



I REFUSE TO LET MY CHILD HAVE A BLOOD TRANSFUSION

Can parents refuse to let a doctor give a blood transfusion to their minor child on religious grounds? What must the doctors do in such a situation? How does a court analyze the evidence submitted to it when parents refuse to consent to the care required by the state of health of their minor child?

THE FACTS

The parents of two newborns refused to let their children receive blood transfusions on the ground that doing so would be contrary to their religious beliefs. The children were born prematurely and their state of health required care in order to keep them alive. In the opinion of the medical specialists, the blood transfusions were an integral part of the care required by their state of health. Without these transfusions, there was a risk the children would die.

The parents hired an expert physician, himself a Jehovah's Witness, who argued that the children could be treated by giving them a hormone (EPO) instead of the blood transfusions. According to the specialists that were caring for both children, this treatment was not recommended in the case at hand.

Although they opposed the administration of blood transfusions, the parents had nevertheless asked the doctors to take all means available to save the lives of their two children. Faced with the parents' refusal to consent to the care required by the state of health of their children, the hospital had no choice but to go to court.

THE ISSUE

Was the parents' refusal to consent to the care required by the state of health of their two minor children justified?

THE DECISION

The motion for authorization to administer care was granted.

THE GROUNDS

Freedom of religion is a right protected under the *Charter of Human Rights and Freedoms*. However, in the case at hand, the court was of the opinion that the parents' religious beliefs had to be set aside. First and foremost, it was important to

preserve the life and personal inviolability of the children and these rights had to prevail over the parents' freedom of religion. In Québec, the *Civil Code of Québec* provides that the court's authorization is necessary when someone who may consent to care on behalf of another person refuses, without justification, to give such consent. In the case at hand, the judge ruled that the parents' refusal to allow the administration of blood transfusions was unjustified and that this decision had not been made in the best interests of their two minor children. The court emphasized the fact that the parents had decided to entrust the care of their children to the medical specialists. Having done so, they could not subsequently interfere with the specialists' treatment plans on religious grounds.

Despite the parents' religious beliefs, the court therefore authorized the hospital to give the two children the blood transfusions which were required by their state of health. Based on the medical evidence presented at trial, there was a risk the children would die without the transfusions.

References

Centre hospitalier universitaire de Québec v. A. and B., Québec Superior Court (C.S.), 200-17-008315-079, May 23, 2007, Judge Jean Bouchard, 2007 QCCS 2419; www.jugements.qc.ca.

Civil Code of Québec, (S.Q. 1991, c. 64), article 16.

Charter of Human Rights and Freedoms, (R.S.Q., c. C-12).

The judgement discussed in this article was rendered based on the evidence submitted to the court.

Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

Contact us

Community legal centre
of Montréal region
425, boul. de
Maisonneuve Ouest
Bureau 600
Montréal (Québec)
H3A 3K5

Phone : 514 864-2111
Fax : 514 864-1515
www.ccjm.qc.ca