



State of Mato Grosso v. Marina de Almeida Andrade

State of Mato Grosso v. Marina de Almeida Andrade, RE 400040/MT, Supremo Tribunal Federal [Federal Supreme Court] (2005).

Country: Brazil

Region: Americas

Year: 2005

Court: Supremo Tribunal Federal [Federal Supreme Court]

Health Topics: Health care and health services, Health systems and financing, Infectious diseases, Medicines, Poverty

Human Rights: Right to health, Right to life

Facts

The State of Mato Grosso filed an extraordinary appeal against the decision of the Court of Justice of Mato Grosso. The Court of Justice found that the State was responsible for providing free medication for the treatment of HIV/AIDS to a needy individual, even though the medication was not included in the list of medication to be provided free of charge to the public. The State argued that the court's decision violated articles 196, 197, 198 and 200 of the Constitution, and that it would be unreasonable to compel the State to pay for benefits without prior budgetary allocation.

Decision and Reasoning

The Court found that the State was responsible for providing free HIV/AIDS medication and healthcare services to those who lack the ability to pay. The Court observed that the right to health is guaranteed by the Constitution, and that the government is responsible for implementing social and public policies that facilitate citizen's full and equal access to their rights to health and life.

Decision Excerpts

" Se o Secretário Estadual de Saúde o Gestor do Sistema Único de Saúde no âmbito estadual e sua gestão de natureza plena, não obstante subordinada às regras previamente estabelecidas pelo Ministério da Saúde (Gestor Nacional do Sistema), e nessa qualidade, nega o fornecimento de medicamento de alto custo a pessoa sem recurso para o adquirir, é ele a autoridade diretamente responsável pelo ato omissivo, sendo, portanto, parte legítima para figurar no pólo passivo de ação mandamental e competente ser a Justiça Comum. A saúde é direito fundamental do ser humano, devendo o Estado prover as condições indispensáveis ao seu pleno exercício, inclusive com a distribuição de medicamentos, quando a pessoa não dispuser dos recursos necessários. "