



Rabone v. Pennine Care NHS Foundation Trust

[2012] UKSC 2

Country: United Kingdom

Region: Europe

Year: 2012

Court: The Supreme Court of the United Kingdom

Health Topics: Health care and health services, Hospitals, Medical malpractice, Mental health

Human Rights: Right to life

Facts

The claimants stated that the deceased was a voluntary psychiatric patient. She was assessed by the hospital as a high risk of suicide attempt as she had done so before. The hospital allowed her home leave for two days. During that period, she committed suicide. The claimants stated that the hospital and its staff were liable for the death of the deceased as they should not have allowed her home leave. The judge at the first instance and the Court of Appeal dismissed the claim stating there is no operational duty under Article 2 (Right to Life) to protect psychiatric patients against the risk of suicide.

Decision and Reasoning

The Supreme Court of the United Kingdom relied on jurisprudence from the European Court of Human Rights and stated that the deceased was admitted to the hospital because of the actual risk of suicide. The hospital authorities should have acted accordingly as no reasonable psychiatric doctor or institution would allow a home leave when there is an actual risk of suicide. The deceased's parents were also not keen for her to be allowed the home leave. The Court held that the duty entrusted under Article 2 of the Convention had been severely breached.

Decision Excerpts

“As regards the voluntary psychiatric patient who is at risk of suicide and the patient suffering from a life-threatening physical illness who is in an ordinary hospital setting, the nature of the risk to which these two categories of patient are exposed is very different. In the case of the suicide of a psychiatric patient, the likelihood is that, given the patient's mental disorder, her capacity to make a rational decision to end her life will be to some degree impaired. She needs to be protected from the risk of death by those means. The present case is a tragic illustration of this. Melanie was admitted to hospital because she was suffering from a mental disorder and had attempted to commit suicide. The very reason why she was admitted was because there was a risk that she would commit suicide from which she needed to be protected. On the other hand, the patient who undergoes surgery will have accepted the risk of death on the basis of informed consent. She may choose to avoid the risk by deciding not to go ahead with the medical treatment.” (Para 30)

“The standard demanded for the performance of the operational duty is one of reasonableness. This brings in consideration of the circumstances of the case, the ease or difficulty of taking precautions and the resources available: per Lord Carswell in *In re Officer L* ([2007] 1 WLR 2135, para 21). In this case, it also required a consideration of respect for the personal autonomy of Melanie. But it was common ground that the decision to allow Melanie two days home leave was one that no reasonable psychiatric practitioner would have made. In these circumstances, it seems to me that recourse to the margin of appreciation is misplaced. The trust failed to do all that could reasonably have been expected to prevent the real and immediate risk of Melanie's suicide.” (Para 43)