

NEWS

High Court forced mentally ill woman to have caesarean section, newspaper claims

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BMJ

A pregnant Italian woman who was sectioned under the Mental Health Act after having a panic attack while staying at an airport hotel in London last year was forced to undergo a caesarean section by order of a High Court judge, it has emerged.

The birth took place 15 months ago, and the baby girl was taken into care by Essex County Council, which has received court approval to have her placed for adoption in the United Kingdom.

Brendan Fleming, the solicitor now representing the woman, issued a statement declining to “discuss the facts, evidence, or information in this case.” But Essex later set out a timeline of events after criticism in the media branding its actions “extraordinary” and “unprecedented.”

The council said it was the clinical decision of the unnamed NHS trust looking after the woman, who was by then in hospital for five weeks under section 3 of the Mental Health Act, to ask the court for permission to perform the caesarean because of “concerns about risks to mother and child.”

The mother saw her baby on the day of her birth, and the following day the council obtained an interim care order from the county court “because the mother was too unwell to care for her child.”

The order authorising the woman to be sedated and the caesarean section to be performed was made by Mr Justice Mostyn in the Court of Protection, where cases are heard behind closed doors. Such an order can be made only if a woman is deemed to lack the competence to take the decision herself. A woman who is fully mentally competent cannot be forced to undergo treatment against her will, whatever the danger to the unborn child.

In 1997, the High Court wrongly authorised a forced caesarean on a veterinary nurse with pre-eclampsia, without inquiring into her competence. She was perfectly capable of taking her own decisions and later won £45 000 (€54 000; \$74 000) in damages.¹

Lucy Scott-Moncrieff, a solicitor specialising in mental health law, told the *BMJ* that for the order to be made the court must

have deemed the caesarean to be in the best interests of the mother.

Newspaper reports said the mother had an existing bipolar condition, and her panic attack allegedly followed her failure to take her drug treatment.

The council said the mother has two other children who “she is unable to care for, due to orders made by the Italian authorities.” It said that social workers “liaised extensively with the extended family before and after the birth of the baby to establish if anyone could care for the child.”

The council said the mother took part in the care proceedings in the county court, which ended in February 2013. The following May, she applied to an Italian court for an order to return the child to Italy, but the court ruled that she should stay in the UK.

In October 2013, the county court decided that the child should be placed for adoption. The family court judge who heard the case said that the woman seemed a different person since resuming her treatment but ruled that the baby should be placed for adoption because “he could not risk a failure to maintain her medication in the future,” according to the *Sunday Telegraph*.

Gwen Williams, a partner in the law firm Goodman Ray who specialises in representing children in care proceedings, said that social workers were obliged to consider first whether the child could be returned to her mother, with an appropriate support package if necessary, then placement within the family, then adoption. “I can’t imagine over 15 months there haven’t been extensive attempts to find somewhere for this child that doesn’t involve adoption.”

1 Dyer C. Trusts face damages after forcing women to have caesareans. *BMJ* 1998;316:1477.8.

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