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Girl's forced blood transfusion didn't violate rights: top court

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CBC News



The Supreme Court of Canada in Ottawa. (Canadian Press)

Canada's top court on Friday dismissed the case of a Manitoba girl — a Jehovah's Witness — who said her rights were violated when she was forced to get a blood transfusion against her wishes because she was a minor.

In a 6-1 ruling, the Supreme Court ruled that such medical interventions are constitutionally sound.

However, the ruling also said lower courts from now on must consider the maturity and decision-making skills of minors before deciding on enforced treatment.

"The more a court is satisfied that a child is capable of making a truly mature and independent decision on his or her own behalf, the greater the weight that must be given to his or her views when a court is exercising its discretion" regarding the best interests of the child, said Justice Rosalie Abella, writing for the majority.

"If, after a careful analysis of the young person's ability to exercise mature and independent judgment, the court is persuaded that the necessary level of maturity exists, the young person's views ought to be respected."

The girl argued her case so convincingly that the Supreme Court awarded her costs — which could be as high as \$450,000 — so she doesn't have to pay for the pricey legal action. Instead, the government of Manitoba will have to pay.

The 14-year-old Jehovah's Witness, identified only as A.C., received a court-ordered blood transfusion in 2006 at a Winnipeg hospital to treat internal bleeding from her bowel associated with Crohn's disease.

The girl and her parents opposed the transfusion based on their religious belief that the Bible forbids ingesting blood.

A.C. had signed an advanced medical directive stating she didn't want a blood transfusion. Three psychiatrists who assessed her all concluded she understood her medical condition and the consequences of not getting a transfusion.

But under Manitoba law, people under the age of 16 can be given medical treatment against their will.

Doctors contacted Child and Family Services, which apprehended A.C. as "a child in need of protection." After lawyers for the child welfare agency successfully obtained an order from Manitoba's Court of Queen's Bench, the girl was given three units of blood.

"There almost are no words to say just how brutal of an act it is. I once compared it to almost being raped. There are no options for you, there's nothing you can do about it and it's very hard to deal with," the girl told CBC.

"It was very heart-breaking just to have all my decisions taken away from me, especially with my strong beliefs on not taking blood and knowing that it wasn't even necessary and to have a judge who didn't even speak to me at all. I never got to tell him anything about what I wanted. It was very, very emotional."

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