IN THE FAMILY COURT AT EAST LONDON

6th and 7th Floor
11 Westferry Circus
London
E14 4HD

Date: 6 January 2023

Neutral Citation Number: [2023] EWFC 3 (B)

Before:

HER HONOUR JUDGE REARDON
[Sitting in private]
- -

In the matter of an application for a Declaration of Parentage under FLA 1986, s 55A

Steven Lord Lloyd-Bagrationi **Applicants**
Kate Lloyd-Bagrationi

Respondents

The estate of Stephen Henry Lloyd (deceased)
The estate of Kate Bagrationi (deceased)
- -
- -

The applicants appeared as litigants in person.

Hearing dates: 5 and 6 January 2023

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JUDGMENT

HER HONOUR JUDGE MADELEINE REARDON :

Introduction

1. This is an application for a declaration of parentage brought by joint applicants, Steven Lord Lloyd-Bagrationi ("the first applicant") and Kate Lloyd-Bagrationi. They are brother and sister, and live in the Republic of Georgia. Both are aged in their 50s. They are not legally represented.
2. There are no living respondents to the application. The applicants seek a declaration that their father was a British man called Stephen Henry Lloyd, who died in 1971. The other potential respondent to the application, Kate Bagrationi, the applicants' mother (who was Georgian), died in 2010. The applicants are the only children of their parents. In those circumstances it seems to me that there are good reasons to waive the obligation imposed by FPR 2010, r.8.20 to consider identifying and joining a personal representative of either deceased respondent.[1]
3. It is the applicants' case that they are members of both the English and the Georgian royal families. At points in the proceedings the applicants have used a variety of titles (eg "The Right Honourable"). In this judgment I intend to refer to them simply as the applicants. I mean no disrespect to them in doing so.
4. The underlying purpose of the application, as the applicants have repeatedly made clear, is to establish their paternity as a route to obtaining British citizenship.
5. Although the proceedings were issued in May 2021 the court's jurisdiction to hear the application has not yet been determined. The reason for that is that there have been significant difficulties in establishing reliable communication with the applicants. It has not been possible for the applicants to attend recent hearings, either in person or remotely, and in the end, after several attempts at communicating effectively with the applicants by any means other than email, I determined that the application should be dealt with on paper and made directions accordingly.
6. The evidence on which the applicants rely in order to support their case as to jurisdiction overlaps to a significant extent with their evidence in support of the substantive application. For that reason, and because it has not been possible to deal with the issue of jurisdiction at any of the preliminary hearings, I intend in this judgment to consider first the totality of the evidence filed, before turning to my conclusions in respect of both jurisdiction and, subject to my decision on that, the substantive issues with which the application is concerned.

The proceedings

7. The application was issued on 15.5.21.
8. A first directions hearing took place remotely before Recorder Stirling on 15.7.21. The applicants attended by telephone. The Recorder considered the issue of jurisdiction and expressed a preliminary view, but did not decide the issue due to the lack of evidence then available. He made comprehensive directions for the filing of evidence.

[1] Following the approach taken by Mostyn J in *Aylward-Davies v Chesterman* [2022] EWFC 4.

9. Recorder Stirling also directed, pursuant to FLA 1986, s 59, that the papers should be sent to the Attorney-General so that she could take a decision whether or not to intervene. It is recorded on the order that the reason for the referral was the fact that the applicants' motivation for the application, which was likely to be unopposed, was to obtain British citizenship. There were then substantial delays, initially because the court office failed to send the papers to the Attorney'General's office as directed, and then because the response from the Attorney-General's office was delayed.
10. An ineffective hearing took place before Recorder Main Thompson on 11.2.22. At that hearing the case was re-allocated to me.
11. On 13.7.22 the Attorney-General indicated that she did not intend to apply to intervene in the proceedings.
12. Since the proceedings were allocated to me in February 2022, six hearings have taken place (or been attempted).
13. On 19.4.22 the court did not send out a link until after the hearing was due to start.
14. On 20.6.22 the second applicant did not join the hearing. The first applicant did not join the hearing himself, but a McKenzie friend joined on his behalf and the first applicant was connected by a Skype link to her phone. This was a very unsatisfactory means of communicating with him, first because it was very difficult to hear what he was saying over a link that was 'doubly' remote, and secondly because, perhaps understandably, his McKenzie friend was very anxious to speak on his behalf and tended to provide her own answers to questions rather than permitting a direct exchange between the first applicant and the court.
15. In advance of the next hearing on 13.7.22, my clerk made attempts to find a means by which the applicants could join a remote hearing and communicate directly with the court. Two videolink methods were attempted: the court's own video platform, CVP, and MS Teams. The applicants were also offered the opportunity to dial in to the hearing via a telephone link. None of these methods worked. I adjourned the hearing and set out on the face of the order the need for the applicants to ensure that they were able to join the next hearing by videolink or telephone.
16. The court made a further attempt to hold an effective hearing on 1.9.22. The first applicant's device joined the CVP link but he could not be seen or heard. My clerk invited him to dial in to the hearing by telephone but he informed her (by email) that he did not have sufficient credit on his phone to do so.
17. I took the decision at this point that the applications needed to be timetabled to a conclusion. I listed a final hearing to commence on 5.1.23, and a pre-trial review on 6.12.22. In my order I set out (a) the gaps in the evidence which I had identified, following a review of the documents submitted by the applicants, and (b) the practical steps that needed to be taken in order for an effective final hearing to take place. Among those steps was a direction that the applicants should contact the dedicated Foreign and Commonwealth Office email address provided in CPR Practice Direction 32[2], to establish whether there was likely to be any legal or diplomatic objection to either giving evidence remotely from Georgia. As far as I am aware that direction was not complied with. Nor did the applicants comply with a direction that each should file a separate witness statement accompanied by a statement of truth.
18. At the PTR on 6.12.22 it was, again, not possible to join either applicant to the remote link and it was clear that, given the applicants' apparent inability to travel to the UK for the hearing, it would not be

[2] The equivalent FPR provision is PD 22A, but for some reason, although the guidance (para 5) is the same, the FPR version does not include the email address.

possible for me to hear oral evidence at the final hearing. I considered whether the application should be dismissed but determined, and recorded on the order, that the fairer course would be to proceed to determine the application on the papers. I gave the applicants a final opportunity to comply with directions made for the filing of evidence, reduced the time estimate for the hearing and dispensed with the requirement for the applicants to attend.

19. I recognise that the circumstances in which I am deciding this application are unsatisfactory. Although the applicants have now filed separate witness statements in the required form, in response to the direction repeated at the PTR, the content of each statement is identical and each simply repeats passages from previous documents. There remain a number of areas where the applicants' evidence lacks clarity and there would therefore have been a significant benefit in hearing their oral evidence. I am troubled by the fact that this has not been possible.

Background

20. The background facts, as asserted by the applicants, are as follows.
21. The applicants were both born in the Republic of Georgia. Their case is that their father was British and their mother Georgian. Their parents met in Moscow, and married in Georgia in 1965.
22. The applicants' father died unexpectedly as a result of a car crash in December 1971, a few weeks after the second applicant's birth. Thereafter their mother remarried and their stepfather, a Georgian man called Omar Svanidze, adopted them. Their mother died in 2010.
23. The applicants say that in recent years the Georgian authorities have refused to recognise them as Georgian and have revoked their Georgian citizenship. I have struggled to understand why that would be in circumstances where both applicants were born and currently live in Georgia, and there appears to be no dispute about their mother's Georgian nationality at least. Be that as it may, it is the applicants' case that this development led them to make enquiries with the (UK) Home Office as to how they might establish British citizenship by descent. They were told that they would need to provide documentation in support of their claim, including their father's birth and marriage certificates, and their own birth certificates. They have been unable to provide all of the documentation required by the Home Office, in particular their father's birth certificate. They have made this application in the hope that a declaration of parentage will assist them.
24. The applicants' case is that their father was a member of the British royal family (and, although not relevant for the purposes of this application, that their mother was a member of the Georgian royal family.) They say that he was born on 22.10.39. They have not been able to find any record of his birth or family, or indeed any documentation supporting his connections with the UK, and believe that this is because all records were destroyed in the war.
25. In 2007 and 2010 the first applicant initiated legal proceedings in two different courts in Georgia in an attempt to establish his paternity. I have summarised the judgments given by the Georgian courts below.
26. The first applicant says that he has lived in the United Kingdom for a substantial part of his adult life. Despite clear directions from the court, he has never given dates for his period of residence here. He informed the court at the first hearing in these proceedings that he had not lived in the UK for "two or three years".
27. The second applicant, as far as I am aware, has never visited the United Kingdom.

The law

28. The application for a declaration of parentage is brought under FLA 1986, s 55A. S 55A(1) enables the court to give a declaration "as to whether or not a person named in the application is or was the parent of another person so named."
29. Where the declaration sought is as to whether or not a named person is the parent of the applicant, the application may be made as of right and there is no need for the applicant to show a "sufficient personal interest" in the application: S 55A(3) and (4).
30. S 55A(2) provides:

> (2) A court shall have jurisdiction to entertain an application under subsection (1) above if, and only if, either of the persons named in it for the purposes of that subsection –
>
> (a) is domiciled in England and Wales on the date of the application, or
>
> (b) has been habitually resident in England and Wales throughout the period of one year ending with that date, or
>
> (c) died before that date and either –
>
> (i) was at death domiciled in England and Wales, or
>
> (ii) had been habitually resident in England and Wales throughout the period of one year ending with the date of death.

31. As will become apparent, there is no prospect in this case of establishing jurisdiction on the basis of the habitual residence in England and Wales of either the applicants or their putative father. Jurisdiction will therefore depend on domicile.
32. According to English law a person is, in general, domiciled in the country in which, as a matter of English law, that person's permanent home is located.[3] However a person may sometimes be domiciled in a country without having a permanent home in it.[4]
33. A person may only be domiciled in one place at any one time.[5]
34. Every person receives at birth a domicile of origin. A legitimate child born during the lifetime of its father has its domicile of origin in the country in which its father was domiciled at the time of its birth.[6]
35. A non-dependent adult may aquire a domicile of choice by the combination of residence and intention of permanent or indefinite residence, but not otherwise.[7] "Residence" means "physical presence in that country as an inhabitant of it".[8] There is no minimum period of residence; an immigrant may acquire a domicile immediately upon arrival in the country in which he or she

[3] Dicey and Morris, Conflict of Laws, 16th Ed, Chapter 6, Rule 6(1)
[4] Ibid, Rule 6(2)
[5] Ibid, Rule 8
[6] Ibid, Rule 11(1)
[7] Ibid, Rule 12
[8] *IRC v Duchess of Portland* [1982] Ch. 314, 318-319

intends to settle[9], provided that he or she intends to reside there "permanently or for an unlimited time".[10]

36. A domicile of choice is lost if the person ceases to reside there *and* ceases to intend to reside there permanently or indefinitely.[11] If a domicile of choice is lost and not replaced by another domicile of choice, the person's domicile of origin will revive.[12]
37. In determining facts, the court applies the civil standard which is the balance of probabilities. That means that a fact will be established if the court considers that it is more likely than not if it is true. The burden of establishing a fact lies with the party who asserts it. The court's findings must be based solely on evidence, including inferences that may properly be drawn from the evidence, and not on suspicion or speculation.
38. The court must have regard to all the evidence, and may take into account a variety of evidence including documentary evidence and witness statements (which the court may permit into evidence even if they are defective or not in the proper form: FPR 2010, PD22A, para 14.2.) Copy documents may be exhibited, but the originals should be made available for inspection: PD22A, para 11.2.
39. The powers of the court in this application are limited to making (or refusing to make) the declaration sought by the applicants. It is clear from the applicants' written and oral evidence that their real aim is to obtain British citizenship. That is not a matter with which this court is directly concerned. Even if I were to make a declaration of parentage, the applicants would still need to satisfy the Home Office that their father was himself a British citizen and that they are entitled to British citizenship by descent.
40. The applicants have sought to rely on the findings of different courts in the Republic of Georgia. The decisions of those courts are not admissible in these proceedings as evidence of the underlying facts on which the decisions were based: see the rule in *Hollington v Hewthorn* [1943] 2 All ER 35. [13] In any event, as I understand those decisions they relate to the family relationship between the applicants and their father and do not include findings in respect of the applicants' father's own nationality or background.

<u>The evidence</u>

41. Throughout their evidence the applicants have urged the court in strong terms to grant their application on the basis that they are suffering severe disadvantage and hardship as a result of their inability to establish British citizenship. However the declaration which they seek may be granted only if the relevant facts are established to the applicable standard on the basis of evidence. This is not an area in which I have any discretion and so, while the applicants deserve every sympathy if their account of their circumstances is accurate, the success of their application depends entirely on the court's determination of the facts.
42. In that context, the most striking aspect of this case is not the evidence which the applicants have produced, but the evidence which one would expect to be made available, but which is missing.

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[9] *Bell v Kennedy* (1868) L.R.1Sc. & Div. 307, 319

[10] *Att-Gen v Pottinger (1861)* 6 H. & N. 733, 747-748

[11] Dicey and Morris, Conflict of Laws, 16th Ed, Chapter 6, Rule 6(1)

[12] Ibid, Rule 15(2)

[13] The exception to this rule identified by the Court of Appeal in *Re W-A* [2022] EWCA Civ 1118 does not, in my view, apply to these proceedings which are not "welfare-based and protective".

43. At the first hearing on 15.7.21 Recorder Stirling set out clearly on the face of the order a comprehensive list of the information and evidence which the court would be likely to require in order for the applicants to establish their case. Paragraph 10 of his order reads as follows:

> 10. The first and second applicants shall by 4pm on 29.7.21 file and serve detailed witness statements exhibiting all relevant documents whether filed already or otherwise and addressing the following matters:
> a. All information known about the second [sc. first] respondent including details of any surviving family he may have in England and Wales or elsewhere;
> b. All official documents in respect of their births including any birth certificates referring to their parents or in the absence of such documents an explanation for why such cannot be provided;
> c. All official documents in respect of their deceased father whether in Georgia or England and Wales including birth certificates and again in the absence of such documents an explanation for why such cannot be provided;
> d. Details of any personal representatives appointed on the death of their father, copies of any will whether in England and Wales or elsewhere;
> e. Full details as known to them of the first respondent's family including details of any family members who may still be living in England and Wales;
> f. Any court proceedings in respect of their paternity and/or the death of their father with a translation provided where such are not in English;
> g. Any other information in respect of their father or confirmation of his identity and paternity of the applicants.

44. To that list I added, on 1.9.22, the following provisions which were intended to assist the applicants to establish their case as to jurisdiction:

> a. [details of] the time that they have spent in the UK, with dates and addresses stayed at, with documentary evidence in support;
> b. Any other evidence in support of their connections with the UK.

45. I intend to set out, first, the evidence which the applicants have produced, and then to consider what evidence is missing that the court could reasonably have expected to be available, and the reasons the applicants have given for why that evidence is not available.

The applicants' witness statements

46. The applicants' statements provide some limited information about their father's ancestry. They say that he was the only child of Henry James Lloyd and Maria Rosemary Hanover-Lloyd, who was "an English Peeress", being the illegitimate granddaughter of Edward VII and Alexandra of Denmark. This information derives, according to the applicants, from information provided by their father at the time of his marriage (although the documentation itself has not been produced). They say that they know little about him (he died when they were very young), save that he met their mother in

Moscow and then travelled with her to Georgia where he became a lecturer at Tbilisi State University.

47. The first applicant's evidence is vague in respect of the time he says he himself has spent in the UK. He says in a July 2021 witness statement that he lived here for 23 years, in a July 2022 statement that he lived here for 15 years, and in a November 2022 statement that he lived here for 13 years. He has given various addresses he says he stayed at. However he has provided no information about the dates when he lived in the UK or when he was living at each address, any work he undertook or any details about his integration into any professional, social or other networks.
48. The evidence produced by the second applicant is very limited. Although in response to my direction she produced an electronically-signed witness statement including a statement of truth, its wording is identical to that of the statement produced by the first applicant. She herself has not communicated with the court at all or, as far as I am aware, been present at any of the recent attempted hearings. There is nothing in any evidence filed by her or on her behalf to suggest that she has ever visited the United Kingdom.

Documents purportedly produced in the United Kingdom

49. The documentation provided in support of the applicants' case in respect of their own and their father's connection to the United Kingdom is scant. I intend to list all of the documents provided (save for some, such as certificates of online learning, that are of no relevance) so that the applicants can be sure that nothing has been overlooked.
50. There is no documentation relating to the second applicant at all. The first applicant has produced:
    a. Correspondence from the Home Office in 2006 and 2005, addressed to the first applicant at an address in East London, asking him to send evidence of his nationality status.
    b. A fax from the Joint Council for the Welfare of Immigrants. This contains only general advice and again there is nothing of any evidential value.
    c. A screenshot showing (a) a request submitted by the first applicant on the gov.uk website, and (b) part of a search on the BT website which shows 'S Lloyd' living at an address an East London.
    d. A letter from the Head of Electoral Services in Tower Hamlets, dated 25.2.21, which appears to confirm an amendment requested by the first applicant to his name on the local authority's records.
    e. A letter dated 14.6.17 purportedly written by HMRC and addressed to the first applicant at an address in East London, allocating a National Insurance number to the first applicant. I have no evidence about the circumstances in which National Insurance numbers are allocated, and in any event the letter explicitly states that it "is not proof of your identity and you should not try to use it for this purpose". In those circumstances it seems that the weight I can place on this document is limited.
    f. A photocopy of a National Insurance card also bearing the words, "This is not proof of identity". Again I can place only limited weight on this document.
    g. A photocopy of an "International Teacher Identity Card" in the name of the first applicant, with the words "University of Oxford" inserted under "Teaches at". There is no other documentation evidencing the first applicant's connection with Oxford University.

h. A photocopy of what appears to be a UK-issued European Health Insurance Card in the name of the first applicant, issued in (or expiring in – the photocopy is not clear enough to make out the wording) September 2021.
i. A photocopy of an NHS medical card bearing the name of the first applicant.
j. A photocopy of an ACPO "Proof of Age" card bearing the name and date of birth of the first applicant.
k. A photocopy of what appears to be a membership card in the first applicant's name issued by the Calder Valley Conservative Association.
l. A copy of a Deed Poll apparently executed by the first applicant on 12.9.16 in order to change his surname from "Lloyd" to "Lloyd-Bagrationi". The potential relevance of this document lies in the fact that it seems to have been witnessed by someone giving a London address, and so is potentially capable of lending support to the first applicant's case that he has spent time in the UK.

51. All of the documents produced are copies. In some cases it is evident that the process of copying has corrupted the formatting. I have not seen any original documentation.

Documents purportedly produced in Georgia

52. The applicants have produced a document which they say is their parents' Georgian marriage certificate. It is accompanied by a translation but this is not notarised and there is no indication of when or by whom it was prepared. Assuming the translation is accurate and the certificate genuine, it records the marriage of "The Rt Hon Lord Stephen Henry Lloyd" and "HRH Kate Erekle Bagrationi" on 27.4.65. The groom's place of birth is recorded as "Great Britain, England" and his date of birth as "22 October 1939".
53. Also in the papers is what appears to be an English translation of the death certificate of "The Rt Hon Lord Stephen Henry Lloyd". Again it is not possible to tell who translated this document and the original Georgian version has not been produced; or, if it has, it was not provided at the same time as the translation and I have not been able to match up the two documents. Again assuming this is an accurate translation of a genuine original, it records the death of Stephen Henry Lloyd on 29 December 1971 in Leningori, Georgia.
54. The applicants have produced a copy of the second applicant's Georgian birth certificate. However:
    a. There is no notarised or otherwise officially-produced translation of this document. From the formatting, the translation appears to have been carried out by the applicants.
    b. The second applicant's parents are shown on her birth certificate as "Steven Lloyd" and "Keto Kartvelishvili". In fact the second applicant's case is that Steven Lloyd is her brother (her father's name was spelt "Stephen") and Keto Kartvelishvili was her grandmother.
55. In their joint witness statement dated 26.7.21 the applicants state that both of their birth certificates are inaccurate (I do not think that I have seen the first applicant's although it may be amongst the various Georgian-language documents produced which I have been unable to identify). They suggest that if the declaration they seek is made this will enable them to make the corrections required.

Supporting witness statements

56. The applicants have produced a document entitled "Statutory Declaration" which is a word document purporting to contain a sequence of testimonials apparently written by Georgian friends and acquaintances of their parents. The document is in English and in the same format and typeface as other documents produced by the applicants. If, as may be the case, the applicants have translated testimonials written by their friends, it does not appear that the originals have been provided.
57. In those circumstances the weight I can place on this document is limited, but I have considered it nevertheless. The various authors appear, for the most part, to be people connected with Tbilisi State University. They say that they knew "The Rt Hon Lord Stephen Henry Lloyd" and "HRH Kate Erekle Bagrationi" in the 1960s when Mr Lloyd was a professor at the university. They refer to "the English professor" or "the English Lord" in warm terms, but there is no real information in any of the testimonials about his family background, or the circumstances which led to him living in Georgia in the 1960s.
58. The papers also include a statement (described as a "testimony") made by the applicants' stepfather, Omar Svanidze. It is written in English, dated 20.5.15 and signed. It contains a statement of truth. Mr Svanidze says in that document that he married the applicants' mother after their father's death. He adopted the children and gave them Georgian names because "the destruction of their English names and annihilation of both parents' peerage was a damning role taken by the Soviet State Security and the Intelligence Services".
59. Finally there are three references on Tbilisi State University headed paper, which refer to work undertaken there by Stephen Henry Lloyd from 1964 onwards.

Georgian court documents

60. It appears that the first applicant has applied to different courts in Georgia in respect of his paternity. In 2007 he applied to the Mtsketa Regional Magistrate Court and in 2010 to the Zestaponi Regional Court of Justice in Georgia. On both occasions the application was for what has been translated as a "juridical fact" establishing the relationship ("kinship of persons") between the first applicant and his parents. A significant number of documents in Georgian have been produced, together with what appear to be partial translations (in that the translations seem to be very much shorter than the originals). Some of the translations are notarised but others appear to have been prepared by the applicants themselves.
61. There are references in the Georgian court documentation to the first applicant's "Georgian birth certificate" which, it seems, records his name as Kakhaber Svanidze and his parents as Omar Svanidze (the man who the first applicant says adopted him after his father's death) and Ketevan Besarion Kantidze.
62. Assuming that I accept these documents as genuine and the translations as accurate (if incomplete), it appears that in 2010 a court in Georgia made what in this jurisdiction would be called a declaration that Kakhaber Svanidze, also known as Steven Lord Lloyd, was the son of The Rt Hon Lord Stephen Henry Lloyd and HRH Kate Erekle Bagrationi.
63. I note that the Georgian court appears to have accepted the first applicant's assertion that he was considered by the British authorities to be a British national. That assertion was not correct and the document referred to in the Georgian court documents (the photo ID card referred to above) does not in fact establish British citizenship.

64. The decision of the Georgian court in 2010 refers to the following potentially relevant aspects of the history (although it is not clear whether the Georgian court was relying on the first applicant's account or had access to independently-verified sources of information):
    a. On 13.4.07 a court in Akhalgori established a "juridical fact" that Kakhaber Svanidze and "his sister" (not named) were the same persons as Steven Lord Lloyd and Kate Lloyd;
    b. The records of the applicants' adoption by Omar Svanidze were destroyed in a fire in 1993;
    c. The first applicant's Georgian citizenship was revoked on 24.12.07.

The gaps in the evidence

65. Having reviewed the evidence as a whole it is clear that there are a number of gaps. The most significant are the following:

    a. Official records or documentary evidence of any nature capable of supporting the claim that the applicants' father was born and spent his early life in the United Kingdom;
    b. Any information (save for very general and unsubstantiated information) about any members of the applicants' father's family, living or dead;
    c. Any information about the applicants' father's life prior to his marriage in Georgia in 1965;
    d. Details (which the court has specifically requested) of the dates when the first applicant has been staying or living in the UK;
    e. Reliable documentary evidence in support of the first applicant's claim that he has spent several years living in the UK: for example bank statements, tenancy agreements, council tax/ utility bills, information from an employer, and witness statements from colleagues or friends;
    f. Assuming that the first applicant's case that he has spent time in the UK is correct, any information as to when or why he returned to Georgia.

66. I will need to consider carefully the applicants' explanations for their inability to produce reliable information and documentation in support of their case.
67. The applicants' evidence is that they have not been able to trace any members (living or dead) of their father's family. In their first, joint witness statement they say:

    > "As above we are not aware of any family members living in England or Wales at this time. This could be one of the main reasons that our father's parents – Henry and Maria were very angry with their son for getting married to a "Russian Girl" and they never accepted our mother as their daughter-in-law".

68. In the same statement the applicants say that there have been many newspaper and magazine articles and television programmes about their family and its links to both English and Georgian royalty. They have not however exhibited any of these, nor have they given any further information about their father's family history beyond the names of his parents. Their inability to do so is particularly surprising if it is correct, as they say, that their father was a member of a royal or noble family, simply because members of such families have been more likely, historically, to have their names and dates of birth recorded.

69. The applicants have said they believe that their father's birth certificate was destroyed in the (Second World) war. Even assuming that to be the case, the war cannot in my judgement explain the absence of any further information or documentation relating to his life in the United Kingdom. He would have been five when the war ended; I assume that he was brought up and educated in the UK, although I have no information about his whereabouts or life history before he married in Georgia in 1965, at the age of 25. Again, if (as the applicants insist) he came from a well-off, well-connected and highly-educated family, the fact that they have been unable to find any trace at all of his existence in the UK is surprising.
70. In the first joint witness statement dated 26.7.21 the first applicant said that his UK connections could be "checked and confirmed on google and by contacting the following government bodies". There followed a list of agencies including an (unidentified) East London GP, the MP for Bethnal Green, a hospital where the first applicant said he was on a waiting list for an operation, Barclays Bank and the Bodleian Library at Oxford. He did not produce any documentation from any of those people or agencies, despite asserting that his MP had sent him "an official invitation letter for Westminster Abby (sic) to honour my Royal Family because I am a life peer by birth".
71. The first applicant has implicitly acknowledged in his written evidence the paucity of the documentation he produced. In his witness statement he said, "It seems a great mystery to me hearing that any records of my details cannot be found and makes me feel like I did not exist in those years at all and I've just recently been born into this world".
72. The documentary evidence produced by the first applicant suggests that he has made efforts to establish an official identity for himself in the UK via various government and other agencies. It appears also that he has had links with some UK postal addresses. However I note that one letter produced from the Metropolitan Police and addressed to the first applicant at an East London address is also addressed to a 'care of' address in Georgia, and it seems therefore that the East London address may have been used as a correspondence address rather than an address where the first applicant has actually lived.
73. The fact that the first applicant has not provided any dates, even approximate dates, for his stay in the UK, and that his own account has varied across the statements he has given in these proceedings (between 13 and 23 years) in my judgement significantly undermines his case.

Jurisdiction

74. At the first directions hearing before Recorder Stirling on 15.7.21 the court expressed the provisional view, on the basis of the limited information available at that time, that the jurisdiction requirements in FLA 1986, s 55A(2) might be satisfied in respect of the first respondent's domicile as at his date of death, and possibly in turn the domicile of the applicants. The Recorder took the view that it would be unlikely that the court would be satisfied as to jurisdiction on the alternative basis of habitual residence.
75. Now that evidence has been filed it is clear that neither the applicants nor their father were habitually resident in England and Wales for the 12 months immediately preceding the application or, in their father's case, his death.
76. It is the applicants' case, based presumably on information provided by their mother prior to her death, that their father was born in and grew up in England. Their understanding is that their parents met in Moscow on an unspecified date, travelled from there to Georgia where they were

married in 1965, and made their home in Georgia. The applicants say that their father then travelled to the United Kingdom for a period of about five months shortly before his death, in order to visit his own parents and inform them of his marriage.

77. If the applicants' case is correct then it is at least possible that their father was domiciled in England and Wales at his birth. However there is also, it seems to me, a real possibility (again assuming the applicants' account to be accurate) that at the time of his death in Georgia in 1971, by which time he had lived there for at least six years, had married a Georgian woman and had two children with her, he had acquired a domicile of choice in Georgia.
78. The difficulty faced by the applicants is the absence of any reliable evidence that their father was born in, lived in, or had any connection with England and Wales or any other part of the UK. The "testimonials" apparently produced by Georgian friends of their family can only, at their highest, establish the existence of a man known as Stephen Lloyd who taught at Tbilisi State University in the 1960s and was believed to be English. A substantial counterweight to that evidence, and a factor which significantly undermines it, is the absence of any records of Stephen Lloyd's birth or existence in the UK in circumstances where, as I have observed, there would be a firm expectation that these would be available.
79. For these reasons I am unable to make a finding that the applicants' father was domiciled in England and Wales at the date of his death or indeed at any time prior to that. It follows that I cannot make any finding as to either applicant's domicile of origin.
80. The only other way in which domicile might be established in this case is if the first applicant were able to show that he had established, and not lost, a domicile of choice in England and Wales. The first applicant's case is that he lived in England and Wales, predominantly in the East London area, for an unspecified period of some years. He has declined to give a date for his return to Georgia in his written evidence although it appears that he told the court at the first hearing in these proceedings that he left his East London address and (it is implied) returned to Georgia "two or three years" before this application was issued. He has produced some very limited documentation in support of his asserted residence in this country.
81. In my view, the evidence produced by the first applicant is insufficient to enable the court to make any finding about the duration, purpose or nature of any time he may have spent in the UK. Even if it had been possible to find that the applicant lived in the UK at some point in the past, his apparent acceptance that he has not lived here for some time, and the absence of evidence that, as at the date of the application, he was intending to return, makes it likely in my view that by the date of the application he had lost any domicile of choice that he had previously acquired.
82. When the jurisdictional issues were brought to his attention, the first applicant responded to say that the applicants must be domiciled in England because "we do not belong to Georgia". It is the applicants' case that their passports have been removed by the Georgian authorities and they are stateless. Even assuming that to be correct, it would not be sufficient, in the absence of evidence, to establish a domicile in England and Wales.
83. The second applicant has not produced any evidence to suggest that she has ever been domiciled in England and Wales, or indeed that she has ever travelled here.
84. There is therefore no basis on which the court can accept jurisdiction to hear this application.

<u>Concluding observations</u>

85. At various points during the course of these proceedings the first applicant has expressed his dissatisfaction with the approach taken by this court and the length of time that it has taken to determine an application that is, in his eyes, very straightforward. During the course of the proceedings the applicants applied for me to recuse myself (I refused this application on paper) on the basis, amongst other things, that the court's requests for further evidence from the applicants were unreasonable.
86. The application has failed because the evidence produced has not been sufficient for the court to establish jurisdiction. It may assist the applicants if I tell them that had the application proceeded I might have been prepared, at most, to find that their father was a man who taught at Tbilisi State University in the 1960s under the name of Stephen Henry Lloyd. It certainly would not have been possible, on the basis of the evidence produced, for me to make any finding about his nationality, background or the date or place of his birth. So even if I had been able to make a declaration of parentage in that limited form, it is highly unlikely that this would have been of any use to the applicants in establishing British citizenship.
87. Some of my observations in this judgment will, I am aware, shed doubt on the credibility of the applicants. I have tried to approach this issue with caution as I have not heard oral evidence and so the applicants have not had the opportunity to explain directly what have appeared to be significant gaps and inconsistencies in their evidence. I have been mindful also of some cultural dissonance in this case: the applicants' focus throughout their witness statements has been on the hardships they have suffered, and their evidence (and that of their Georgian witnesses) is expressed in eloquent and beseeching language. It has been difficult to convey to the applicants, when I have had so little opportunity to engage directly with them, what has been required by this court, whose sole concern is to determine the facts. I hope that the applicants understand that the main reason their application has failed is in fact not that I do not believe them or am unsympathetic to their situation, but simply that the evidence they have produced is not sufficient.
88. I intend to publish this judgment, after giving the applicants an opportunity to make representations in respect of whether or not they would wish their names to be anonymised. My main reason for doing so is transparency: there is a general public interest in increasing awareness of the workings of the Family Justice System and the wide range of cases that come before the courts. However, it has also occurred to me that if in fact there is more substance in the applicants' case than has been apparent from the evidence produced in these proceedings, publication of the judgment may perhaps assist them to locate and identify members of their wider paternal family and to produce the evidence which the court (or, probably more pertinently, the Home Office) would require in order to establish their British nationality.