



Case of Kapryowski v. Poland

[2009] ECHR 23052/05

Country: Canada

Region: Americas

Year: 2009

Court: The European Court of Human Rights

Health Topics: Health care and health services, Prisons

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment

Facts

Since 1996 the applicant had suffered from a number of health issues including epilepsy and dementia. The applicant was also a recidivist offender and was regularly in and out of prison, serving his sentences in various detention establishments across Poland.

The focus of the applicant's complaint was on his treatment during his imprisonment at Poznań, Remand Centre, where he was detained on four separate occasions between August 2003 and November 2007. During this time, the applicant's medical records suggested that his epilepsy was severe and that his personality disorder and dementia were also highly problematic. The applicant alleged that whilst he was in Poznań, Remand Centre, he was committed to a general, rather than a medical, wing and had shared his cells with healthy prisoners who had ignored his epileptic fits. He also complained that he was humiliated when, because of his seizures, he lost consciousness and wet himself. The applicant argued that during this time he required specialised medical care, and direct and constant assistance from another person in his daily activities, which he had not been provided.

During his imprisonment in Poznań, Remand Centre, reports showed that the applicant was twice examined by a neurologist and thirty-four times by the remand centre's in-house doctor. He was given the brand drug appropriate for his treatment, however, for a period of three months he was prescribed a less expensive, generic drug. Doctors had also recommended that the applicant undergo regular neurological examinations and be placed under 24-hour medical supervision, which had not taken place.

At issue was whether, in light of the appellant's particular health condition, the lack of adequate medical treatment and assistance constituted a breach of Article 3 of the Convention, which prohibits inhuman and degrading treatment.

Decision and Reasoning

The Court held that the authorities had violated Article 3 of the Convention

The Court held that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. This requires a subjective assessment of the ill-treatment and its effects on the victim. Moreover, they stated that an absence of a reprehensible purpose does not negate a finding of a violation under Article 3. Further, they explained that whilst the Article does not require a detainee to be released or transferred to a hospital on health grounds, it does require the State to ensure that prisoners are detained in conditions which are compatible with respect for human dignity and that their health and well-being are adequately secured.

In applying these principles to the case, the Court found that the evidence confirmed that the applicant had at least three serious medical conditions which required regular medical care and put him at risk of a serious medical emergency. Several doctors had stressed that he should receive specialised psychiatric and neurological treatment and be placed under constant medical supervision.

Despite this need for additional care, the Court found that whilst the applicant was detained on the general wing, in the event of a medical emergency, the only immediate assistance was that of his fellow inmates with possible follow-up by an in-house doctor who did not specialise in neurology. The Court held that this was inadequate and found that the lack of supervision and assistance undermined the applicant's dignity by leaving him with considerable feelings of anxiety and placing him in a position of dependency and inferiority vis-à-vis his fellow cellmates. The Court was also critical of the prison switching the applicant onto a cheaper,

less effective drug, which increased his anguish and physical suffering.

Decision Excerpts

“[T]his provision does require the State to ensure that prisoners are detained in conditions which are compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject them to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, their health and well-being are adequately secured by, among other things, providing them with the requisite medical assistance.” (para 69)

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