

Hugh Jordan v. United Kingdom (Application no. 24746/94)

From DADEL

1) Reference Details

Jurisprudence: European Court of Human Rights

Date of decision: 4 August 2001

Link to full case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697327&portal=hbk&source=externalbydocnumber&table=1132746FF1FE2A468ACBCD1763D4D8149>

2) Facts

The Applicant, Mr. Hugh Jordan, alleges that his son was unjustifiably shot and killed by a police officer, and that there was no effective investigation into, or redress for, his death. The Applicant invoked Articles 2, 6, 13 and 14 of the Convention. This case originated with an application lodged with the European Commission of Human Rights. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

On 25 November 1992, the Applicant's son, Pearse Jordan, was shot and killed in Belfast by an officer of the Royal Ulster Constabulary (the RUC), identified as Sergeant A. Four civilian witnesses stated that they saw two unmarked police cars force Pearse's car to the side of the road. Pearse emerged from the car, and staggered across the road, followed by the officers. An officer about 12 feet away fired a number of shots, but the civilians heard no warning given by the officers and saw nothing in Pearse's hands or anything threatening in his actions. Pearse was struck, and when the officers caught up with him, they verbally abused him and pushed his face into the ground, where he was kicked and searched. This Government disputes this account.

Sergeant A's statement is that the officers believed Pearse was carrying weapons for a re-supply of a terrorist organization. Pearse refused to pull over, and his car was forced onto the side of the road after a chase. Pearse burst out of the car and began to run. Sergeant A said that he called out "Police. Halt." or "Halt. Police." Pearse spun around; he could not see Pearse's hands, and feared he was armed. He fired at Pearse, who fell over. According to the official statement released by the RUC, no guns, ammunition, explosives, masks or gloves were found in the car and Pearse was unarmed.

The Director of Public Prosecutions (DPP) found the evidence insufficient to warrant prosecution of anyone for Pearse's death. A coroner's inquest was held. The inquest was still ongoing 8 years after Pearse Jordan's death.

3) Admissibility

By a decision of 4 April 2000, the Chamber declared the application admissible.

4) Merits

The Court found that Pearse Jordan was killed by a police officer while unarmed, thus placing the incident squarely within the ambit of Article 2, which requires any such action to be in pursuit of certain specified purposes and to "be no more than absolutely necessary for that purpose." It took issue with some aspects of the investigation ("a fully independent investigating agency would help to overcome the lack of confidence in the system."), the actions of the DPP (failure to inform the Applicant why the shooting did not merit prosecution) and the inquest (Court criticizes the fact that the person suspected of causing the death cannot be compelled to give evidence and that Sergeant A therefore declined to do so, the jury verdict at an inquest in Northern Ireland is restricted to the identity of the deceased, and the time, place, and cause of death. The Court notes that in England and Wales, the jury can reach a verdict of "wrongful death," and that this verdict would require the DPP to reconsider its decision not to prosecute and to give reasons that can be challenged in the courts, the numerous delays in conducting the inquest), into the death of Pearse Jordan.

The Applicant alleges that Article 6 § 1 of the Convention was violated by the RUC's alleged "shoot-to-kill" policy, which led to his son being arbitrarily shot instead of arrested, thus vitiating his right to a trial for criminal charges. The Court finds that the lawfulness of the shooting is pending decision in civil trials, and therefore there is no basis for examining the alleged improper motivation behind the shooting.

With respect to Article 14 of the Convention, the Court holds that the statistics showing a disproportionate level of killings and prosecutions among Catholics are insufficient on their own to disclose a discriminatory practice.

With respect to Article 13, the Court notes that the Applicant has brought civil proceedings, which are pending, and the Court believes those proceedings will provide redress for the alleged wrongful death. The Applicant's complaints concerning the investigation into the death have been examined above under the procedural aspect of Article 2, and the Court finds that no separate issue arises in the present case.

5) Decision

The Court unanimously finds that Article 2 of the Convention has been violated and awards the Applicant 10,000 pounds sterling (GBP), in addition to costs of GBP 30,000 and interest. The Court finds no violation of Article 6 § 1, Article 14, or Article 13 of the Convention.