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BORDEN, J., dissenting. I disagree with the majority that the trial court properly dismissed the appeal of the plaintiff, Edward C. Okeke, from the decision of the defendant, the commissioner of public health, denying the plaintiff's request to amend his son's birth certificate. I therefore dissent.

I first briefly note the procedural background of this case. In April, 2007, the plaintiff applied to the defendant for an amendment to his son's birth certificate pursuant to General Statutes § 19a-42 (d) (1).[1] The plaintiff alleged that his son had been born at Stamford Hospital on May 25, 2000; the acknowledgment of paternity executed by both parents in accordance with General Statutes § 46b-172 indicated his name as "Nnamdi Ikwunne Okeke" as agreed to by both parents; and the birth certificate, however, states his name as "Nnamdi Ikwanne Shockley-Okeke." He further alleged that he became aware of the incorrect name on the birth certificate when Tamara A. Shockley, the child's mother, petitioned the Stamford Probate Court to have their child's name changed to "Cameron Nnamdi Shockley-Okeke." The plaintiff objected, and the Probate Court denied the petition for a name change, the plaintiff further alleged, "as did the Stamford Superior Court, which determined that the child's name should be as stated in the Acknowledgment of Paternity. The case was appealed to the Appellate Court and then to the Supreme Court . . . where it was dismissed, leaving it judicially unresolved on the merits. My child's name on his birth certificate should be amended as indicated in the Acknowledgment of Paternity."

The defendant held an administrative hearing on the petition. Shockley was given notice of the hearing, and she attended and testified. The defendant denied the petition, and the court dismissed the plaintiff's subsequent appeal from that denial. This appeal followed.

Because the majority does not refer to certain critical—in my view—undisputed facts of this case, I take the liberty of stating the facts as determined by the administrative record. I also note that neither party disputes these facts in any way. These undisputed facts are as follows.

The plaintiff, a native of Nigeria, and Shockley, a native of Delaware, who at the time of the birth of their child were both attorneys employed by the United Nations, conceived a child in the months prior to January, 2000. On January 17, 2000, before the child's birth, the plaintiff and Shockley entered into an agreement that their son would be named "Nnamdi Ikwunne Okeke." The child was born on May 25, 2000. The plaintiff and Shockley were not married at the time of the

child's birth and have never married. Shockley filled out a "birth certificate worksheet" at the hospital, indicating that the child's name was to be as agreed in their January agreement and as stated in the acknowledgment of paternity form, namely, Nnamdi Ikwunne Okeke. This birth certificate worksheet is a form generated by and bearing the name of Stamford Hospital, and is not, as far as the regulations reflect, a form authorized by the department of public health (department). At the top of this form are the following legends: "The information below is required to complete your child's birth certificate. Completed forms must be given to your nurse before leaving the hospital. Are you married to the baby's father? Yes No .[2] If you are unmarried an Acknowledgment of Paternity must be completed for the father's name to appear on the birth certificate. The original of this form will be filed with Superior Court and [l]egally establishes a child's paternity. Both signatures [on the Acknowledgment of Paternity] must be notarized in the hospital. These forms are available from your nurse, Social Work Dept. . . . and Health Information Mgt. Dept. . . . . Note: These papers must be completed within 10 days of baby's birth." This form is addressed to the mother of a child and was signed only by Shockley.

At the hospital, Shockley signed an acknowledgment of paternity form on May 26, 2000, and the plaintiff signed the same form on June 1, 2000. Both signatures were sworn to and notarized. See General Statutes § 46b-172 (a), which requires that such acknowledgments be "executed and sworn to" by both parties. In accordance with their agreement, the name of the child was stated on the form as Nnamdi Ikwunne Okeke. This acknowledgment was then filed with the department pursuant to § 46b-172 (a) (3).[3]

This form is prepared by the defendant under the authority of § 46b-172 (a) (3). Above Shockley's signature on the form is the following "Mother's Affirmation": "I freely and voluntarily consent to this Acknowledgment of Paternity. The man named above [namely, the plaintiff,] is the biological father of this child. I have read, and have had read and explained to me, the rights and responsibilities on the back of this form, and I understand the contents.[4] I have had the opportunity to ask questions before I signed this form. A copy of this statement has been given to me." Above the plaintiff's signature is the following "Father's Acknowledgment": "I freely and voluntarily acknowledge that I am the biological father of the child named above. I accept the obligation to support this child. I understand that an order for child support may be entered. I waive my rights to a trial, a lawyer to represent me, and a genetic test to determine paternity. I have read, and have had read and explained to me, the rights and responsibilities on the back of this form,[5] and I understand the contents. I have had the opportunity to ask questions before I

signed this form. A copy of this statement has been given to me." The parties left blank the blocks on the form that allowed them to indicate, by "yes" or "no," that the defendant should "change the child's last name on birth certificate." Right next to this block, however, is a block titled: "If yes, child's last name as it will appear on new birth certificate."

During the week after Shockley left the hospital, she learned that the plaintiff planned to move in with another woman, a colleague of Shockley's at her work. She decided that the child " 'need[ed] to carry [her] name . . . .' " At some time after May 30, she telephoned the hospital and, at her request, the hospital staff changed the worksheet form so that the child's name would be Nnamdi Ikwanne Shockley-Okeke. This worksheet contains several middle names, namely, "Ikwunne," "Shockley" and "Okeke," all stricken out, followed by "Ikwanne" as the ultimate middle name,[6] and a last name, "Okeke," also stricken out and "Shockley-Okeke" written in above the strikeout. There are also two handwritten notations on the form: (1) "Mom called 6/5 @ 8:45 a.m.—added her last name to baby's last name"; and (2) "Mom called 6/7—last name to be just Shockley middle name Okeke."[7] There are also the following handwritten notations on the worksheet form: "Name change 3 [times] change in middle name and last name Mom informed of [illegible] delay" followed by a telephone number.[8]

The hospital staff did not notify the plaintiff of these alterations. Furthermore, Shockley did not inform the plaintiff that she had the hospital staff change the last name of the child from that to which the parties had agreed and which had been recorded by both parents on the acknowledgment of paternity.[9]

Using this altered worksheet, the hospital staff prepared and filed with the department the "certificate of live birth," an official form of the department, on which the child's name is given as "Nnamdi Ikwanne[10] Shockley-Okeke." It is this document that the plaintiff requests the defendant to amend pursuant to § 19a-42 (d) (1). Contrary to the majority, I conclude that the defendant has the authority and was obligated to do so under this statute as applied to the facts of this case.

I begin with some general comments about the naming of a child that I do not believe are controversial. The naming of a child is a supreme act of parental right; indeed, it is one of the first parental acts that parents perform upon a child's birth. And it is usually preceded by conversations and an agreement between the prospective parents about what that name should be. Moreover, where, as in the present case, both parents have so agreed, the naming is a joint parental act. Hence, the acknowledgment of paternity form that provides for the sworn, notarized signature of both parents. Thus, that supreme, joint parental act of naming their child

should be honored by our statutes if at all possible.

I next turn to a brief summary of the facts of this case. Both parents agreed on the child's name; the mother filled out the hospital's birth certificate worksheet accordingly, and both parents, who are attorneys, signed and swore to the acknowledgment of paternity form giving the agreed upon name to the child, presumably read the detailed instructions on the form and had their signatures notarized. The plaintiff's acknowledgment specifically referred to "the child *named above*"; (emphasis added); and Shockley's affirmation referred to the plaintiff as "the biological father of *this child*." (Emphasis added.) Then things went awry.

The mother unilaterally decided to change that agreed upon—and recorded as such—name, and the hospital staff, without any authorization from the father or, as far as I can see, from the law, took it upon themselves to comply with her telephonic request to alter their records, namely, the birth certificate worksheet. And from that unauthorized, altered document the hospital generated a "certificate of live birth" that contains a last name that is the product, not of both parents, but of only one, that is contrary to the agreed upon last name memorialized on the jointly signed, sworn to and notarized acknowledgment of paternity, and that even has a misspelling of the child's middle name that has never been in controversy.

With this factual background, I now turn to the language of the relevant statutes. There are three, all of which must be read together. Section 19a-42 (d) (1) provides in relevant part: "Upon receipt of . . . an acknowledgment of paternity executed in accordance with the provisions of subsection (a) of 46b-172 by both parents of a child born out of wedlock, . . . the commissioner shall . . . amend, as appropriate, such child's birth certificate to show such paternity if paternity is not already shown on such birth certificate . . . ." Section 46b-172 (a)[11] in turn requires that both parents sign and swear to the truth of the statements in the acknowledgment of paternity, and provides for an elaborate set of warnings and instructions to both parents regarding the legal consequences of such an acknowledgment. Most importantly, that section specifically provides that the acknowledgment "shall have the same force and effect as a judgment of the Superior Court. It shall be considered a legal finding of paternity without requiring or permitting judicial ratification, *and shall be binding on the person executing the same* . . . ." (Emphasis added.) General Statutes § 46b-172 (a). General Statutes § 7-36 (10), which governs municipal registrars of vital statistics, provides in relevant part, as the majority notes: "(10) '[a]mendment' means to (A) change or enter new information on a certificate of birth, marriage, death or fetal death, more than one year after the date of the vital event recorded in such

certificate, in order to accurately reflect the facts existing at the time of the recording of the event . . . ."

It is clear that the general purpose of this statutory scheme is the integrity and accuracy of birth records, so that they, in the language of § 7-36 (10), "accurately reflect the facts existing at the time of the recording of the event," namely, in the present case, the time of the birth of the child. Another purpose of this scheme is to honor, where feasible, the concept that the naming of a child is one of the first, supreme acts of parentage.

Accordingly, the language of § 19a-42 (d) (1) must be construed so as to carry out those purposes. This necessarily means that the statute must also be construed to carry with it an implied provision that permits the defendant to amend his records when they are shown to be the result of a clerical or other error. Such an implied power fits comfortably within, and is fully consistent with, the defendant's authority to amend a birth certificate "as appropriate." Otherwise, simply because the documents submitted to the defendant, namely, the acknowledgment of paternity and certificate of live birth, had been so filed, they could not, under the majority's cramped interpretation of § 19-42 (d) (1), be amended by the defendant even if they were shown to be inaccurate as a result of a clerical or other error. Such an interpretation would hardly further the purposes of maintaining the integrity and accuracy of birth records, and of honoring the joint parental conduct of naming a child. Indeed, so restricting the authority of the defendant would, on the contrary, only serve to perpetuate what has been shown to be an inaccuracy in those records and would dishonor that parental conduct.

Applying this understanding of the statutory scheme to the facts of the present case leads to the conclusion that the defendant had ample authority and was obligated to amend the child's birth certificate so as to reflect the facts existing at the time of birth, namely, to reflect his given name of "Nnamdi Ikwunne Okeke." That was the name sworn to by both his parents on the acknowledgment of paternity, as their first, supreme act of joint parentage. That was the name of the child whom the plaintiff acknowledged as his own son, and that was the name of the child whom Shockley affirmed to be her child with the plaintiff. The certificate of live birth, which did not reflect that name, was the result solely of unauthorized conduct by both Shockley and the hospital staff in altering the live birth worksheet. Furthermore, as provided in § 46b-172 (a) (1), both the plaintiff and Shockley were legally bound by the terms of that acknowledgment of paternity, to the same extent as if it had been a judgment of the Superior Court. Surely, such a judgment could not be unilaterally altered simply by a telephone call from one of the parties bound thereby. Under these peculiar and unique circum-

stances, I would deem the naming information on the certificate of live birth to be the result of a clerical or other error that gave the defendant the authority and obligation to amend the certificate in accord with the request of the plaintiff.

The majority places great weight on the language of § 19-42 (d) (1) that "the commissioner shall . . . amend, as appropriate, such child's birth certificate . . . to change the name of the child if so indicated on the acknowledgment of paternity form . . . ." The majority argues that a change of name was not so indicated on the form because the parties did not check that box. I disagree with this approach.

First, on a general basis, this argument does not address what I believe to be a necessary implication of the statute, namely, to provide for the correction of clerical or other errors. Second, the form itself belies that weight. The space on the form on which the majority relies so heavily is titled: "Change child's last name on birth certificate" followed by blocks for "Yes" and "No." Right next to that space is a corresponding space, titled: "If yes, child's last name as it will appear on new birth certificate." Thus, these two blocks are designed for a situation in which the parents want to change the name of a child who already has a live birth certificate. That was not the present case. When the plaintiff and Shockley signed this acknowledgment form, no such certificate had been issued; indeed, one could not be issued until after this form was executed by them. Thus, the plaintiff should not be barred from his entitled relief by a space on a form that was not designed for the facts of the present case.

The majority's reading of the statutory scheme rests on the assumption that the acknowledgment of paternity addresses only the issue of who is the father of the child, to the total exclusion of the name of the child. I disagree with this assumption. First, it ignores the societal background of the statute, namely, the great weight of the tradition of the right of parents in the naming of their child. Second, it ignores the form itself, which is generated by the defendant. That form requires the father to acknowledge his paternity of the "child *named above*," and the mother to affirm the father's paternity "of *this child*," an obvious reference to the child *named* in the document. Third, it ignores the effect of § 46b-172 (a), which makes the acknowledgment of paternity legally "binding" on both parents, to the same extent as if it were a judgment of the Superior Court. I fail to see why, if it is legally binding on the parents of a child, it is somehow not legally binding on the defendant.

I therefore dissent, and would reverse the judgment of the trial court and remand the case with direction to sustain the plaintiff's appeal.

[1] General Statutes § 19a-42 (d) (1) provides in relevant part: "Upon receipt

of . . . an acknowledgment of paternity executed in accordance with the provisions of subsection (a) of section 46b-172 by both parents of a child born out of wedlock, . . . the commissioner shall include on or amend, as appropriate, such child's birth certificate to show such paternity if paternity is not already shown on such birth certificate and to change the name of the child if so indicated on the acknowledgment of paternity form . . . ."

[2] This "No" space was checked on Shockley's form.

[3] General Statutes § 46b-172 (a) (3) provides: "All written notices, waivers, affirmations and acknowledgments required under subdivision (1) of this subsection, and rescissions authorized under subdivision (2) of this subsection, shall be on forms prescribed by the Department of Public Health, provided such acknowledgment form includes the minimum requirements specified by the Secretary of the United States Department of Health and Human Services. All acknowledgments and rescissions executed in accordance with this subsection shall be filed in the paternity registry established and maintained by the Department of Public Health under section 19a-42a."

[4] The copies of the form in the record do not contain the material on the back of the form.

[5] See footnote 4 of this dissent.

[6] Shockley testified at the administrative hearing that this misspelling of the child's middle name was a clerical error by the hospital staff, and that she did not intend to alter the child's middle name from "Ikwunne" to "Ikwanne."

[7] The record does not disclose why the hospital staff chose to comply with the first, but not the second, of these two telephonic requests of Shockley to alter their records.

[8] Shockley testified at the administrative hearing that she telephoned the hospital "about three times" on May 30 to discuss changing her child's name. This testimony may explain the handwritten notation indicating a name change three times.

[9] In fact, the plaintiff did not learn of the alteration of the records and the fact that his son's agreed upon name was not on the birth certificate until May, 2001, when he learned that Shockley had applied to the Probate Court for a further change of the child's name. Litigation ensued, which went all the way to the Supreme Court, but that litigation did not resolve the issue of the child's proper name on his birth certificate. See *Shockley* v. *Okeke*, 280 Conn. 777, 912 A.2d 991 (2007). Thereafter, the plaintiff initiated these proceedings. Hence, the long delay in resolving the issue of the proper name on the child's birth certificate was not of the plaintiff's doing.

[10] Thus, the mistaken spelling of the child's middle name as "Ikwanne" rather than "Ikwunne" is now perpetuated in the official records of his birth.

[11] General Statutes § 46b-172 (a) (1) provides in relevant part that "a written acknowledgment of paternity executed and sworn to by the putative father of the child when accompanied by (A) an attested waiver of the right to a blood test, the right to a trial and the right to an attorney, and (B) a written affirmation of paternity executed and sworn to by the mother of the child shall have the same force and effect as a judgment of the Superior Court. It shall be considered a legal finding of paternity without requiring or permitting judicial ratification, and shall be binding on the person executing the same whether such person is an adult or a minor . . . ."