

JERSEY / JUDGMENT

Picot v HM Attorney General

[2008] JCA 006A (11 January 2008)

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COURT OF APPEAL 11th January 2008 Before : Sir Philip Bailhache, Kt., Bailiff (sitting alone).
Between Terence Allen Picot Appellant And HM Attorney General Respondent The Appellant appeared in person. HM Solicitor General appeared for the Respondent.

judgment

the bailiff: 1. Mr Terence Picot ("Mr Picot") has applied for an extension of time within which to appeal against a decision of the Royal Court of 24th August 2007 whereby a solicitor, Mr Nigel Le Gresley, was appointed as curator of Mrs Iris Daphne Picot ("the Interdict") who is the mother of Mr Picot. Mr Picot told me that he was content to represent himself and I am satisfied that all relevant material has been placed before me by Mr Picot and the Solicitor General. Mr Picot has given an explanation for the delay which I might well be minded to accept. The Solicitor General has however raised a preliminary point which is whether Mr Picot is in fact entitled to appeal. The Solicitor General's position is, in brief, that Mr Picot has no standing to bring an appeal against the Royal Court's order of 24th August, 2007. 2. The history to this application is that on 27th July, 2007 the Attorney General applied to the Royal Court in accordance with the provisions of Article 43(5) of the Mental Health (Jersey) Law 1969 for the appointment of a curator to manage and administer the property and affairs of the Interdict. No issue arose as to whether or not the Interdict needed a curator; it was accepted on all sides that she was incapable of managing her own affairs. The only issue for the Royal Court was the question of who should be appointed as her curator. The Attorney General's representation stated, correctly, that there was disagreement between the Interdict's six children on this point. 3. On 27th July the Court accordingly adjourned the Attorney General's application to 24th August and ordered that Mr Picot and his siblings be convened for that date. On 24th August the Court received letters from four of those siblings, viz ., Maha Chohan, otherwise Sandra Picot, Gillian Cameron, née Picot, Barry Emile Picot, Michael A Picot, and Susan Taylor, née Picot. The Court also received a statement from Mr Picot and heard submissions from him as well as the Interdict, Maha Chohan, Susan Taylor, Mr Nigel Le Gresley and of course the Solicitor General. Having considered what it had heard, the Court appointed Mr Le Gresley as curator. 4. The Solicitor General has submitted that Mr Picot had the status of a witness summoned to assist the Court in deciding whom should be appointed as curator. He was not a party to the proceedings. The only parties were the

Attorney General and the Interdict. 5. Mr Picot has explained that, before the Attorney General's application was made, he had been looking after the Interdict's affairs under a Power of Attorney which she had granted. He feels aggrieved that he was not appointed his mother's curator in order to continue the task which he had in effect been carrying out. 6. The Solicitor General made notes of the reasons for the Royal Court's decision as it was being delivered. She conceded that she had not made a verbatim note, but it was clear that the Court's general policy when members of a family were in disagreement as to the appointment of a curator was to appoint an independent person to act in that capacity. The Royal Court had applied that policy in appointing Mr Le Gresley. Mr Picot told me that two of his siblings had opposed his appointment, but that his mother had wished him to act as her curator. 7. I observe in passing that it is unfortunate that no transcript of the proceedings before the Royal Court is available. Although administrative proceedings in Chambers are not generally recorded, it seems to me desirable that in contested matters of this kind a transcript should be available to the Court of Appeal. I would request that the Judicial Greffier consider whether appropriate arrangements can be made for a change of practice in this respect. Having said that, I am satisfied from what I have been told by the Solicitor General and Mr Picot, that I have a clear picture of what transpired before the Royal Court on this occasion. 8. The Solicitor General drew my attention to the case of *Pipon v Attorney General*

[1949] 245 Ex 143 and 13 CR 92 upon which some reliance had been placed by Mr Picot following correspondence with the Judicial Greffe. I agree with the Solicitor General that this case is not relevant to the question whether a person summoned to assist the Court has a right of appeal. 9. Sympathetic as I might be to some of the contentions of Mr Picot, I am quite clear that he has no right of appeal against the decision of the Royal Court of 24th August 2007. He was not a party to the proceedings. He was a mere witness, and such a person has no legal standing to appeal against a decision of the Royal Court. The application is therefore refused. I am not minded to make any order for costs, but I am naturally prepared to hear submissions in that respect. Authorities Mental Health (Jersey) Law 1969. *Pipon v Attorney General* [1949] 245 Ex 143 and 13 CR 92. Page Last Updated: 16 Mar 2017
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