



M.J.T v. D.M.D

2012 BCSC 863

Country: Canada

Region: Americas

Year: 2012

Court: Supreme Court of British Columbia

Health Topics: Child and adolescent health, Health care and health services, Infectious diseases, Medicines

Human Rights: Right to health

Facts

Mr. T. and Ms. D separated after three years of marriage when their child- V was two years old. The couple had major disagreements over the care and custody arrangements. Ms. D. was given sole interim custody and authority over all health care decisions. Ms. D. refused to vaccinate the child against common infectious diseases. She believed that vaccines had caused adverse reactions in her and other family members in the past. She also believed that certain components of vaccines such as aluminium adjuvants were unsafe for children, and could cause autism.

Mr. T. filed an application seeking the authority to make decisions concerning the child's health care. He believed that the child should receive all provincially-recommended vaccinations.

The judge ordered the parties to produce medical opinion on immunization. Mr. T. sought the opinion of Dr. Scheifele, a medical practitioner specializing in pediatric infectious diseases and immunization. Ms. D. sought the opinion of Mr. Shaw, a neurobiology researcher.

Decision and Reasoning

The Court held that Mr. T. was entitled to make decisions regarding the child's immunizations. The Court held that in all other significant area of the child's welfare, it was in the best interest of the child to grant the parents equal decision-making authority.

The Court accepted Dr. Scheifele's view that the benefits of immunization to the child outweighed any potential adverse effects. The Court was satisfied that Dr. Scheifele was an independent witness. Further, the court stated that his opinion was not only based on his own clinical research and experience but also on the fact that he had medically examined V and was well-versed with the medical histories of V's parents. Dr. Scheifele was also considered as a leading expert in the field of paediatric infectious diseases and immunizations. Dr. Scheifele acknowledged that medical science could never guarantee that there would be no adverse risks. However, he stated there was a minimal risk of any potential side effects, particularly at V's age (5 years). He also stated that studies have persuasively shown that vaccines do not cause autism.

The Court concluded that Ms. D.'s witness was not qualified to express an opinion concerning the risks and benefits of immunization. The Court noted that he was not a medical doctor and had no expertise in paediatric infectious diseases or immunization.

Decision Excerpts

“After reviewing all of the information provided to him by Ms. D. and Mr. T., Dr. Scheifele stated that he would not hesitate to immunize V., who is a normal, healthy child. According to Dr. Scheifele, nothing in V.'s personal or family history poses a contraindication to routine childhood immunizations or presents any greater risk than that faced by other healthy children.” (para 100)

“Medical science can never rule out the possibility of an adverse reaction. However, the risk of adverse reaction is very low, and the benefits of immunization greatly outweigh the risks to children should they contract any of the infectious diseases against which the vaccinations protect.” (para 109)

“Dr. Scheifele's view, based on the evidence I summarized earlier, is that the benefits of immunization to V. far outweigh any risk that may be associated with possible side effects from the immunization. While there is

a risk of side effects, it is minimal. Further, most known side effects are short-lived and clinically minimal in nature. It is Dr. Scheifele's opinion that V., like all children of his age in this province, is at risk of contracting a number of the infectious diseases covered by the vaccinations particularly if he travels to other countries with his parents.â€• (para 174)

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