

IN THE COURT OF APPEAL

Cruiseshire NHS Trust v Katie

Katie is an actress and single mother, aged 31. She gave birth to her first son, Tom, in October 2010, through an elective Caesarean section. Unfortunately, Katie suffered from genital tract sepsis, resulting in puerperal fever.

As a result of her illness, Katie lost consciousness, and was admitted to Cruiseshire NHS Trust, under the care of Dr Kidman. On awakening, Dr Kidman informed Katie that her infection was potentially life threatening, and that aggressive treatment with intravenous broad-spectrum antibiotics may prevent her situation from becoming irreversible.

However, Katie refused the treatment. Katie is a Scientologist, and is due to attain her next "Operating Thetan" level in one week. As a precursor to rising to this next level, Katie is unable to take any form of medical treatment for a month. Katie firmly believes that her illness is psychosomatic and that by analysing and treating her "reactive mind" according to her Scientology training, and by maintaining her energy levels through a combination of lemonade, vinegar and tamarind, her fever will be cured.

Dr Kidman was firmly against Scientology, proclaiming it as nonsense, and believed that it was in both Katie and Tom's best interests that she receive the antibiotic treatment, as she was concerned that Tom would be left without a mother if Katie succumbed to her illness. Dr Kidman requested that Cruiseshire NHS Trust seek an emergency declaration from the High Court that it would be lawful that Katie be administered with intravenous antibiotics without her consent.

Winfrey J found the following facts:

1. Katie had been a practicing Scientologist since 2005.
2. A decision of the Charity Commissioners for England and Wales, 17 November 1999, declared that Scientology is not a religion for the purposes of English charity law.
3. Other than Katie, there was no family to care for Tom.

Winfrey J declared that it was in Katie's best interests to receive the antibiotic treatment as:

1. Katie lacked capacity as her desire to attain the next level of Scientology rendered her temporarily incompetent to make the decision to refuse the antibiotic treatment, and her belief that her illness was psychosomatic was further evidence of her incompetence.
2. Even if Katie had capacity to make a valid decision to refuse antibiotic treatment, the Court is entitled to have regard to Tom's rights and when balanced against Katie's rights to autonomy, self determination and free practice of her beliefs, Tom's right to a family life outweighed those of Katie.

Katie appeals on the following grounds:

1. Making a bizarre or irrational decision is not in itself sufficient for a finding of incapacity, and her right of choice exists regardless of her reasons for making that choice.
2. Winfrey J had erred in finding that Tom's rights outweighed her own, as the wellbeing of her minor child did not override her own right, as a competent adult, to refuse lifesaving medical treatment.