOLNER**

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**Re AA (A Child) (Abduction / Inherent Jurisdiction)**  
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1. This appeal concerns two discrete grounds pursued by Ms Jenny Adão, which are both opposed by Mr Jeremy Fooks, and which pertain to Alfie, their son, born in 2013. Ms Adão and Mr Fooks met in Santa Clara County, California in 2010 where they were both employed on work visas. They never resided together, though they lived close to one another in Santa Clara County. Despite having Alfie, they never married but shared equally the responsibilities of his care, until they became estranged. Mr Jeremy Fooks is a French national who has British citizenship. Ms Adão is a Portuguese national. She worked for Apple

developing programs for academically gifted children. That job provided her with a work-based visa. Mr Fooks was employed as a software engineer at the San Francisco office of Riot Games and worked on various versions of the game 'League of Legends'. He also had a visa that permitted him to live and work in California.

2. There is no dispute that the parties are the parents of Alfie.
3. Ms Adão and Mr Fooks met in **May 2010** in California at a long-distance learning class in which both enrolled as students at the School of Oriental and African Studies ('SOAS'), a constituent part of the University of London.
4. Ms Adão gave birth to Alfie in **February 2013**. Mr Fooks signed a Voluntary Declaration of Parentage ('VDOP') at the hospital and his name was listed on the birth certificate as the father of Alfie. The parties did not immediately file the VDOP with the court.
5. The parents never lived together, but always lived close by one another in Santa Clara County and shared parenting time on an equal basis. Alfie attended a private elementary school, Stratford, in Palo Alto, a city in the northwestern corner of Santa Clara County, California, and the parents shared the costs of his tuition equally.
6. Both parents valued education and a well-balanced extracurricular schedule and Alfie was active in school, as well as taking part in sports and computer related activities and he had many friends in California.
7. Mr Fooks' parents and extended family live in London and he took Alfie to visit his family on a regular basis, at different times over the years. He and Ms Adão had always agreed on these trips in advance, and she signed any necessary paperwork to allow Alfie to leave California. Mr Fooks always returned Alfie so that he would not miss any school in California.
8. Ms Adao's family live in Portugal. During spring break, in 2021, Ms Adão took Alfie to Portugal ostensibly to visit her elderly and ailing parents and, without the permission of Mr Fooks, secretly enrolled Alfie in school in Lisbon. Mr Fooks discovered what Ms Adão had done, and he went to Portugal in a bid to persuade her to return Alfie to California. Reluctantly, Ms Adão agreed. She made the necessary arrangements for Alfie to resume his school place at Stratford, Palo Alto.
9. In **February 2022**, Mr Fooks applied to transfer to the London office of Riot Games. He did not tell Ms. Adão. His request was approved, and his new job was to start in June. He told Ms Adão that he was taking Alfie to visit his family

in London for the summer and when Alfie's summer break started in June at Stratford, Palo Alto, he took his son to London, with the written permission of Ms Adão.

10. Mr Fooks and Alfie stayed with Mr Fooks' parents in London. Initially Mr Fooks and Ms Adão spoke often, and Ms Adao believed that Mr Fooks was going to return to California with Alfie at the end of the summer holiday. Over time, Mr Fooks stopped calling and Ms Adao was unable to reach him in order to speak with Alfie.
11. In **June 2022**, as soon as he arrived in London, Mr Fooks enrolled Alfie at Newton Preparatory School in Battersea, South London. Alfie started there in June before the school broke up for the summer holiday in July. Ms. Adão was not made aware that Mr. Fooks had enrolled Alfie at the school.
12. During the summer, Mr Fooks enrolled Alfie in several extra-curricular classes and Alfie participated in many sporting activities, including football and cricket, as well as a special children's gaming program, sponsored by Mr Fooks' employer, to encourage children to develop greater computer programming skills. In addition to his new friends at Newton Prep, Alfie made several new friends through his activities while living with Mr Fooks' parents.
13. Mr Fooks and Alfie stayed in London after the summer holiday ended. Mr Fooks arranged for Alfie to begin the autumn term at Newton Prep and Alfie duly did so.
14. Alfie flourished whilst living in London with his father and his paternal grandparents. He was elected captain of Newton Prep's football team and achieved high marks in every one of his classes.
15. In **March 2023**, Ms Adão filed a Petition to Determine a Parental Relationship, in Santa Clara County, California. She attached the VDOP previously signed by Mr Fooks and contending that Mr Fooks was Alfie's father. She then obtained a temporary emergency order, alleging child abduction, and asserting that Mr Fooks had misrepresented his intentions when taking Alfie to visit his family in June 2022, and that he had subsequently prevented her contact with Alfie. The court set the matter for hearing, granted Ms Adao temporary sole legal and physical custody of Alfie, and ordered that Mr Fooks return Alfie to California. Ms. Adão claimed that California was Alfie's usual and customary residence.
16. Ms Adão retained a solicitor in London to apply to the court through the Hague Convention procedure to serve Mr Fooks with her petition and related documents, including the California court orders and notice of hearing date. Mr Fooks was properly served with a copy of these documents at his place of employment in London.
17. Mr Fooks did not return to California after Ms Adão issued her parentage proceedings, nor did he instruct counsel to appear in the Santa Clara County Superior Court on his behalf. He was unrepresented. Instead, Mr Fooks issued

proceedings in London, in the Family Division of the High Court of England and Wales. Mr Fooks submitted that the tardiness of Ms Adão's claim in California was fatal to its success. While Mr Fooks acknowledged he is Alfie's father, he contended that the Courts of California did not have jurisdiction to hear or determine any proceedings whatsoever in connection with Alfie because Alfie had become a habitual resident in England and Wales.

18. After a hearing in the Family Division of the High Court of England and Wales, at which both Mr Fooks and Ms Adão were represented, Mrs Justice Jones:
  - i. concluded that the court in the United Kingdom had jurisdiction over the matter; and
  - ii. determined that Alfie had become habitually resident in England and Wales.

**Appeal:**

**Ms Adao sought, and was granted, permission to appeal the decision of Mrs Justice Jones on the following two grounds:**

- (1) That the Learned Judge erred in declaring that the High Court of Justice in England and Wales had jurisdiction to determine the matters of custody and visitation, which should properly have been decided by the Court in California;**
- (2) That the Learned Judge further erred in determining that Alfie had become habitually resident in England and Wales. On the facts, California remained his habitual residence, and she should have so determined.**

**Dated this 9th day of April 2024**