

Citation

Commonwealth v. Twitchell, 416 Mass. 114, 617 N.E.2d 609 (1993)

Facts

Plaintiff's, David and Ginger Twitchell, appeal their conviction for involuntary manslaughter in connection to their son, Robyn's, death. Robyn died in April 1986 due to a perforated bowel, a condition easily corrected with surgery. Plaintiffs are practicing Christian Scientists who believe in healing my spiritual treatment. They consulted Nathan Talbot, a committee of publication official that provided a publication that quoted a portion of [G.L. c. 273, § 1](#) which held a section that 'accepted remedial treatment by spiritual means alone as satisfying any parental obligation not to neglect a child or to provide a child with physical care.' Plaintiffs cited this provision as protection for their decision to heal their child through spiritual means.

Issue

Does the provision, [G.L. c. 273, § 1](#) on spiritual healing, provide the parents with protection from prosecution and a conviction of involuntary manslaughter?

Holding

The court ruled that due to a failure to present an affirmative defense to the jury along with the relevant portion of the church's publication, there was a substantial risk for a miscarriage of justice that required that judgement be reversed, and the verdicts set aside. Furthermore, if the district attorney concluded that prosecution was necessary, then the cases must be remanded for a new trial.

Application

To begin the examination of the case the judges first looked into the question of the laws surrounding childcare and medical care in relation to involuntary manslaughter. To do this they referenced a prior case *Commonwealth v. Hall*, [322 Mass. 523, 528, 78 N.E.2d 644 \(1948\)](#) which

established that a parental duty of care had been recognized in the common law of homicide in their given commonwealth. The case *Commonwealth v. Gallison*, [383 Mass. 659, 421 N.E.2d 757 \(1981\)](#) was used to further establish that a parent who “made no effort to obtain medical help, knowing that her child was gravely ill,” could be found guilty of involuntary manslaughter.

Once it was established that involuntary manslaughter was a permissible holding for a parent that made no effort to obtain medical treatment, the judges turned to the statute in question, [G.L. c. 273, § 1](#). An examination of this provision concluded that section 1 provided no complete protection to a parent against a charge of involuntary manslaughter that is based upon a failure to provide medical services to a child. It was further found that the spiritual treatment provision instead provided a basis for punishment that rested on 1. A neglect to provide support and 2. A willful failure to provide necessary and proper physical care and that the spiritual provision did not apply to involuntary manslaughter.

Once the statute and section had been analyzed the judges moved on to their final stage of analysis, the plaintiffs’ claims that they were denied a due process of law because they lacked fair warning. The plaintiffs listed three different ways they had been denied due process, one of which was that they were entrapped for ‘exercising a privilege which the state clearly had told [them] was available.’ Referencing the case of *Raley v. Ohio*, [supra 360 U.S. at 438, 79 S.Ct. at 1266](#). This was the only claim that the judges saw merit in. They analyze the claim of a denial of due process by examining the publication that the church provided which was originally excluded from trial. They found that the publication relied on the Attorney General’s 1975 opinion which was found to be arguably misleading because it did not say anything concerning criminal liability for manslaughter. This proved that the defendant had reasonable relief upon an official statement of law that what later determined to be wrong.

From this analysis the judges ruled that there was a substantial risk of a miscarriage of justice that required a reversal of the convictions.