



Stanfield v. The Minister of Correctional Services et al.

[2003] ZAWCHC 46

Country: South Africa

Region: Africa

Year: 2003

Court: High Court - Cape of Good Hope Provincial Division

Health Topics: Chronic and noncommunicable diseases, Prisons

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment, Right to bodily integrity

Facts

While serving a six-year sentence in prison, Stanfield was diagnosed with lung cancer. Prior to this diagnosis he had already suffered from advanced coronary disease. The lung cancer required treatment with chemotherapy for three consecutive days every twenty-one days over a period of at least six months. In light of his medical condition, Stanfield sought an application to be placed on parole on medical grounds in accordance with Section 69 of Correctional Services Act 8 of 1959 (the Correctional Services Act).

Stanfield requested that he be placed on parole as during the treatment he would suffer from possible side effects including nausea, vomiting, weakness, diarrhea, hair loss and weight loss. Further, his immune system would be affected by the treatment leading to a very high risk of infection and bleeding. It was therefore important that he not be exposed to conditions that would result in infection. In addition, he would require close contact with regular medical personnel.

The Parole Board rejected Stanfield's application to be placed on parole. The basis for rejecting Stanfield's application included that there was no indication that Stanfield was in the final phase of terminal illness, that adequate medical care could be provided in one of the Department's prisons, that Stanfield had committed a serious crime and had been sentenced for six years of which he had served less than a third of his sentence, and that Stanfield's early release may have a negative effect on other prisoners suffering from terminal illnesses.

Stanfield brought his application for parole to the High Court of South Africa for review and to seek to set aside the Parole Board's decision on the basis that the decision was so irrational and unreasonable as to warrant the inference that the Board had not applied their mind properly to the facts before them. Stanfield also argued that, pursuant to the Bill of Rights, he was entitled to the protection of his inherent dignity and consideration should be given to the right to die in a dignified and humane way.

Decision and Reasoning

The Court ordered Stanfield to be placed on parole on medical grounds provided that he remained under the medical supervision of a doctor and that on discharge from hospital he be placed under the care of his wife, sister, or his housekeeper. The Court further held that the Board's decision to refuse Stanfield parole was so irrational and unreasonable that it was clear that the Board had failed to examine the relevant facts and circumstances.

The Court found that, pursuant to Section 69 of the Correctional Services Act, the only requirement for release on parole on medical grounds was that the medical officer should recommend it and that it should be expedient having regard to the prisoner's medical condition. The nature of the prisoner's conviction, length of sentence, and period served were irrelevant. It was also not required that a prisoner be in the final phase of a terminal disease. The Court found that the Board had misconstrued the medical opinions provided and misinterpreted the relevant provisions of section 69 of the Act and had read non-existent requirements into it.

The Court further stated that section 39(2) of the Constitution Act 108 of 1996 required the Court to promote the spirit, purpose, and objectives of the Bill of Rights when interpreting Section 69 of the Correctional Services Act and that the Board had not observed such rights in its consideration of Stanfield's application for parole. The Judge held that Stanfield's inherent right to human dignity had not been observed in the consideration of his application for parole. The Court held that the Board had failed to assess Stanfield's physical condition and had failed to recognize and accept the inadequacy of the medical facilities at the

Drakenstein prison.

Decision Excerpts

“Although the requirement that the prisoner should be in the final phase of any terminal disease of condition features strongly in the proposed amendment, it is not and never has been, a requirement in terms of section 69 of the current Act.” Para. 85.

“The suggestion by the third respondent that the applicant’s life expectancy was not so short that full incarceration would not serve a purpose and that there was no assurance that he would abstain from committing a crime cannot, in my view, constitute a requirement in terms of section 69 of the Act.” Para. 110.

“The third respondent’s failure to respect the applicant’s inherent right to human dignity came to the fore in his assessment of the applicant’s physical condition for purposes of section 69 of the Act. By restricting his understanding of such condition to the applicant’s external or outward appearance, which is clearly only temporary and will undoubtedly undergo a radical change in the near future, the third respondent chose to ignore, or downplay, the fact that he is suffering from an inoperable and incurable disease that will inevitably cause his death within a few months. To insist that he remain incarcerated until he has become visibly debilitated and bedridden can by no stretch of the imagination be regarded as humane treatment in accordance with his inherent dignity.” Para. 124.

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