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Covid-19: Judge gives permission for NHS trust to remove life support from patient

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A High Court judge has given permission for an NHS trust to remove a 52 year old man with covid-19 from life support and allow him to die.¹

The man, named only as KM, had deep vein thrombosis as a result of a long haul flight and was admitted to hospital with chest pains. He had previously been fit and well, with no significant medical history.

He suffered a pulmonary embolism which resulted in cardiac arrest but he was recovering after treatment and was placed on an extracorporeal membrane oxygenation (ECMO) machine. The following day, six days after he first arrived at hospital, he was diagnosed with covid-19.

Doctors told the Court of Protection that if they had known the man had the disease, they would not have put him on the machine. At least eight attempts were made to wean him off it, but all were unsuccessful.

KM and his family were devout Pentecostal Christians, with a deep belief in divine healing and the power of prayer, and the family refused to countenance the withdrawal of life support.

KM lacked the capacity to make such decisions for himself. But the Official Solicitor, acting as his litigation friend, agreed with Manchester University NHS Foundation Trust, which was caring for KM, that life sustaining treatment should be withdrawn.

The court heard from a senior doctor treating KM and from a leading expert in covid-19 and intensive care instructed by the Official Solicitor. Both doctors agreed that KM's lungs had ceased to function and he had no hope of recovery.

The treating doctor, Dr A, told the court that KM had lost 20 kg and suffered massive muscle loss. He had extremely painful necrosis in his fingers and toes. He had severe pressure sores to his perineum and the back of an ear, which were getting worse. The one on his ear had gone down to his skull and was the worst Dr A had ever seen.

Mr Justice Keehan said the views of the family and KM's deeply held religious beliefs had to carry great weight. But on the other side of the scale, the ongoing treatment was futile and burdensome, and there were no alternative treatment options. Because he had been on ventilation, he would not be a candidate for a lung transplant, which he would have little prospect of surviving in any event.

Rather than prolonging his life, the continued use of the ECMO machine was prolonging KM's death, Keehan added. The doctors agreed that even if KM remained on the machine, death from one cause or another would be likely within two months.

"In all of the circumstances, I am entirely satisfied on the overwhelming medical evidence that continuing treatment for KM on the ECMO machine is futile," the judge said. "There is no prospect of him achieving a recovery. There is no prospect of continued use of the ECMO machine or any other treatment reversing the extensive end stage damage to KM's lungs."

The judge approved the hospital's plan to remove KM from the machine the following day and move to palliative care after his family had had a chance to visit him.

The decision was taken in May, but the judgment has just been published.

¹ Manchester University NHS Foundation Trust. v KM (by his litigation friend the Official Solicitor) and TM. 2021 EWCOP 42. www.bailii.org/ew/cases/EWCOP/2021/42.html.

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