

**An order authorising emergency lifesaving medical treatment to a child  
without parental consent, In Re  
(2007) SLR 47**

**Ex Parte**

Ronny GOVINDEN for the applicant

**Order delivered on 17 April 2007 by:**

**KARUNAKARAN J:** Last night, Monday 16 April 2007, at around 23:00 hrs whilst I was at home, an urgent request was made over telephone by the Victoria Hospital Authority seeking an urgent order for a blood transfusion desperately required to save the life of a child, an eleven-year-old boy, Christopher Albest. The parents of the child being Jehovah's Witnesses with firm religious convictions allegedly refused to give consent for the child to receive any blood transfusion.

In fact, the consultant surgeon, who was treating the child for serious bodily injuries, observed the haemoglobin level of the child had reached a critical point due to severe blood loss. Although it was a life-threatening situation, the parents of the child were so adamant because of their religious beliefs and strongly refused to give their consent for the blood transfusion.

Hence, the surgeon had no other choice but to get an urgent court order so that he could carry out an immediate blood transfusion to the child dispensing with parental consent. Indeed, speed was of the essence. The request was so urgent and there was no time for me to give notice to any interested party nor was it possible to convene the court in the nocturnal hours. Obviously, any delay would have resulted in disastrous and irreversible consequences. The situation facing me as a judge was so urgent, unfortunate and the consequences so desperate that it was impracticable for me to attempt anything other than making an ex parte order over telephone authorising the surgeon to carry out the necessary blood transfusion without parental consent. I did so accordingly eschewing the procedural delays. I made a brief telephonic order in the interest of justice authorising the surgeon to proceed with the blood transfusion. Besides, I directed the Hospital Authority to file the necessary documents in the Registry of the Supreme Court the following morning, so that the order made earlier over telephone could be formalised and documented for record purposes.

In pursuance of the directive, the documents are filed and the matter is now before the Court for consideration. Principal State Counsel Mr Govinden by a notice of motion dated 17 April 2007 accordingly moved the Court for an order, which would in effect confirm and ratify the telephonic order I made the previous night in this matter. In fact, the urgency and the circumstances surrounding this episode did not allow me time to give reasons before making the said order. I now set out the facts and explain why I made the order I did.

On the strength of the affidavit and documentary evidence adduced by the applicant in this matter, I find that the following facts have been established to my satisfaction:

- (i) On 13 April 2007, Christopher Albest, a minor, an eleven-year old boy, hereinafter referred to as the "child", was involved in a motor vehicle accident and sustained serious bodily injuries.
- (ii) The child was immediately admitted to Victoria Hospital and had to undergo urgent multiple surgeries on the same day.
- (iii) As the child had lost a significant amount of blood from the injuries he sustained, an urgent blood transfusion was the only medical option available to the consultant surgeons/medical officers to save his life.
- (iv) The parents of the child were followers of a particular religious denomination - Jehovah's Witnesses - who have resolutely decided to obey the Bible "Keep abstaining ... from blood" (Acts 15: 28, 29) with full realisation of the implication of this position.
- (v) Hence, the parents in exercise of their parental authority refused to give consent for the child to receive the necessary blood transfusion, having no regard to the very life, welfare and interest of the child.
- (vi) Obviously, the said refusal of the parents constitutes a neglect and breach of their statutory obligation stipulated under the provisions of the Civil Code and the Children Act to wit:

Article 372(2) of the Civil Code reads thus:

The authority of the parents shall be exercised in the interest of the child.

Section 4 (d) and (e) of the Children Act read thus:

A person under an obligation, by virtue of the Civil Code or otherwise to maintain a child must ensure that the child is -

- (d) protected to the best of that person's ability against illness;
- (e) not neglected or exposed to danger, in the home or elsewhere, in a manner likely to cause the child unnecessary suffering or injury to health.

Furthermore, I find that it is an appropriate case, where the Court should exercise its equitable jurisdiction conferred by section 6 of the Courts Act and make an urgent ex parte order, which is absolutely necessary for the ends of justice.

In the light of the above and having regard to all the circumstances of the case, I hereby make an order confirming and ratifying the ex parte order made on 16 April 2007 at around 23.00hrs over the telephone, whereby the Court authorised the

surgeons/medical officers in charge to carry out the necessary blood transfusion to the child Christopher Albest dispensing with parental consent.

**Further Order**

A copy of the order made herein to be served on the following:

- (i) Mr. Ronny James Govinden, Principal State Counsel, AG Office, National House;
- (ii) The Principal Secretary, Ministry of Health, Victoria Hospital, Mont Fleuri;
- (iii) Mr Claude Albest of Anse Royal, Mahe

**Record: Civil Side No 130 of 2007**