

**THE HIGH COURT**

**[2023] IEHC 147**

**Record No. 2023/ 5SSP**

**Between**

**M.W.**

**Applicant**

**-and-**

**CLINICAL DIRECTOR OF ST. STEPHEN'S HOSPITAL**

**Respondent**

**Note of ex tempore ruling of Stack J., delivered Tuesday 21 March 2023**

*Introduction*

1. This is a prisoner's application made in writing to the Court in which the applicant claims that he has been unlawfully detained and requesting, in substance, an Inquiry into the lawfulness of his detention pursuant to Article 40.4.2<sup>o</sup> of the Constitution.
2. On 9 March, 2023, I was assigned to consider the application and requested information as to whether the applicant was in fact detained and, if so, the basis for same. In response to this a request for confirmation, I was informed on 10 March, 2023, that the applicant was detained on foot of an admission order dated 17 February, 2023.

3. On Friday, 10 March, 2023, out of an abundance of caution and bearing in mind the request for legal aid, I requested a copy of the most recent decision relating to the applicant's detention. This request was passed to the respondent hospital on 13 March, 2023, and on 15 March, 2023, I received a copy of a decision of the Mental Health Tribunal ("the Tribunal") dated 2 March 2023. I am grateful to the staff of the respondent for their responses to the requests for information which were made by the Registrar at my request.
4. I read the copy of the decision of 2 March 2023 immediately on receipt of same, and formed the view that there was no basis for apprehending that the applicant was unlawfully detained. I indicated that I would give reasons for that decision in open court at the next suitable opportunity, which is today. A copy of this decision will be forwarded by the Registrar to the applicant and to the respondent hospital.

*Substantive Ruling*

5. The application of the applicant is handwritten and somewhat difficult to decipher at points, but clearly both applies for legal aid and asserts that the applicant has been unlawfully detained and is a "*prisoner*" in the Respondent hospital.
6. The decision of the Mental Health Tribunal of 2 March, 2023 clearly indicates that:
  - i. the respondent is suffering from a "*mental disorder*" within the meaning of the Mental Health Act, 2001, as amended;
  - ii. that the Tribunal was satisfied that the provisions of ss. 9, 10, 12, 14, 15, 16 and 23, 24, where applicable, have been complied with;
  - iii. the applicant was admitted involuntarily to the hospital on 17 February, 2023, and the admission order made on that date was reviewed at a hearing which took place from 14.30 to 16.30 on 2 March, 2023;

- iv. the Tribunal notified the patient and his legal representative, the Mental Health Commission, and the Responsible Consultant (in effect, the applicant's treating consultant psychiatrist) of its decision to affirm the admission order.
7. It should be noted that there is a clear and obvious typographical error as to the date of the order being reviewed, ie, the admission order, on the first page of the Tribunal's decision where there is reference to the date of the decision being reviewed as 2 February, 2023. However, it is obvious reading the document as a whole that the incorrect date has been stated at this point in the decision, with the date of the decision itself (2 March, 2023) being confused at this particular point with the date of the admission order (17 February, 2023).
8. This confusion creates no overall ambiguity in the decision. The reasons for the decision are very clear and commence by stating that :
- “The Tribunal was convened on this the 02/03/2023 to review the Admission Order dated the 17/02/2023 in respect of the above named patient.”*
- The error as to the date is clearly typographical and insubstantial and in no way invalidates the decision or its reasoning. The Tribunal was very evidently directing its mind to the admission order of 17 February, 2023.
9. It is very clear from the decision that the applicant was represented by a solicitor at the hearing. This solicitor is named and is recorded as saying that the applicant did not give him any instructions and wished to speak for himself.
10. The Tribunal clearly concluded that the applicant was suffering from a “*mental disorder*” as defined in the 2001 Act, on the grounds set out in s. 3(1)(b) (i) and (ii), and it affirmed the admission order.
11. All relevant procedures appear to have been afforded to the applicant. The grounds for the applicant's detention were reviewed by an independent consultant psychiatrist.

Most importantly, given his express desire to apply for legal aid, it should be noted that the applicant was afforded legal advice and representation, albeit that he does not appear to have given any instructions to his solicitor or permitted him to make any representations on his behalf.

12. The applicant will have the benefit of further, similar procedural safeguards if his detention is further extended. The 2001 Act does not permit unregulated, indeterminate detention. The Act provides that any detention of the applicant will be for a period of not more than six months and will be subject to independent review by the Tribunal.

*Conclusion*

13. There are no grounds for any concern about the lawfulness of the applicant's detention and therefore no grounds for ordering an Inquiry pursuant to Article 40, notwithstanding the low threshold for same. I therefore decline to direct such an Inquiry.