

Shanghai First Intermediate Peoples' Court Civil ruling

(2004) Hu-Zhongmin-Min zhongzi (No.1457)

Appellant (Plaintiff in first instance) KZM, male, born in Oct 31, 1963, Han Nationality, lives in XXX, Wuyi West Road, Changsha city, Hunan province.

Authorized agent(Authorized Attorney): Yang Shaogang, Shanghai Jiuhui Law Firm

Appellee (Defendant in first instance) : Shanghai Institute of Biological Products, 1262 Yan'an West Road, Shanghai

Legal Representative: Director Zhu Wei

Appellant KZM refused to accept the civil verdict (No. 1984) made in the first instance by the Shanghai Chang Ning District People's Court and appealed the case to this court. This court set up the collegiate bench for hearing after accepting the case on May 26, 2004 according to law. It is now the closing of the examination and hearing.

The trial of the first instance held that according to modern medicine HIV can be infected through various channels. The Ministry of Health in China has released related policies for medical treatment and care for people living with HIV/AIDS (PLHIV). Patients from rural areas and those from urban areas who are not covered by the urban medical insurance program will be provided free treatment. ARV drugs are placed in the category for reimbursement in the basic medical insurance program for urban employees, which is supported by Public Expenditure from rural medical assistance. Local governments are obliged to provide social care and support according to related national policies. The court of the first instance thus reached a verdict on March 22nd, 2004 and the appeal of plaintiff KZM was dismissed.

KZM refused to accept the ruling of the first instance and thus appealed for reversal or remand and retrial. The appellee, Shanghai Institute of Biological Products, gave no written defense.

After the trial, the Shanghai Intermediate People's Court holds that: the appellant is a patient of hemophilia A, who became infected with HIV and hepatitis C. The infection shall be dealt with by local authorities according to the related national policies issued by the Ministry of Health. The ruling in the first instance to dismiss the claims of KZM was correct. The claims of KZM lack legal grounds and are not supported by the Shanghai Intermediate People's Court. Hence, in accordance with Article 154 of the Civil Procedure Law of the People's Republic of China, the Shanghai Intermediate People's Court ruled:

Appeal dismissed and the ruling of the first instance maintained

This judgment is final.

Chief Justice: Li Chaoyang
Judge: Gu Yuqin
Acting Judge: Sheng Weiling
June 3, 2004

This document has been verified as identical with the original one

Court clerk: Wang Shen