Press Summary

THE COURT ORDERS that no one shall publish or reveal the name or address of X and Y who are the subject of these proceedings or reveal any information which would be likely to lead to their identification or to the identification of any member of their family in connection with these proceedings.

22 April 2026

In the matter of X and Y (Children: Adoption Order: Setting Aside)

[2026] UKSC 13

On appeal from: [2025] EWCA Civ 2

Justices: Lord Reed (President), Lord Sales (Deputy President), Lord Stephens, Lady Simler and Lord Doherty

Background to the Appeal

This appeal concerns whether the courts have any jurisdiction to set aside a validly made order for the adoption of a child other than by way of appeal. The unique attribute of an adoption order, in contrast to any other order that may be made for the welfare of a child, is that it is final and permanent. The legal relationship of parenthood between parents and their natural child can only by extinguished by a valid adoption order, and the question is whether the same must be true of the legal relationship established by adoption.

The appellant, AM, is the adoptive mother of X and Y. She is supported by X and Y and by their natural mother, BM, in her contention that there must be an alternative non-statutory route to revocation of a valid adoption order where there is no scope for an appeal so as to allow for consideration of a child's specific circumstances and welfare. The alternative route relied on is the inherent jurisdiction (parens patriae jurisdiction) of the High Court.

In the present case, X and Y are no longer children, having both now turned 18. When aged four and five years old, they were placed for adoption with AM in 2012 following a prolonged period in foster care. An adoption order was made in AM's favour in May 2013. X and Y maintained contact with BM, which was facilitated and supported by AM. In 2021, X and Y left AM's house and moved to live with BM. Y remained with BM. X moved to live with her birth father in 2022. The breakdown of the adoption has not been a consequence of AM rejecting X or Y. AM has been motivated in supporting X and Y and giving effect to their wishes and feelings.

In February 2023, the local authority issued care proceedings on the basis that X and Y were beyond parental control. The care proceedings concluded in May 2023 with child arrangement orders that X live with her birth father and Y live with BM. An order was also made that X should spend time with BM. These orders conferred parental responsibility on the respective birth parent.

In April 2023, AM made an application in the High Court seeking revocation of the adoption order under the High Court's inherent jurisdiction. The application was made on welfare grounds to give effect to the wishes and feelings of X and Y, both of whom supported the application, alongside BM. The judge accepted there to be a power to revoke a validly made adoption order under the inherent jurisdiction, but said that it could not be used solely on grounds relating to the adopted child's welfare. Accordingly, she held that she had no power to revoke the adoption orders in the present case.

AM appealed to the Court of Appeal, which dismissed the appeal. It held that a first instance court has no jurisdiction to set aside a validly made adoption order, whether under the inherent jurisdiction or otherwise. The Adoption and Children Act 2002 made clear that an adoption order is intended to be permanent. The appropriate avenue is by way of an application for permission to appeal out of time, if there is an appealable error. The fact that an adoption "turned out badly" was not a reason for the court to supply a remedy that Parliament chose not to provide.

AM now appeals to the Supreme Court, supported by BM, Y and in some respects X. She contends that there is a pressing need for the court to correct the legal fiction said to exist where BM is once again the de facto mother of Y, and possibly X, but AM remains their mother for all legal purposes and Y is trapped in an identity that she has rejected.

Judgment

The Supreme Court unanimously dismisses the appeal. Lord Stephens and Lady Simler deliver the Judgment, with which Lord Reed, Lord Sales and Lord Doherty agree.

Reasons for the Judgment

Since X and Y are no longer children, the parens patriae jurisdiction, if it may provide the basis for setting aside a valid adoption order, could not be applied in the present case. The Court nevertheless considers it important to hear and determine the appeal, as there is good reason in the public interest for doing so. It is likely that there will be other cases like the present one and the resolution of the question raised does not depend on the facts of the case **[5]**.

The question whether jurisdiction exists to set aside a validly made adoption order precedes the question whether any such jurisdiction is capable of being exercised in cases of pressing need. The first question is whether there is an inherent jurisdiction in the High Court to set aside a legally valid adoption order **[47]**.

A number of decisions by the Court of Appeal were relied on as confirming the existence of this inherent jurisdiction. However, in all but one of these cases, the Court of Appeal was considering an application to appeal out of time against an adoption order on grounds of natural justice or other serious procedural irregularity, or a fundamental mistake of fact. These provide no support for the appellant's argument in the present case **[48]-[49]**, **[77]-[87]**.

AM also relied on a series of first instance decisions in which High Court judges accepted or asserted a power to revoke an adoption order under the inherent jurisdiction, albeit recognising it as a power that is severely curtailed where an adoption order has been lawfully made. Agreeing with the Court of Appeal in the present case, these cases reflect a misunderstanding of the appellate authorities and likewise provide no support for AM's argument **[50]**.

It is therefore necessary to go back to first principles and consider the nature of the jurisdiction and the context in which it is sought to be invoked to determine whether it is available. The parens patriae jurisdiction is an ancient prerogative jurisdiction belonging to the Crown **[51]-[52]**. To the extent that it survives, it is a residual jurisdiction and the proper approach to deciding whether it remains available is to consider how it was used historically and how it has continued to be used in modern times. Importantly, a prerogative power will be displaced in circumstances where a corresponding power is conferred or regulated by statute. Where a matter is regulated by statute, use of the inherent jurisdiction is limited not only when the statute expressly says so, but by implication by the very statute. The inherent jurisdiction cannot be used to circumvent the legislation, either by achieving the same aim by a different procedural route, or by achieving aims which are incompatible with the statutory scheme **[55]**.

The court's parens patriae jurisdiction to make orders in respect of children who have suffered or who are at risk of suffering significant harm has been heavily curtailed as a result of the passing of the Children Act 1989 **[58]-[59]**. This jurisdiction nevertheless continues to survive, for example to prevent the abduction of children from this jurisdiction, to protect a child from a forced marriage or female genital mutilation, or to regulate medical treatment in relation to very ill children or to those in need of life-saving treatment where statutory powers are inadequate or not available **[60]-[61]**. In this light, there are fundamental problems with arguing that the inherent jurisdiction must be available to protect the interests of the child in the present context **[63]**.

First, prerogative (parens patriae) powers have never been concerned with reordering parental responsibility by extinguishing or transferring parental responsibility. This is illustrated by the historic institution of wardship, which vested parental responsibility in the court so that significant decisions about a protected orphan could not be made without the court's approval, but did not extinguish or transfer parental responsibility to "new" parents. Under section 67 of the ACA 2002, an adoption order extinguishes the parental responsibility of the natural parents and gives parental responsibility to the adopters, who are treated in law as if the child was born to them **[64]-[67]**.

Secondly, where they remain available, parens patriae powers exist to secure a child's protection and safety from harm. But this is only so where necessary because no other adequate statutory mechanism is adequate. Seeking to protect Y and possibly X from Parliament's failure to provide a statutory means for revoking the adoption orders is not a proper basis to exercise this protective jurisdiction. Even if Y or X were in physical or other danger, this could not justify the exercise of this protective jurisdiction to transfer parental responsibility by revoking a valid adoption order. There are other statutory powers available to protect children from harm **[68]-[70]**.

Thirdly, the parens patriae powers are only available for a case not adequately covered by statute, but the ACA 2002 has occupied the ground in the present context. Any claimed power under the inherent jurisdiction to revoke a valid adoption order would have the impermissible effect of circumventing the detailed and comprehensive statutory scheme **[71]**.

While this is sufficient to dispose of the appeal, the notional use of the inherent jurisdiction to revoke a valid adoption order as a safety net to protect children in exceptional circumstances would also cut across the statutory scheme in the ACA 2002. This is because adoption orders are final and permanent, and irrevocable except on one very limited ground, namely the legitimation exception which is rarely (if ever) used **[89]**. If the court's prospective assessment as to adoption being in the child's welfare interests turns out to be incorrect, the court has numerous carefully calibrated powers which are available to protect children. These include making a further adoption order, a power which could have been used in this case. Moreover, the position of an adopted child is no different from that of a child living with their natural parents **[127]**.

There is no remaining scope for the exercise of the inherent power to revoke an adoption order and it is wrong to approach the question of jurisdiction by saying that if a child's welfare makes it necessary, the jurisdiction must exist. AM did not advance a case based on the European Convention on Human Rights or the Human Rights Act 1998. In any event, the court's duty under section 6 of the Human Rights Act 1998 can only operate within the limits of the court's existing jurisdiction. Additionally, it is difficult to imagine a situation that could justify revocation of a valid adoption order to comply with obligations under the European Convention on Human Rights given the range of other statutory powers available **[128]-[133]**. Nor is there anything in the United Nations Convention on the Rights of the Child that requires a validly made adoption order to be capable of revocation **[135]**.

References in square brackets are to paragraphs in the judgment.