

AN NHS TRUST v C (2004)

[2004] EWHC 1657 (Fam)

Fam Div (Sumner J) 12/7/2004

HEALTH - MENTAL HEALTH

CONSENT : MENTALLY DISORDERED PERSONS : MEDICAL TREATMENT
: CANCER : DOCTOR'S **CONSENT**

A declaration was granted to allow an NHS trust to lawfully administer a general anaesthetic in order to carry out a CT scan on a patient suffering from a renal carcinoma as, due to her mental illness, she did not have the capacity to use the information available and weigh it in the balance as part of the process of arriving at a decision on whether to **consent to treatment.**

The applicant, an NHS trust (N), sought a declaration that it might lawfully administer a general anaesthetic to an elderly patient (C) against her wishes for the purpose of performing a CT scan. C had a history of mental illness and had been admitted to hospital on a number of occasions. Since February 2004 C had been detained, following voluntary admission, under the Mental Health Act 1983 s.3. There was a consensus amongst doctors that C suffered from, amongst other things, paranoid schizophrenia, delusions, hallucinations and thought disorder. C had no insight into her mental illness and generally refused to accept medical treatment, regarding it as unnecessary and part of a plot against her. C had developed blood in her urine and an ultrasound scan revealed a suspected renal carcinoma. N was of the opinion that a CT scan was essential for the proper investigation and treatment of the carcinoma. N submitted that C fell within the exception of being "unable to use the information and weigh it in the balance as part of the process of arriving at the decision" of whether to **consent** to treatment as identified in paragraph 4(b) of the judgment of Butler-Sloss L.J. in *Re MB (Caesarean Section)* (1998) 38 BMLR 175. C's solicitor did not oppose the application.

HELD: On the facts of the case C lacked the capacity to **consent** to the administration of the CT scan. C's mental illness led to an inability to weigh the information and arrive at a decision regarding **consent**, *Re MB (Caesarean Section)* (1998) 38 BMLR 175 applied. It was also in C's best interest for the CT scan to go ahead.

Application granted.

Counsel:

For the applicants: David Lock

The respondent: Huw Lloyd

Solicitors:

For the applicants: Mills & Reeve
The respondent: Official Solicitor

LTL 19/7/2004 (Unreported elsewhere)

Judgment Draft