

Wife wins legal fight to let brain-damaged veteran die

Frances Gibb Legal Editor

A former soldier severely brain damaged in a road accident will be allowed to die after a High Court judge ruled in favour of his wife's plea to withdraw treatment.

Paul Briggs, 43, a Gulf War veteran from the Wirral, suffered a severe brain trauma and five fractures to his spine in a motorcycle crash while serving with Merseyside police.

His wife, Lindsey, had told Mr Justice Charles that she wanted life-sustaining treatment to end, "given his previously expressed wishes" and his likely poor quality of life even in the best-case scenario. However, medical staff at the Walton Centre NHS Foundation Trust urged caution, saying that there was potential for Mr Briggs to emerge from his minimally conscious state.

Mr Justice Charles ruled yesterday at the Court of Protection in Manchester that the life-sustaining treatment could be ended and that Mr Briggs could be moved to a hospice to receive palliative care only. It is the first time that a court in England and Wales has allowed food and water to be withdrawn from a patient who is clinically stable.

Mr Briggs said: "The court case was the hardest thing we have ever had to do but we did it for Paul, to honour his wishes. We are grateful that Mr Justice Charles has shown compassion towards Paul, has respected his wishes and values and has understood what Paul would have wanted.

"He has been able to place himself in Paul's situation, and for that we will be forever thankful."

Vikram Sachdeva, QC, who led the legal team for the Official Solicitor representing Mr Briggs's interests, said that he may seek to challenge the ruling in the Court of Appeal.

Mrs Briggs said that she was dismayed at a possible challenge. The past 18 months, she said, had been extremely distressing, including for their daughter Ella, five.

In July Chelsea Rowe, 26, was jailed for a year for crashing into Mr Briggs in Birkenhead as he was riding to a night-shift in July last year. Victoria Butler-

Analysis

In allowing sustenance to be withdrawn from a patient who is clinically stable, Mr Justice Charles is breaking new legal ground (Frances Gibb writes).

The key test was the "interests" of the patient under the Mental Capacity Act 2006: the judge looks at what a patient would want if able to make a decision about his care.

Two cases guided Mr Justice Charles. In 2011, in the first case of its kind, doctors and the family of M, a minimally conscious woman, applied to the courts to sanction withdrawal of artificial nutrition and hydration. Ruling against, Mr Justice Baker cited the "very strong presumption" in favour of taking all steps to prolong life except in exceptional circumstances.

Then in the 2013 Aintree Hospitals case, the courts upheld withdrawal of treatment from a gravely ill guitarist, David James, against his family's wishes.

That case, the judge said yesterday, made clear that the question was whether it was in Mr Briggs's best interests to be kept alive. "If the decision [that the patient] would have made ... and their wishes on such an intensely personal issue can be ascertained with sufficient certainty, it should generally prevail over the very strong presumption in favour of preserving life."

Cole, representing Mrs Briggs, had told the court that a doctor had given a diagnosis that Mr Briggs was in a permanent vegetative state. "He has pockets of consciousness in which he may, if things are going well, be able to press a buzzer in response to a question," she said.

However, doctors at the Walton Centre in Liverpool — a specialist neurology hospital — and an independent

doctor said he was minimally conscious, a higher state of consciousness.

Normally patients at the centre of litigation in the Court of Protection, where judges deal with cases relating to people who lack mental capacity, are not identified to protect their privacy. Mr Briggs's accident was widely reported, however, and no one involved in the litigation has asked for him to remain anonymous so Mr Justice Charles allowed him to be named.