



Kinsella v. Governor of Mountjoy Prison

[2011] IEHC 235

Country: Ireland

Region: Europe

Year: 2011

Court: [2011] IEHC 235

Health Topics: Prisons

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment, Right to liberty and security of person

Facts

Kinsella, a prisoner in an Irish prison who alleged that his constitutional rights were violated by being placed in unlawful and inhuman prison conditions.

While awaiting sentencing for a theft charge, Mr. Kinsella was a remand prisoner at Cloverhill Prison, where he shared a cell with three other prisoners in humane conditions. But after his conviction, he was transferred to Mountjoy Prison. He was also awaiting trial for murder. Mr. Kinsella was a "protected prisoner," meaning his life would be in danger if he were part of the general prison population. This had put serious constraints on the authorities, since they needed to take extra precautions any time he was not in his cell.

Their solution was to put Mr. Kinsella in an observation cell in the basement of the prison. The cell was three square meters, entirely padded, and contained nothing but a mattress, a small window with a shutter providing some natural light, and a cardboard box for sanitation facilities. Mr. Kinsella also maintained that he was given no access to reading material, radio, television, or even a shower. He spent eleven straight days in these conditions, with only one six-minute telephone call per day as reprieve.

Mr. Kinsella brought this charge against Mountjoy Prison on the basis that his constitutional rights had been breached by the prison conditions he was subjected to. He also argued that since his detention had become unlawful, he should be released.

The key legal provision involved in this case is Article 40.3.2 of the Ireland Constitution, which requires the State to "protect as best it may from unjust attack and, in the case of injustice done, to vindicate the life, person, good name and property rights of every citizen."

The central issues in this case are whether Mr. Kinsella's constitutional rights were violated and whether that violation should result in his release from the prison.

Decision and Reasoning

The Court held that Mr. Kinsella's constitutional rights were violated. Specifically, detention in the conditions in which Mr. Kinsella was held for eleven days did not meet the minimum standards of confinement constitutionally guaranteed and therefore violated his right to the protection of person given in Article 40.3.2 of the Constitution. The Court found that despite the prison's duty to protect Mr. Kinsella's life by keeping him away from other prisoners, they also have a duty to protect his person. The conditions he was subject to in his cell denied him of ordinary human faculties by disallowing him from interacting with other people. Article 40.3.2 protects the integrity of the mind and personality as well as simply the body, and the negative affects Mr. Kinsella's detention could have on the former are easy to see. Regardless of the crimes Mr. Kinsella committed, this detention therefore clearly robbed him of his constitutional rights.

The Court found that his detention is not unlawful since he did commit certain crimes. Without intentional violation of the Constitution or gross negligence regarding it "neither of which was found in this case" precedent shows the authorities must be given a chance to remedy the situation before the prisoner may be released, which was afforded to the authorities. However, the court stated that if Mr. Kinsella's detention were to continue to violate his constitutional rights for much longer (an exact time was not provided), Mr. Kinsella would be free to apply again for release. In the post script the Judge noted that Mr. Kinsella had been found another prison where he was transferred.

Decision Excerpts

â€œYet it is undeniable that detention in a padded cell of this kind involves a form of sensory deprivation in that the prisoner is denied the opportunity of any meaningful interaction with his human faculties of sight, sound and speech - an interaction that is vital if the integrity of the human personality is to be maintainedâ€• (Para 8).

â€œIt is nonetheless impossible to avoid the conclusion that a situation where a prisoner has been detained continuously in a padded cell with merely a mattress and a cardboard box for eleven days compromises the essence and substance of this constitutional guarantee, irrespective of the crimes he has committed or the offences with which he is chargedâ€• (Para 10).

â€œOne does not need to be [a] psychologist to envisage the mental anguish which would be entailed by a more or less permanent lock-up under such conditions for an eleven day period. Nor, for that matter, does one need to be a psychiatrist to recognise that extended detention over weeks under such conditions could expose the prisoner to the risk of psychiatric disturbanceâ€• (Para 9).

â€œIf the applicantâ€™s circumstances of detention were to continue as heretofore, then, of course, with each passing day, the present case would inch ever closer to the point whereby this Court could stay its hand no longer. In this regard, it should be noted that were these conditions to continue for much longer, the applicant would be justifiably entitled to make a fresh application for release under Article 40.4.2 or to take such further legal steps as he might be advisedâ€• (Para 16 C).

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