



## Press Summary

21 June 2023

### **R (on the application of Maguire) (Appellant) v His Majesty's Senior Coroner for Blackpool & Fylde and another (Respondents)**

**[2023] UKSC 20**

***On appeal from: [2020] EWCA Civ 738***

**Justices:** Lord Reed (President), Lord Lloyd-Jones, Lord Sales, Lord Stephens and Lady Rose

#### **Background to the Appeal**

This appeal is concerned with the conduct of an inquest into the death of Ms Jacqueline Maguire ("**Jackie**"),<sup>1</sup> who died in hospital on 22 February 2017, and the impact upon this of article 2 of the European Convention on Human Rights (the "**Convention**"), which concerns the right to life.

Jackie, who had Down's Syndrome, lived in a care home for adults requiring round-the-clock supervision. In order to ensure she could be kept at the home under proper supervision, she was subject to a standard authorisation for deprivation of liberty made under the Mental Capacity Act 2005. In the weeks before her death, Jackie suffered symptoms including stomach pains and collapsing. On 21 February 2017, she suffered fits and the care home staff called an ambulance. However, when the ambulance arrived Jackie refused to go to hospital. The ambulance paramedics made an assessment of her condition, in the course of which they obtained advice from an out-of-hours GP who advised that, while it was desirable that Jackie should attend hospital, her condition was not so serious that they should override her wishes and force her to go.

The following morning, Jackie's condition had worsened and she collapsed again. Another ambulance was called and this time she was admitted to hospital. However, this proved to be too late. Shortly after her admission she suffered a fatal cardiac arrest. A post-mortem recorded that her cause of death was pneumonia and a perforated gastric ulcer leading to peritonitis.

The respondent (the "**Coroner**") opened an inquest into Jackie's death on 3 August 2017. The specific question which arises for determination in these proceedings is whether, in the

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<sup>1</sup> Jacqueline Maguire has been referred to as Jackie throughout these proceedings, at the request of her family.

circumstances surrounding Jackie's death, the effect of article 2 of the Convention was that the Coroner was required to direct the jury at the inquest to return an "expanded verdict" in accordance with section 5(2) of the Coroners and Justice Act 2009. Such a verdict would involve a commentary about the circumstances in which Jackie came by her death, going beyond the standard verdict at an inquest, which is confined to how, when and where a person died.

The Coroner determined that an expanded verdict was not required; accordingly, he directed the jury to give a standard verdict. Mrs Muriel Maguire, Jackie's mother, subsequently brought a judicial review claim challenging the Coroner's determination. The High Court dismissed Mrs Maguire's claim. The Court of Appeal dismissed the appeal. Mrs Maguire appeals to the Supreme Court.

## Judgment

The Supreme Court unanimously dismisses the appeal. Lord Sales gives the leading judgment, with which Lord Reed, Lord Lloyd-Jones and Lady Rose agree. Lord Stephens gives a short concurring judgment.

## Reasons for the Judgment

The Supreme Court set out the structure of the obligations imposed by article 2 of the Convention. In addition to prohibiting certain conduct, article 2 imposes a positive obligation on contracting states to take "appropriate steps to safeguard the lives of those within their jurisdiction" [9]. There are two types of substantive positive obligations: an obligation to have appropriate legal regimes and administrative systems in place to provide general protection for the lives of citizens and persons in its territory ("**the systems duty**") and an obligation to take operational steps to protect a specific person or persons when on notice that they are subject to a risk to life of a particularly clear and pressing kind ("**the operational duty**") [10].

Article 2 also imposes certain procedural positive obligations regarding the investigation of and the opportunity to call state authorities to account for potential breaches of the substantive positive obligations. The precise content of those obligations varies according to context [12].

Three different levels of the procedural obligation are identified. First, to check whether there might be any question of a potential breach of a person's right to life under article 2, state authorities should take some steps to establish whether the cause of death is from natural causes (the "**basic procedural obligation**") [14]. Second, in particular contexts, a state may be required to take further steps to investigate possible breaches of the article 2 substantive obligations to ensure appropriate accountability and redress and, as appropriate, to punish persons responsible for the death (the "**enhanced procedural obligation**") [15]. Third, in certain other cases where there is no relevant compelling reason giving rise to an enhanced procedural obligation, but there is still a possibility that the substantive obligations in article 2 have been breached, there is an obligation to provide means by which a person complaining of such possible breaches can make that complaint, have it investigated or obtain redress (the "**redress procedural obligation**") [19]. It is only where the enhanced procedural obligation applies that there is a statutory obligation on a coroner to direct a jury at an inquest to give an expanded verdict [27]-[33].

After detailed review of the relevant caselaw [34]-[62] and the facts of the case [63]-[114], the court considered the issues by reference to the headings set out below.

**Was there an arguable breach of the systems duty on the part of the care home, so as to trigger the enhanced procedural obligation?**

The systems duty in the context of healthcare services operates at a high level, is relatively easily satisfied, and it will only be in rare cases that it will be found to have been breached [145]. This same approach applies in the context of care homes [147]. The systems in place at the care home were capable of being operated in a way which would ensure that a proper standard of care was provided to residents, even though there may have been individual lapses in putting them into effect [146]; [156]; [165].

The Coroner examined the systems in place at the care home, as well as those in place for the various healthcare providers, and concluded that there was no arguable breach of the systems duty in relation to them. On the evidence, he was entitled so to find [153]; [155].

The submission was therefore dismissed [181].

**Was there an arguable breach of the systems duty on the part of any of the healthcare providers, so as to trigger that obligation?**

The arguments and the analysis under this heading are closely similar to those in relation to the care home [182]. Whilst criticisms could be made of individuals, these related to lapses in individual performances, rather than a failure of the systems duty [184].

**Was there an arguable breach of the operational duty on the part of the care home, so as to trigger that obligation?**

When an individual is placed in a care home, a nursing home or a hospital, the state does not assume responsibility for all aspects of their physical health [190]. The focus is on the specific risks to Jackie's health of which the authorities were aware [192]. The operational duty applies in a graduated way depending on their perception of the risk to Jackie [199].

The care home's responsibility was to look after Jackie on behalf of the state in substitution for her family. Their task was to ensure that she could access the healthcare which is available to the population generally [199] and this is what the care home staff sought to do [200]. There was therefore no arguable breach of the operational duty by the care home [204].

**Was there an arguable breach of the operational duty on the part of any of the healthcare providers, so as to trigger that obligation?**

When assessing whether the operational duty arose, it is necessary to take into account a range of relevant factors, including the desirability of fostering Jackie's sense of personal autonomy and a sense of trust between her and her carers, by respecting her wishes where possible [57]-[60]; [205]. None of the healthcare professionals involved was on notice that Jackie's life was in danger on 21 February 2017 and the paramedics gave proper consideration to the question of whether she ought to be removed forcibly to hospital. They made an assessment which was reasonable in the circumstances, that the risk to her was not so great as to make that appropriate [208]. As a result, there was no arguable breach of the operational duty by any of the healthcare providers [209].

In a concurring judgment, Lord Stephens sets out Jackie's personal circumstances to demonstrate her total dependence on others as to whether she should be treated at hospital [218]-[234]. Lord Stephens also considers the applicable legal framework [237]-[248].

*References in square brackets are to paragraphs in the judgment*

**NOTE:**

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)**