

Court of Appeal gives the green light to landmark challenge to law on assisted dying

12/04/2017 (Public Law)

R (Conway) v Secretary of State for Justice

In a landmark ruling, the Court of Appeal has today overturned the judgment of the Divisional Court refusing permission to Mr Noel Conway, who suffers from motor neurone disease, to seek judicial review of the current blanket ban on assisted dying contained in s. 2(1) of the Suicide Act 1961. Mr Conway's challenge is the first challenge to the law on assisted dying since the unsuccessful challenge to that law in *Nicklinson* [2014] UKSC 38.

In allowing Mr Conway's appeal against the Divisional Court's judgment the Court of Appeal held that it was arguable that it was institutionally appropriate to revisit the issue because Parliament now had a 'settled intention' following *Nicklinson* not to change the law. The Court of Appeal questioned whether if such settled intention precluded the courts from revisiting the matter there was not arguable judicial abdication. Such abdication had been deprecated by Lord Neuberger in *Nicklinson*. The Court of Appeal also referred to the fact that the evidence before the court on the present application arguably demonstrated that a mechanism of assisted dying could be devised for those in Mr Conway's narrowly defined group so as to address one of the answered questions in *Nicklinson*.

The result of the Court of Appeal's ruling is that Mr Conway's case will now go forward as an application for judicial review before the Divisional Court.

The judgment appears under external links.

Richard Gordon QC was instructed on behalf of Mr Noel Conway by Irwin Mitchell LLP.

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