



High Court of New Zealand Te Kōti Matua O Aotearoa

2 February 2022

MEDIA RELEASE - FOR IMMEDIATE PUBLICATION

MKD & Ors v Minister of Health [2022] NZHC 67

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

High Court declines application for interim order halting the paediatric vaccine roll-out to non-immunocompromised children.

The High Court has declined an application for an interim order halting the paediatric vaccine roll-out to non-immunocompromised children aged 5 to 11.

The application was made by eight applicants with children aged 5 to 11 who are seeking judicial review of the provisional consent granted to Pfizer's paediatric vaccine and of the roll-out of the vaccine to children in that age group. They argue that the provisional consent was based on an error of law because evidence exists that the health risks of the paediatric vaccine outweigh its benefits. They also assert decisionmakers failed to consider the United Nations Convention on the Rights of the Child and were motivated by irrelevant considerations including community spread and protection of vulnerable adults.

Pending a hearing of their substantive application, the applicants sought interim orders halting the paediatric vaccine roll-out to non-immunocompromised children. Their concerns include that vaccination will be required for participation in school and extramural activities and that their children will be under significant social pressure to be vaccinated.

Justice Ellis declined the application for interim orders for three reasons.

First, insofar as the applicants have a qualifying right or interest to protect (which Justice Ellis said was doubtful, given that vaccination is not mandatory), it is not threatened by the provisional consent; there are no plans to exclude children from educational services based on vaccination status.

Second, Justice Ellis deemed the merits of the substantive case to be weak; despite the existence of some views to the contrary, the respondents' evidence indicates that in granting the consent the Minister of Health applied the correct statutory test and made an informed and reasonable assessment that the paediatric vaccine's therapeutic value outweighed its risks.

Third, the adverse repercussions (both public and private) of halting the roll-out were very significant and counted strongly against interim relief. These included harm to the considerable number of New Zealanders who wish to vaccinate their children, the potential loss of up to half a million paediatric vaccine doses and damage to public confidence in the paediatric vaccine (especially among vulnerable communities).