



R (on the application of M) v. Slough Borough Council

[2008] UKHL 52

Country: United Kingdom

Region: Europe

Year: 2008

Court: House of Lords

Health Topics: Health care and health services, Health systems and financing, HIV/AIDS, Infectious diseases, Medicines

Human Rights: Right to housing, Right to social security

Facts

M was Zimbabwean citizen diagnosed as HIV positive, who was living in the United Kingdom while his appeal of a decision to return him to Zimbabwe was ongoing. Because of his illness, he applied to the local health authority to assess his needs for accommodation.

The authority declined to provide accommodation to M. It determined that while M required medication, refrigeration for his medication, and access to a doctor at periodic intervals (all of which were available to M under the National Health Service), M would otherwise be fit enough to take care of himself and would require no further assistance. However, M argued that s 21(1)(a) of the National Assistance Act 1948 (the Act) required that the local social services authority to provide "residential accommodation for persons aged eighteen or over who by reason of age, illness, disability or any other circumstances are in need of care and attention which is not otherwise available to them."

The issue before the House of Lords was whether M fell under the category of persons that were "in need of care and attention" as defined by the Act.

Decision and Reasoning

The Court held that M was not "in need of care and attention." It considered that that phrase was intended to apply to persons who needed to be looked after, and did not cover those who were merely in need of housing. "Care and attention" could include help with household tasks, or protection from risks, but it was unlikely that it was intended to cover accommodation, as that was adequately provided for in both other sections of the Act and in the Housing Act 1996. The existence of these other provisions indicated that Parliament did not intend to include housing under s 21(1)(a). M was therefore not entitled to accommodation under this provision.

Decision Excerpts

"But 'care and attention' must mean something more than 'accommodation'. Section 21(1)(a) is no power to provide housing. That is dealt with by other legislation entirely, with its own criteria for eligibility. If a simple need for housing, with or without the means of subsistence, were within s 21(1)(a), there would have been no need for the original s 21(1)(b). Furthermore, every homeless person who did not qualify for housing under the Housing Act 1996 would be able to turn to the local social services authority instead. That was definitely not what Parliament intended in 1977." Para. 33.

"I remain of the view which I expressed in Wahid's case (at [32]), that the natural and ordinary meaning of the words 'care and attention' in this context is 'looking after'. Looking after means doing something for the person being cared for which he cannot or should not be expected to do for himself: it might be household tasks which an old person can no longer perform or can only perform with great difficulty; it might be protection from risks which a mentally disabled person cannot perceive; it might be personal care, such as feeding, washing or toileting. This is not an exhaustive list. The provision of medical care is expressly excluded. Viewed in this light, I think it likely that all three of Mrs Y-Ahmed, Mrs O and Mr Bhikha needed some care and attention (as did Mr Wahid but in his case it was available to him in his own home, over-crowded though it was). This definition draws a reasonable line between the 'able bodied' and the 'infirm'." Para. 33.