



Kings College Hospital NHS Foundation Trust v. C and V

[2015] EWCOP 80

Country: United Kingdom

Region: Europe

Year: 2015

Court: Court of Protection

Health Topics: Hospitals, Informed consent, Mental health

Human Rights: Right to bodily integrity

Facts

The Kings College Hospital challenged respondent C's ability to decide to end life-saving treatment, effectively choosing to die, by alleging that she lacked mental capacity.

C had attempted to commit suicide by ingesting 60 paracetamol tablets with champagne. She made this decision shortly after undergoing treatment for breast cancer and ending of a long term relationship. C had allegedly always placed a high regard on her looks and was very concerned with her age and did not want to get old. After the end of her relationship, her financial circumstances deteriorated and this, along with her age, led C to decide that she did not want to live anymore.

Her suicide attempt was unsuccessful, and she was hospitalized at her local hospital before being transferred to King's College Hospital. Her suicide attempt caused injury to her liver and kidneys, which led her to require dialysis. With treatment, C's liver improved, but her kidneys remained in a similar state. It was anticipated that she would need six weeks to several months of dialysis to restore normal function to her kidneys. C's liver doctor and nephrologist informed C that recovery was likely, but as time passed without improvement, the probability of recovery would decrease, which could lead to a lifelong need for dialysis. C wanted to discontinue treatment in part because of the possibility of life-long dialysis and her overall quality of life. Her doctor informed C that the consequences of ending dialysis treatment would lead to her death, but that she could still have a functional life with regular dialysis. Despite her doctor's warning, C refused to continue dialysis.

Several psychiatric reports diagnosed C as having a personality disorder, either histrionic or narcissistic. However, the experts were in disagreement about whether the personality disorder affected her ability to use and weigh information in making a decision. C's medical records showed that various doctors had conflicting views on her capacity but that, while her capacity had been questioned throughout her treatment, she had been deemed competent to refuse treatment several times. C's daughters also provided statements that while her family disagreed with C's decision, they believe C did have the capacity to make the decision.

The hospital brought suit against C, claiming that she lacked the mental capacity to make the decision under the Mental Capacity Act of 2005.

Decision and Reasoning

The Court held that C passed the "functional test" under § 3(1) of the Mental Capacity Act of 2005, and therefore had capacity to make her decision. The Trust did not provide sufficient evidence to prove that C was unable to use and weigh information relevant to the decision in question. This holding was based on the examination of the psychiatric/expert reports, medical records, and C's daughter's testimony. The Court found that throughout the treatment process, it was clear that C had understood the information and considered the many factors in her decision, shown by her ability to provide reasons for her decision. Through C's statements, the Court found that she understood and considered the likelihood of a full recovery, but still wanted to die.

The Court held that a mental problem that impairs decision making is not enough to vitiate capacity, but, instead, the mental problem must render the person unable to make the decision by reason under § 2(1) of the Mental Capacity Act of 2005. While C's view of the world and her personality disorder may have impacted her decision, it did not make her unable to use and weigh the information relevant to the decision.

The Court held that this decision applied only to C's ability to refuse treatment and did not prevent her doctor from continuing to offer treatment and attempting to persuade C to accept treatment.

Decision Excerpts

“However, as set out at the beginning of this judgment, a capacitous individual is entitled to decide whether or not to accept treatment from his or her doctor. The right to refuse treatment extends to declining treatment that would, if administered, save the life of the patient and, accordingly, a capacitous patient may refuse treatment even in circumstances where that refusal will lead to his or her death. The decision C has reached to refuse dialysis can be characterised as an unwise one . . . C's decision is certainly one that does not accord with the expectations of many in society. Indeed, others in society may consider C's decision to be unreasonable, illogical or even immoral within the context of the sanctity accorded to life by society in general. None of this however is evidence of a lack of capacity. The court being satisfied that, in accordance with the provisions of the Mental Capacity Act 2005, C has capacity to decide whether or not to accept treatment C is entitled to make her own decision on that question based on the things that are important to her, in keeping with her own personality and system of values and without conforming to society's expectation of what constitutes the “normal” decision in this situation (if such a thing exists). As a capacitous individual C is, in respect of her own body and mind, sovereign.” Paras. 96-97.

Copyright © 2015 www.GlobalHealthRights.org