



Grand Chamber hearing on the case Allen v. the United Kingdom

The European Court of Human Rights is holding a Grand Chamber¹ hearing today **Wednesday 14 November 2012 at 9.15 a.m.** in the case of **Allen v. the United Kingdom** (Application no. 25424/09)

The case concerns the refusal to grant compensation to a mother convicted of the manslaughter of her four-month old son, following the quashing of her conviction on appeal.

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicant, Lorraine Allen, is a British national who was born in 1969 and lives in Scarborough.

On 7 September 2000 Ms Allen was convicted of the manslaughter of her four-month old son and sentenced to three years' imprisonment. The conviction was based on evidence given at her trial by expert medical witnesses who testified that her son's injuries were consistent with "shaken baby syndrome", also known as "non-accidental head injury" ("NAHI"), because of the presence of a triad of intracranial injuries.

In her appeal, Ms Allen claimed that new medical evidence suggested that the triad of injuries could be attributed to a cause other than NAHI. In the meantime, she was released from prison, having served her sentence.

On 21 July 2005 the Court of Appeal quashed Ms Allen's conviction on the grounds that it was unsafe. It found that the new evidence might have affected the jury's decision to convict Ms Allen. The prosecution did not apply for a re-trial given that, by the time Ms Allen appealed her conviction, she had already served her sentence and a considerable amount of time had passed.

Ms Allen lodged a claim with the Secretary of State under section 133 of the Criminal Justice Act 1988, which provides that compensation shall be paid to someone who was convicted of a criminal offence but has subsequently had that conviction reversed on the ground that a new or newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of justice. Her claim was refused on 31 May 2006.

She brought judicial review proceedings challenging this decision. Her claim was dismissed by the High Court in December 2007. Her appeal was subsequently dismissed by the Court of Appeal in July 2008. Noting that the acquittal decision did not begin to carry the implication that there was no case for the applicant to answer, the Court of Appeal concluded that the applicant had neither established her innocence nor demonstrated that there had been a serious flaw in the trial process. The test for

¹ Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects. "

"miscarriage of justice" had therefore not been made out. Leave to appeal to the House of Lords was refused in December 2008.

Relying on Article 6 § 2 (presumption of innocence), Ms Allen alleges that the reasons given in the decision not to award her compensation breached the presumption of innocence.

Procedure

The application was lodged with the European Court of Human Rights on 29 April 2009 and a [statement of facts](#) was communicated to the parties for observations on 14 December 2010. On 26 June 2012 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber.

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,
Josep **Casadevall** (Andorra),
Guido **Raimondi** (Italy),
Ineta **Ziemele** (Latvia),
Mark **Villiger** (Liechtenstein),
Isabelle **Berro-Lefèvre** (Monaco),
Khanlar **Hajiyev** (Azerbaijan)
David Thór **Björgvinsson** (Iceland),
Ján **Šikuta** (Slovakia),
George **Nicolaou** (Cyprus),
András **Sajó** (Hungary),
Ledi **Bianku** (Albania),
Zdravka **Kalaydjieva** (Bulgaria),
Vincent A. **de Gaetano** (Malta),
Paul **Lemmens** (Belgium),
Paul **Mahoney** (the United Kingdom),
Krzysztof **Wojtyczek** (Poland), *judges*,
Johannes **Silvis** (the Netherlands),
André **Potocki** (France),
Corneliu **Bîrsan** (Romania), *substitute judges*,

and also Erik **Fribergh**, *Registrar*.

Representatives of the parties

Government

Yasmine **Ahmed**, *Agent*,
James **Strachan**, *Counsel*,
Christopher **Goulbourn** and Gavin **Baird**, *Advisers*;

Applicant

Hugh **Southey QC**, *Counsel*.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.