



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

CASE OF Z.W. v. THE UNITED KINGDOM

(Application no. 34962/97)

JUDGMENT
(Friendly settlement)

STRASBOURG

29 July 2003

This judgment is final but it may be subject to editorial revision.

In the case of Z.W. v. the United Kingdom,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of

Mr J.-P. COSTA, *President*,

Sir Nicolas BRATZA,

Mr L. LOUCAIDES,

Mr C. BÎRSAN,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs W. THOMASSEN, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 8 July 2003,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 34962/97) against the United Kingdom of Great Britain and Northern Ireland lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a United Kingdom national, Z.W. (“the applicant”), on 23 October 1996.

2. The applicant, who had been granted legal aid, was represented by Andersons Solicitors, practising in Nottingham. The United Kingdom Government (“the Government”) were represented by their Agent, Mr C.A. Whomersley. The President of the Chamber acceded to the applicant’s request not to have her name disclosed (Rule 47 § 3 of the Rules of Court).

3. The applicant complained that the local authority had failed to protect her welfare whilst she was in foster care contrary to Article 3 of the Convention, and that she had had no redress for her complaints against the local authority contrary to Article 13.

4. Following communication of the application to the Government by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention and was allocated to the Third Section of the Court.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Second Section (Rule 52 § 1). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court. On 27 November 2001,

having obtained the parties' observations, the Court declared the application admissible.

6. Following an exchange of correspondence, on 11 and 16 June 2003 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

7. The applicant, born in 1972, is detained in Rampton Hospital.

8. In July 1973 the applicant and her three siblings were admitted to foster care by the local authority, following reports that their mother was unable to care for them and of squalid living conditions.

9. In May 1976 the applicant and her sister were placed with Mr and Mrs D. Over the following thirteen years the local authority noted various concerns about the placement. In 1980 matters had deteriorated to the extent that the girls were almost removed. A 1981 memorandum stated that they showed many signs of emotional disturbance. In 1984 and 1985 Mr and Mrs D. resisted a number of attempts by social workers to see the girls alone.

10. In 1989 the girls made allegations of physical and sexual abuse although no prosecution was brought. In June 1989 both made suicide attempts. In August 1989, the applicant finally left Mr and Mrs D. She was subsequently convicted of various offences, including assault and arson. She was admitted to psychiatric hospitals on a number of occasions and since 1993 has been detained in Rampton Hospital, with a diagnosis of mental illness and psychopathic disorder.

11. In 1995 the applicant issued proceedings in negligence against the local authority. A psychiatric report was prepared in which the applicant's account of the horrific abuse she had endured was set out. It included details of how she and her sister had been deprived of food, severely beaten, locked in their room, denied access to the toilet and treated as slaves. The report concluded that the applicant's traumatic upbringing had significantly contributed to her mental disorder, the symptoms of which included self-mutilation, mood disorder and anti-social behaviour. The applicant had not been aware of any sexual abuse, but her sister later made a statement, in support of a claim by the applicant for criminal injuries compensation, in which she detailed physical and sexual abuse.

12. In 1996 the High Court struck out the negligence claim as disclosing no reasonable cause of action, on the basis that there was no duty of care owed by a local authority to children in its care in English law at the time. In 1999 the applicant was awarded 50,000 pounds sterling (GBP) by the

Criminal Injuries Compensation Authority, in respect of the abuse by her foster-parents and for a separate claim relating to an assault.

THE LAW

13. On 11 June 2003 the Court received the following declaration signed by the applicant's representative:

"I note that the Government of the United Kingdom are prepared to pay the sum of GBP 77,000 (seventy seven thousand), covering pecuniary and non-pecuniary damage and costs [to Z.W.] with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

I accept the proposal and waive any further claims against the United Kingdom in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court's judgment."

14. On 16 June 2003 the Court received the following declaration from the Government:

"I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of the United Kingdom offer to pay GBP 77,000 (seventy seven thousand) to the applicant. This sum is to cover any pecuniary and non-pecuniary damage as well as costs, and is paid on condition that the applicant will pay out of it to the United Kingdom's Criminal Injuries Compensation Authority the sum of GBP 50,000, being the amount which the applicant is obliged to repay to the Authority under the arrangements relating to the compensation already received by her from the Authority. The sum of GBP 77,000 will be payable by the Government within three months from the date of delivery of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention."

15. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

16. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 29 July 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President