



State of Pernambuco v. Geni Lira de Sales

State of Pernambuco v. Geni Lira de Sales, AI 676044/PE, Supremo Tribunal Federal [Federal Supreme Court] (2007).

Country: Brazil

Region: Americas

Year: 2007

Court: Supremo Tribunal Federal [Federal Supreme Court]

Health Topics: Chronic and noncommunicable diseases, Health care and health services, Medicines, Poverty

Human Rights: Right to health, Right to life

Facts

The State of Pernambuco filed an interlocutory appeal against the Court of Justice of Pernambuco's decision, refusing to admit an extraordinary appeal. The Court of Justice of Pernambuco found that the State was responsible for providing medication and health services to a needy individual suffering from chronic disease. The State argued that the constitutional obligation to provide medication and health services to the needy was not the responsibility of the state, but that of the federal government.

Decision and Reasoning

The Court affirmed the decision of the lower court, and dismissed the interlocutory appeal. The Court observed that the right to health is guaranteed by the Constitution, and that to give meaningful effect to constitutional provisions the government, including state governments, were responsible for providing positive benefits to fulfill the citizen's right to health, including the state distribution of medications and health services to those without the ability to pay.

Decision Excerpts

"O sentido de fundamentalidade do direito à saúde - que representa, no contexto da evolução histórica dos direitos básicos da pessoa humana, uma das expressões mais relevantes das liberdades reais ou concretas - impõe ao Poder Público um dever de prestação positiva que somente se terá por cumprido, pelas instâncias governamentais, quando estas adotarem providências destinadas a promover, em plenitude, a satisfação efetiva da determinação ordenada pelo texto constitucional."