



GÃ³mez, Carmen Diana v. Programa Federal de Salud

C. 713. XLVIII.

Country: Argentina

Region: Americas

Year: 2013

Court: Supreme Court of Justice [Corte Suprema de Justicia de la NaciÃ³n Argentina]

Health Topics: Child and adolescent health, Disabilities, Health care and health services, Health systems and financing

Human Rights: Right to health, Right to life

Facts

The plaintiff filed a guarantee of protection of individual constitutional rights (amparo protection) with Federal First Instance Court of La Plata [Juzgado Federal Instancia nÂ° 2 de La Plata] against the responsible of the Federal Program of Health [PROFE Salud] to provide health coverage for her underage son who suffered from sensorineural deafness. The Federal First Instance Court held that as the province of Buenos Aires was the executor of the "PROFE Salud" program, the case should be solved in local jurisdiction. The case was brought up by the plaintiff to the First Instance Civil and Commercial Court of La Plata [Juzgado Civil y Comercial nÂ° 27 de La Plata] but it dismissed the case because it was not competent because the National State was the respondent of the case. The case was sent to the Supreme Court of Justice to decide the competence of the case.

Decision and Reasoning

The Supreme Court of Justice held that the competent court was the First Instance Civil and Commercial Court of La Plata [Juzgado Civil y Comercial nÂ° 27 de La Plata] because even though the Federal Program of Health was created by the National Ministry of Health, it celebrated agreements with the provinces, in this case with the Ministry of Health of the Province of Buenos Aires, so the program is under provincial jurisdiction and execution by provincial decree 1532/10.

Decision Excerpts