

A Metropolitan Borough Council v DB (1996)

(1997) 1 FLR 767 : (1997) 37 BMLR 172

21/11/1996

Barristers

Henry Setright KC

Court

Family Division

Summary

Circumstances in which a court under its inherent jurisdiction can make an order directing that reasonable force may be used to require a child over 16 to submit to medical treatment. Whether a maternity ward is a secure accommodation unit within the provisions of the Children Act 1989 s.25.

Facts

D was a crack-cocaine addict who had received no antenatal care until very shortly before the birth of her child. Two days before the birth she was admitted to hospital suffering from eclamptic fits. She discharged herself. On the day of the birth she was persuaded to attend the maternity unit where she was found to be hypertensive. D refused all other examinations and wanted to discharge herself. She gave birth by caesarean. There followed an application to the High Court that D undergo such medical treatment as was necessary, whether or not she consented. An application was also made that reasonable force be used to transfer D to hospital and to administer such care as was necessary to ensure as little distress and loss of dignity as possible. An emergency protection order was made in respect of the baby. The local authority asked for leave for D to be placed in secure accommodation, namely the maternity ward, and for the order for further medical treatment to continue. The hospital wanted to monitor D's condition and to treat her so as to minimise risk to her life. D failed to understand the risks to herself. It was maintained on her behalf that the ward was not secure accommodation so the local authority's application was misconceived. She also contended that the order regarding medical treatment be amended so as to delete the provision relating to reasonable force.

Held

(1) The court first had to determine whether D was regarded as competent in comprehending and retaining treatment information, believing it, and weighing it in the balance to arrive at a choice. D failed at each stage and was thus far from competent. (2) The maternity ward was secure accommodation having regard to the manner in which D was confined. The restriction of liberty was the essential factor in determining what was secure accommodation. A place did not have to be designated; each case could turn on its own facts. (3) D came within the provisions of s.25(1)(b) of the Children Act 1989 in that if she were to leave the ward and the medical care provided, she would be likely to injure herself. (4) D was not competent to give herself medical treatment. The local authority had parental responsibility under a care

order and, like the mother, was empowered to take such steps as might be appropriate to protect the best interests of the child. That could permit the use of reasonable force for the purpose of imposing intrusive necessary medicine where a life-threatening situation arose, or where serious deterioration in health might result if appropriate treatment were not administered. The local authority's application was granted without amendment.

Permission

Lawtel 