

Neutral Citation No: [2021] NIFam 30

Ref: **McC11581**

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

ICOS No: **04/055354/01**

Delivered: **30/07/2021**

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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

OFFICE OF CARE AND PROTECTION

RD

McCLOSKEY LJ

Reporting Restrictions

[1] This ruling is distributed only to the legal representatives of the parties. Distribution to this limited audience is effected on the strict understanding that none of the parties or the other persons or agencies concerned is to be identified.

[2] The papers in this matter were brought to my attention on the morning of 29 July 2021.

[3] There appears to have been an assumption on the part of the parties that, on their say so, the court would list this as an urgent matter i.e. within less than 24 hours. This assumption is misconceived. The grounds for urgency are far from clear, as is the preparedness of the parties for any hearing of substance at this stage.

[4] I would elaborate on the foregoing as follows. First, having regard to the history of these proceedings, it is far from clear how and why the need for urgent intervention by this court has suddenly materialised, virtually overnight. Second, the assessment of genuine urgency is positively confounded by the parties' relaxed conduct of these proceedings during recent weeks. Third, it is far from clear that this court should intervene on a purely contingency basis. Fourth, the attempts to bring this case urgently before the court manifestly fails to engage with the order of the court approximately one month ago that the patient is capacious. Fifth, it is equally unclear that this court should, as it were, take the lead in a context where the Mental Health Review Tribunal has been seized of the patient's case for some considerable time. On what basis is it contended that the Tribunal is lawfully excused from performing its statutory responsibilities and functions? Has the Tribunal unlawfully abdicated said responsibilities and functions? Is the insistent attempt of the parties

to have the High Court intervene compatible with the inalienable obligation of the Tribunal to discharge its statutory functions and responsibilities? Should the Tribunal be on notice of these proceedings?

[5] Next, is there any clear evidence before the court of the current circumstances and life situation, in tandem with the predicted life situation and circumstances, of the patient in the event of tribunal or judicial intervention materialising?

[6] Finally, very careful thought and attention must be applied to the precise terms of the Order sought of the High Court, in the event that the Court should permit the latest application to proceed at this stage.

[7] All of the foregoing matters will be concisely addressed in further written submissions of the parties, with a spatial limit of eight A4 pages, minimum font size 12. (The Court notes the completely unacceptable font size of the Trust's most recent submission).

[8] Costs are reserved and there shall be liberty to apply. Further Orders/directions will follow.