



W CITY COUNCIL v MRS L [2015] EWCOP 20 – JAMES GATENBY

This case was amongst the first to grapple with deprivation of liberty in the home. As was pointed out in *Cheshire West*, none of the European Court authorities dealt with that question. All the leading cases were triggered at first instance by a decision of the state, enforced against the wishes of a vulnerable individual or close relatives. The dispute in this case was two fold - was Mrs. L objectively deprived of her liberty and if so was that deprivation imputable to the state?

Body J. emphasised what has been a consistent theme through all the ECHR judgments, that these cases are fact specific. He reminded himself that only after a careful analysis of the facts could the court form a view as to objective deprivation. Having done that, he found that Mrs. L was not objectively deprived of her liberty, and even if he was wrong, the deprivation was not imputable to the state.

This was a case where there was genuine collaboration between family and state and His Lordship found that the family were the prime movers in the day to day decisions for Mrs. L's care.

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