

APPROVED

[2024] IEHC 39



THE HIGH COURT
JUDICIAL REVIEW

2023 No. 12 JRP

BETWEEN

CIAN CANTWELL

APPLICANT

AND

THE GOVERNOR OF CASTLEREA PRISON
IRISH PRISON SERVICE

RESPONDENTS

RULING delivered by Mr. Justice Garrett Simons on 30 January 2024

INTRODUCTION

1. This matter comes before the High Court by way of a written petition from a prisoner detained at Castlerea Prison. The application is for leave to apply for judicial review pursuant to Order 84 of the Rules of the Superior Courts. For the reasons explained in a written ruling on 8 November 2023, I directed, pursuant to Order 84, rule 24, that the application for leave should be made on notice to the respondents. I further gave directions as to the filing of affidavits and indicated that the application would be dealt with, in the first instance at least, on the papers.

NO REDACTION REQUIRED

2. The respondents have since filed a detailed affidavit. The affidavit has been sworn by the National Operational Nurse Manager with nursing and clinical oversight for all prisons in the Irish Prison Service.

DISCUSSION

3. The judicial review proceedings arise out of a complaint by the applicant that he is being denied the benefit of a medication, i.e. Pregabalin, otherwise known as Lyrica, while detained in Castlerea Prison. The applicant states that he had previously been prescribed this medication by his general practitioner to address pain management in relation to nerve damage in his wrist. The applicant further states that he is experiencing significant pain as a result of being denied access to this medication. This situation is said to be causing the applicant stress.
4. It has been explained in the replying affidavit that the decision not to prescribe Pregabalin was a clinical decision made following an assessment of the applicant. It is further explained that it is open to the applicant to request a “PRN” which is a prescription that allows a prisoner to ask for medication whenever they feel it is needed. It is noted that nursing staff are available 24 hours a day, seven days a week.
5. The affidavit sets out details of the applicant’s previous medical history, including his history of poly substance abuse and his having been diagnosed with a dissociative personality disorder.
6. It is explained that, following his committal on 19 March 2023, the applicant was assessed by a general practitioner. Following a further assessment on 20 March 2023, a clinical decision was made, with the applicant’s consent, that he should discontinue use of Lyrica/Pregabalin. This decision was made having

regard to the applicant's history of poly substance abuse: Lyrica/Pregabalin has a significant potential for dependence. It is explained that the applicant has been treated with alternative pain management during his detention: the medicines prescribed include Brufen; Amitriptyline; Keral; Omeprazole; and Neurontin.

7. The prison authorities referred the applicant to a physiotherapist and a plastic surgeon for an opinion regarding pain management. The applicant declined to attend a scheduled hospital appointment for an x-ray of his shoulder on 15 June 2023. The applicant was reviewed by a general practitioner and nurse on several occasions in September 2023. The applicant refused to attend for his plastic surgery outpatient appointment (15 September 2023) and physiotherapy (9 November 2023). Both appointments pertained to ongoing issues with pain in the applicant's left wrist. Following a self-inflicted injury on 19 November 2023, the applicant was reviewed by a GP and referred for psychotherapy and referred to a pain specialist in University Hospital Galway.
8. Having regard to the comprehensive medical history set out on affidavit, I am satisfied that the clinical decision made to the effect that the applicant is not to be prescribed Pregabalin is appropriate and proportionate. It is lawful for the prison authorities to have regard to the addictive nature of Pregabalin and the applicant's previous dependence on opioids and his poly substance abuse. The prison authorities have taken steps to prescribe alternative medication: although, it appears that the applicant may, on occasion, be refusing to take this medicine. The prison authorities have also taken reasonable steps to ensure that the applicant is referred to relevant specialists.

9. I am satisfied that the Irish Prison Service is providing the applicant with healthcare services equivalent to those provided to individuals entitled to General Medical Services in the community.
10. I am also satisfied that the clinical decision to wean the applicant off Pregabalin is supported by guidance issued by the Irish Prison Service ("*IPS Policy for Pregabalin Use*", IPS D&T Committee, June 2023) and the Health Products Regulatory Authority ("*HPRA Drug Safety Newsletter*", 110th ed., December 2022). The policy followed by the Irish Prison Service in this regard is informed by risks associated with drugs with addictive qualities. It is apparent from the information presented to the court, that there is no blanket ban or denial of such medicines in place in the Irish Prison Service. Rather, these risks are considerations which must be assessed when evaluating an individual's treatment plan with regard to their medical history.
11. In all the circumstances, the applicant's right to bodily integrity is being respected.

CONCLUSION AND FORM OF ORDER

12. For the reasons explained, the application for leave to apply for judicial review is refused. The High Court Registrar is requested to send a copy of this ruling and order by way of registered post to the applicant. A copy should also be sent to the Chief State Solicitor on behalf of the Governor and the Irish Prison Service.

Approved
Gemma S. Mans