

Divorce Proceedings

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March 2025

Did the wife instruct an imposter to fraudulently enter a signature on a marriage certificate? A case that echoes the dramas of reality TV, dealing with the validity of a marriage.

Z v Z [2025] EWHC 276 (Fam)

Facts

Parties were married under the customs of Islamic law, but not according to the laws of England & Wales on 4 August 1999. The parties are first cousins and at the time of their Islamic marriage, the husband had a civil and Islamic marriage to and divorce from another person. Similarly, the wife had a civil and Islamic marriage to another person, she did not obtain a civil divorce until 2005. The husband asserted that the marriage certificate produced from the registry office on 4 August 1999 was fake because he never had a civil marriage to the wife, and he was not there on that date.

The parties separated in 2013 and by that time, the husband had married a second wife by an Islamic ceremony in 2009 which continued at the time of the judgment. An Islamic divorce was made in 2022, and in June 2022 the wife made an application for divorce in relation to the civil marriage. The husband acknowledged that he had a religious Islamic Nikah to the wife, but says the marriage was not registered in December 2009.

The Court were asked to determine a simple question was the husband resent at the civil wedding in December 2009 as certified on the certificate of marriage and confirmed by the Register, or had the wife tricked the Registrar with an imposter who had fraudulently signed the husband's name.

It was noted in the judgment at paragraph 17, that the wife could produce no photographs of the wedding, no family members to support her account that the husband was present at the registry office, there had been no mention of the civil marriage ceremony during the Children Act proceedings and, that it made no sense for the wife to have married the husband when she alleged in Children Act proceedings that he was abusing her at the time, and when he had just entered into an Islamic marriage with his second wife.

Law

Paragraph 19 onwards deals with the law in this area of law. The judge was referred to L-K v K (no 3) [2006] EWHC 3281 (Fam) for the proposition that:

‘The best evidence certainly of an English ceremony, and indeed a religious ceremony, is a certificate which sets out the date, place and parties to the marriage ceremony.’

Trowell J also referred to the case of Islam v Islam [2003] EWHC 1298 (Fam) in which Coleridge J found that the purported husband had not attended an English civil marriage ceremony for which there was a certificate. Coleridge J in that case made a declaration that there was no marriage.

Counsel for the wife argued that even if the judge found that the husband had not attended the ceremony, the presumption of marriage would apply given the parties cohabited, had children together and held themselves out as husband and wife. Given it was the husband alleging fraud, the burden was on him to prove the same. The judge agreed that the burden of proof was on the husband [p25].

Counsel for the husband argued that the judge was required to look at the totality of the evidence and that the entry of the marriage on the register was only prima facie evidence, and not conclusive. Trowell J agreed [p25] that the entry on the register is the starting point, and other evidence should be weighed against that, including steps that the Registrar will have taken to ensure that the ceremony was not a fraudulent one, by considering who was in front of them at the time.

Evidence

The information provided to the Court by the Superintendent Registrar for the Registry Office [p29-33] was clear that, in accordance with the 2009 handbook, the registration officer would have been required to request documentary evidence from the person giving notice. The types of evidence included a UK issued birth certificate, a British passport, National ID card, or if the person were born abroad, a valid passport or Home Office travel document. The certificate was signed by both parties, the official, and two witnesses who were not called to give evidence.

Both parties gave oral evidence. In cross examination [p43-62], the wife was pressed on the steps that she had taken to find the formal witnesses listed on the marriage certificate. She responded that she had not taken any, and she did not know the witnesses either before or after the ceremony. She said they were friends of the husband. When asked about a meal held to celebrate the marriage after the purported ceremony, she said that some 30 people had attended, none of whom had been approached to give evidence at the hearing. The husband's sister gave evidence on the third day and said that no such meal had taken place [p72].

The husband's oral evidence was consistent that he was not present at the Register Office. However, Trowell J noted at paragraphs 66 and 67 that the husband was prepared to lie to try and get his own way, after the husband admitted in evidence that a document, drawn up by him, purporting to be an Islamic divorce from his second wife, was false; and that the husband had lied about pleading guilty to a charge of perverting the course of justice in 1994 for which he received a 12-month conditional discharge.

Other evidential points of note were [p75-82]:

- No handwriting expert had been instructed to offer an opinion on whether the husband's signature on the marriage certificate, was the same as the one on his passport in 2009, or whether his signature had changed over time.
- The wife repeatedly used her maiden name. This was used by the husband to advance the argument that the parties were not married.
- The wife had not called any of her family members to give evidence because she was private about her marriage because of the domestic abuse she had suffered. The husband argued that if the wife had not even told her mother, it was unlikely there was a marriage.

Judgment [p83-90]

On the totality of the evidence, Trowell J found in favour of the wife. The starting point had to be that the marriage certificate, was evidence that there was a marriage that was recorded in the register. The notion that it was not the husband's signature was a weak argument, unsupported by expert evidence. On the face of it, the signatures in the passport and certificate were similar. The fact that the Registrar was required to confirm the identity of those present at the ceremony, including photo ID strongly suggested that the husband was part of the ceremony. The idea of an imposter was highly unlikely.

The fact that the wife could not produce no supporting evidence, such as pictures and photographs to say that the wedding happened does not stand to scrutiny when one considers the wedding was in 2009, a long time ago where it was difficult to produce corroboratory evidence. Furthermore, culturally, civil ceremonies were not celebrated. Finally, the fact that the wife did not tell her mother, whilst weighing against the idea there was a marriage, did not carry as much weight as the husband hoped.

The fact the wife never referred to the civil ceremony in the Children Act proceedings was remarkable. It was a factor that weighed against there being a marriage. The fact that the wife would have never married the husband because, on her case, he was abusing her at the time. This was not as compelling as the wife's evidence that she wanted to stay with the husband. The husband's credibility given the finding that he perverted the course of justice in 1994 carried very little weight. However, the deception as to the document drawn up by the husband purporting to divorce his second wife did carry some weight as it was evidence of the husband carrying out a deception to his advantage.

Practical Consequences

Proving fraud is, and always has been, an extremely difficult exercise in family proceedings. This case is another example of the difficulty in proving such allegations, even where the contemporaneous evidence rebuffing fraud is lacking.



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