



Price v. United Kingdom

Application No. 33394/96; (2002) 34 EHRR 53; [2001] Crim.L.R. 916

Country: United Kingdom

Region: Europe

Year: 2001

Court: European Court of Human Rights European Court of Human Rights

Health Topics: Chronic and noncommunicable diseases, Disabilities, Prisons

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

Facts

P, who is a UK national, was four-limb deficient as a result of procomelia due to thalidomide. She also suffered kidney problems. On 20 January 1995, in the course of civil proceedings in Lincoln County Court for recovery of a judgment debt, P refused to answer questions regarding her financial status and was committed to prison for seven days for contempt of court. P was taken immediately into custody. The judge did not make any enquiry into where P would be detained before committing her to immediate imprisonment. P spent that night in a cell in Lincoln Police Station. The police cell was not specially adapted for a disabled person and P submitted that she was unable to use the bed or toilet in the cell. P complained of the cell being too cold several times.

A doctor saw P in the prison cell who noted that P had had to sleep in her wheelchair because she could not access the bed, the cell was not adapted to the needs of a disabled person and that the cell was too cold for someone with P's level of disability. On 21 January 1995, P was taken to New Hall Women's Prison, Wakefield where she was detained until the afternoon of 23 January 1995. P had difficulties reaching the bed and toilet in the cell and was tended by prison staff of both sexes in her toilet. P submitted that she was subjected to extremely humiliating treatment as a result of being assisted by male prison officers in her toilet. P had to be catheterised at the time of release because of lack of fluid intake during custody and urine retention due to problems accessing the toilet.

P claimed to have suffered health problems for ten weeks thereafter but supplied no medical evidence to support this. On 30 January 1995, P consulted solicitors with a view to bringing an action in negligence against the Home Office. P was granted legal aid to seek counsel's opinion. P's counsel advised that it would be difficult to prove that P suffered ill-treatment in custody and advised that any damages were not likely to exceed GBP 3,000. In the light of this advice P's legal aid certificate was discharged on 13 May 1996. On 23 July 1996, P filed an application with the Commission, complaining that her committal to prison and treatment in detention violated Article 3. The application was transmitted to the Court on 1 November 1998, and declared admissible on 12 September 2000.

[Adapted from INTERIGHTS summary, with permission]

Decision and Reasoning

The Court held that: (1) ill-treatment must attain a minimum level of severity if it is to fall within the scope of Art 3; (2) the assessment of this minimum level of severity is relative and depends on the circumstances of the case, including the duration of treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim; (3) the sentencing judge took no steps before committing P to immediate imprisonment "a particularly harsh sentence" to ascertain where she would be detained or to ensure that the facilities could cope with her severe level of disability; (4) there were notes in P's admissions records by a doctor and a staff nurse expressing concern over the problems that were likely to be encountered during her detention, including reaching the bed and the toilet, hygiene and fluid intake; (5) such was the concern over the difficulties P would face during her detention that the prison governor authorized staff to attempt to find P a place in an outside hospital; (6) P had to be catheterized by the time of her release due to lack of fluid intake and difficulties accessing the toilet; (7) the fact that there is no evidence of any positive intention to humiliate or debase P does not conclusively rule out a finding of violation of Art 3 (Peers v Greece); (8)

detaining a seriously disabled person in conditions where she is dangerously cold, risks developing sores because her bed is too hard or unreachable, and is unable to go to the toilet or keep clean without great difficulty constitutes degrading treatment in violation of Art 3; and (9) within three months of final judgment, the state is to pay P GBP 4,500 in respect of non-pecuniary damages and GBP 4,000 in respect of legal costs and expenses (and default interest at the statutory rate of interest applicable in the UK at the date of final judgment which is 7.5 per cent).

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Decision Excerpts

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