

Seizure of 3 Sextuplets for Blood Transfusion Rekindles Charter Debate

This seizure of 3 sextuplets by the British Columbia government to perform lifesaving blood transfusions has reignited a debate regarding section 2(a) and section 7 of the Canadian Charter of Rights and Freedoms. The sextuplets were born prematurely in early January 2007 in a Vancouver hospital to parents who follow the Jehovah's Witness faith. Due to health complications, two of the sextuplets have since died, and in late January, three of the four surviving babies were taken by the BC government to be treated with blood transfusions. Jehovah's Witnesses do not believe in receiving blood transfusions and the parents of the sextuplets have challenged the BC government's seizure of their children. A hearing before the BC Provincial Court has been scheduled for late February.

In 1995, the Supreme Court of Canada heard a very similar case. At issue before the Court in *B. (R.) v. Children's Aid Society of Metropolitan Toronto* was whether a parent's right to religious freedom was violated when their child was made the subject of a blood transfusion. A further issue was whether the child's transfusion procedure was contrary to the parents' rights to liberty under section 7 to make decisions affecting their child. The parents consented to various medical treatments for their child, but in accordance with their religious beliefs refused to permit a blood transfusion. When the infant's health began failing, the Children's Aid Society of Metropolitan Toronto was granted temporary guardianship under the Child Welfare Act, and a transfusion was performed. The Court held that the parents' liberty under section 7 had not been breached as section 7 does not include a limitless right for parents to deny medical treatment for their children. Regarding section 2(a), the majority agreed with the parents saying that their right to raise their children in accordance with their religious beliefs had been violated. This violation, however, was justified under section 1 of the Charter. The minority took a different approach, saying that section 2(a) was in fact not violated, as freedom of religion should not include the imposition of religious practices that endanger the safety, health, or life of one's child. Despite the differences in reasoning, the Court ultimately concluded that the actions of the Children's Aid Society were justified, and the appeal was dismissed.

Both the Children's Aid Society case and the current situation in BC raise significant questions regarding the balancing of rights. Perhaps the most fundamental consideration is how the right to choose one's religion affects another's right to life. More specifically, should a parents' right to raise a child in accordance with a particular religious faith surpass that child's right to live? This question will likely be raised before the BC Provincial Court later in February 2007.

Sources:

- B. (R.) v. Children's Aid Society of Metropolitan Toronto, [1995] 1 S.C.R. 315.
- Patrick Brethour, "B.C. sextuplets seized for blood transfusions" The Globe & Mail (31 January 2007).
- CBC News, "B.C. intervenetted to save 3 sextuplets after 2 died" CBC.ca (31 January 2007).
- Canadian Press, "B.C. seized 3 sextuplets for blood transfusions" Toronto Star (31 January 2007).
- Peter Hogg, Constitutional law of Canada, 2005 Student Edition (Scarborough, ON: Carswell, 2005).