



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

FOURTH SECTION

CASE OF WINGRAVE v. THE UNITED KINGDOM

(Application no. 40029/02)

JUDGMENT
(Friendly settlement)

STRASBOURG

29 November 2005

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Wingrave v. the United Kingdom,

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

Mr J. CASADEVALL, *President*,

Sir Nicolas BRATZA,

Mr M. PELLONPÄÄ,

Mr R. MARUSTE,

Mr S. PAVLOVSKI,

Mr J. BORRERO BORRERO,

Mr J. ŠIKUTA, *judges*,

and Mrs F. ELEN- PASSOS, *Deputy Section Registrar*,

Having deliberated in private on 8 November 2005

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

PROCEDURE

1. The case originated in an application (no. 40029/02) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a British national, Mrs Alberta Pamela Wingrave (“the applicant”), on 28 October 2002. The applicant died on 3 July 2005 and the executors for her estate continued with the application.

2. The United Kingdom Government (“the Government”) were represented by their Agent, Ms E. Willmott.

3. The applicant complained under Article 6 § 1 of the Convention about the delays in the procedures for deciding her claim for disability allowances.

4. On 18 May 2004, after obtaining the parties’ observations, the Court declared the application admissible in so far as this complaint is concerned.

5. On 24 May 2005, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 9 June 2005 and 23 September 2005 the Government and the executors for the applicant’s estate respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1936 and lived in Exeter.

7. The applicant submitted a claim to the Benefits Agency for disability living allowance (DLA) on 21 December 1995 and an adjudication officer

made a lifetime award on 5 February 1996. Following a review of the award on 4 November 1997, the applicant's entitlement to DLA was removed as of 20 October 1997. The case came before the Disability Appeal Tribunal (DAT) three times and the first two decisions were set aside by the Social Security Commissioner on the grounds that they were erroneous in law. The third hearing before the DAT took place on 17 July 2002. The applicant did not appeal further.

THE LAW

8. On 9 June 2005 the Court received the following declaration from the Government:

"I, Ms Emily Willmott, Agent of the Government of the United Kingdom, declare that the Government of the United Kingdom offer to pay *ex gratia* the sum of GBP £4,500 (four thousand five hundred sterling pounds) to Mrs Alberta Pamela Wingrave with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, and it will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The 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."

9. On 23 September 2005 the Court received the following declaration signed by one of the executors for the applicant's estate:

"I, Mrs Alberta Pamela Wingrave, note that the Government of the United Kingdom are prepared to pay me *ex gratia* the sum of GBP £4,500 (four thousand five hundred sterling pounds) with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum is to cover any pecuniary and non-pecuniary damage as well as costs and expenses and will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

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 resolution of the case.

This declaration is made in the context of a friendly settlement which the Government and I 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."

Signed by Peter S. Hughes, Executor for the applicant who died on 3 July 2005.

10. 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).

11. 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 November 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise ELEN-PASSOS
Deputy Registrar

Josep CASADEVALL
President