



M.S. v. The United Kingdom

Application no. 24527/08

Country: United Kingdom

Region: Europe

Year: 2012

Court: European Court of Human Rights European Court of Human Rights

Health Topics: Health systems and financing, Hospitals, Mental health

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment

Facts

After sounding a car horn repeatedly and behaving in a highly agitated manner, the applicant was arrested by police in Birmingham, United Kingdom. It was determined that before his arrest, the man had inflicted serious injury upon his aunt at his residence. He was detained under section 136 of the Mental Health Act, which allows the police to remove a person who appears to be suffering from a mental disorder in a public place to a place of safety, and recommended for hospitalization. While police searched for an appropriate mental facility to admit the applicant to, he was assessed by two mental health professionals who concluded that he was mentally ill and not fit to be charged with any criminal offense. The applicant was transferred to a mental hospital, but not until after the expiration of the Mental Health Act's maximum retention time (72 hours).

Two years later, the applicant filed a complaint against the Birmingham National Health Service (NHS) for negligence, breaches of Article 3 and 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Convention), and for misfeasance in public office. The applicant alleged that he had been subjected to inhuman and degrading treatment when inappropriately detained in a police cell during a period of acute mental suffering. The District Court ruled in favor of the NHS on all counts, and that ruling was upheld by the appellate court. The applicant then appealed to the European Court of Human Rights, alleging that his detainment was inhuman and degrading in violation of Article 3 of the Convention, which prohibits torture or inhuman or degrading treatment. The applicant also alleged violations of Article 13 of the Convention, which guarantees an effective remedy for anyone whose rights are violated under the Convention.

Decision and Reasoning

The Court unanimously held that there had been a violation of Article 3 of the Convention. To determine if there has been a violation of Article 3, the Court looks to a totality of the circumstances to decide if the applicant's feelings of fear, anguish, or humiliation were sufficient to find their captor guilty of a violation. The Court held that, even though the NHS did not intend to treat the applicant in a way that was incompatible with Article 3, the mentally ill are in a position of heightened vulnerability. Since the authorities had complete control of the applicant, they are responsible for the treatment he experienced while detained. Even though the NHS had no intention to mistreat or humiliate the applicant, the treatment reached the threshold of degrading treatment for the purposes of Article 3.

The Court found that there was no violation of Article 13 of the Convention. The scope of obligation under Article 13 depends on the applicant's complaint, and not on whether the outcome was a favorable one to the applicant. The domestic courts' assessment of the Article 13 complaint was not affected by the fact that the Court reached the opposite conclusion regarding the applicant's Article 3 claim.

Decision Excerpts

The fact remains, however, that the applicant was in a state of great vulnerability throughout the entire time at the police station, as manifested by the abject condition to which he quickly descended inside his cell. He was in dire need of appropriate psychiatric treatment, as each of the medical professionals who examined him indicated. The Court considers that this situation, which persisted until he was at last transferred to Reaside early on the fourth day, diminished excessively his fundamental human dignity. It refers here to the opinion of the Committee for the Prevention of Torture, cited above (see § 30 above). It is of some significance that the applicant's situation failed to respect both best medical practice in England as well as the maximum time-limit set by Parliament in the relevant legislation. Throughout the relevant time, the applicant

was entirely under the authority and control of the State. The authorities were therefore under an obligation to safeguard his dignity, and are responsible under the Convention for the treatment he experienced.â€• Para. 44.

â€œEven though there was no intention to humiliate or debase him, the Court finds that the conditions which the applicant was required to endure were an affront to human dignity and reached the threshold of degrading treatment for the purposes of Article 3.â€• Para. 45.

Copyright © 2015 www.GlobalHealthRights.org