

In the Court of Appeal (Criminal Division)

Regina - v - Jones

Dr Arthur Jones was convicted at the Flitland Crown Court of the murder of Baby X. The following facts were not in dispute:

At the time of the offence Dr Jones was in charge of the premature baby unit at the only hospital in the region. He had previously authorised the use of the only available life-support system for Baby X, whose chances of surviving without it for longer than a few hours were small. A little while later another, more viable baby, Baby Y, was brought to the unit needing immediate support. No alternatives being available, Dr Jones decided to remove the less viable baby, Baby X, from the life-support system to make room for the new arrival, Baby Y. Dr Jones made this decision entirely on his own initiative, and without any consultation with medical colleagues or the parents of Baby X. Baby X died soon afterwards, and Baby Y died five days later while still on the life-support system.

On the advice of his counsel Dr Jones pleaded guilty to the murder of Baby X after Stern J. had intimated that he would direct the jury:

1. that Dr Jones had caused Baby X's death, since the baby would, though born prematurely, have lived much longer if it had not been removed from the life-support system; and
2. that Dr Jones's belief that the life-support system would give Baby Y a far better chance of survival than Baby X was no defence to the charge.

Dr Jones now appeals to the Court of Appeal on the ground that both rulings were erroneous, and that his conviction is accordingly unsafe.

This problem is taken from the second round of the Observer-ESU-Lovell White Durrant Mooting Competition 1997-98, and was provided courtesy of the English Speaking Union.