



Reproductive rights and health in Northern Ireland

Schedule of legal developments

13 June 2001

Application for Judicial Review heard and leave granted

12 September 2001

Northern Bishops permitted to intervene

3 October 2001

SPUC; Precious Life; and Care & Life applied for leave to intervene

Schedule of legal developments

17 October 2001

SPUC etc given permission to intervene on a written basis

5 December 2001

Final pre-hearing

21 & 22 March 2002

Judicial Review heard

7 July 2003

Judgement presented

Schedule of legal developments

28 July 2003

Appeal papers lodged

10 October 2003

SPUC lodged an application to intervene

20 December 2003

Northern Bishops lodged an application to
intervene

Schedule of legal developments

23 January 2004

Notions of Motion heard in Belfast Court of Appeal by Lord Justices McCollum, Nicholson and Higgins

24 to 26 May 2004

Appeal heard

26 November 2004

Court ruled in favour of fpa

Declarations

- The Minister had acted unlawfully in failing to provide advice and/or guidance to women and clinicians in NI on the availability and provisions of services.
- The Minister has failed to investigate whether women are receiving satisfactory services in respect to actual or potential abortions
- The Minister had acted unlawfully in failing to secure such services for women

The Minister is in breach of:

- Health and Personal Social Services (NI) Order 1972
- The common law principle of equality
- Articles 2 and/or 8 of the European Convention on Human Rights, read alone and/or in conjunction with Article 14
- Expectations that she will comply with the corporate aims of the Corporate Plan

Justice Kerr's judgement

The law is clear

**There is no significant uncertainty
among the medical profession**

The law

- A termination is lawful where the continuance of the pregnancy threatens the life of the mother, or would adversely affect her mental or physical health
- The adverse effect on her mental or physical health must be a 'real and serious' one, and must be 'permanent or long term'
- In most cases the risk of the adverse effect occurring would need to be a probability, but a possibility might be regarded as sufficient if the imminent death of a mother was the potentially adverse effect

Key appeal arguments

All lawful terminations **WILL** be provided

versus

All lawful terminations **ARE** provided

Key appeal arguments

- Negative versus positive duties
- No evidence presented by DHSSPS
- Ignored 'the convention'
- Ignored Article 8
- Ignored the 'chill factor'
- Placed undue weight on statistics
- Ignored culture of secrecy and blame

Nicholson

- Controversial issue
- Insufficient knowledge and information
- Unclear legal principles
- Informed consent
- Abnormal fetus issue not addressed
- Investigation to be initiated

SHEIL and Campbell

- Fetal abnormality
- DHSSPS has distanced itself from abortion services

GAINS

- More women accessing abortions in first trimester
- Balanced press coverage
- Increased MLA support
- Increased publicity for service
- Increase in picketing