



ESTABLISHED 1855

Alfie's case cannot be decided by law alone

Who can read the story of Alfie Evans's young life without feeling the most profound sympathy for his parents? Tom Evans and Kate James have sought what any mother and father would want for their sick child: to give him a chance to live. Yet they were told by doctors that his unexplained, debilitating brain disorder leaves him no likelihood of survival – and that it would be wrong to continue keeping the 23-month-old baby alive artificially with such a bleak prognosis. The courts agreed and blocked his parents from taking Alfie abroad to the Bambino Gesu Hospital in Rome. There, he would be kept on life support, which Alder Hey hospital in Liverpool, where he was treated, no longer thinks is appropriate.

The medical practitioners and judges who have grappled with this case since last December believe Alfie is going to die and should do so in the UK. His parents accept that he might die, but have argued for their right to try something else as a final, desperate measure. Many people watching this tragedy unfold both here and overseas are appalled that the courts and the state, in the form of the NHS, have joined forces to prevent Alfie's parents from trying to keep their child alive. There have been protests on the streets and vituperative online attacks on doctors and judges trying to do their best. Yesterday, Mr Evans gave a statement in which he asked protesters to stand down, requested privacy and said he and Alfie's mother will be working with their son's treatment team.

The debate around this case has been fierce and not always accurate. Those who have argued that parents should always decide the interests of their children fly in the face of long-established legal practice. In English common law, the rights of parents are not absolute. Responsibility for the care and protection of children is both with their parents and the Crown as *parens patriae*, which has a duty to protect those who are unable to protect themselves. Indeed, Alfie's interests in the court have been represented by a state-appointed guardian. And the powers of parents are further circumscribed by statutes and human rights laws. We accept this intervention, for instance, where parents refuse their child a life-saving blood transfusion on religious grounds.

However, Alfie's parents have sought to prolong life, not adopted an irrational stand that could end it. Why should they be stopped from taking Alfie to a hospital abroad where he would be kept alive, albeit not cured? The court's argument was that it would "self-evidently be burdensome [and] nobody would wish Alfie to die in transit". The judge added: "All of this might be worth risking if there were any prospect of treatment, but there is none. For this reason the alternative is irreconcilable with Alfie's best interests."

Doctors do not know for sure that Alfie is suffering through being kept alive; but given the uncertainty they have concluded that the appropriate course is palliative care, keeping him comfortable while withdrawing ventilation. Complicating matters is the fact that, despite the predictions of at least one doctor in evidence to the court, Alfie has continued to breathe unaided.

Some of the advice given to Alfie's parents has been deeply unhelpful. The notion that doctors should be sued for attempted murder is grotesque. Foreign governments and media organisations have inflamed an already tortured situation. What business is it of Italy to offer Alfie citizenship or of the Polish president to intercede? Anyone who has accused the hospital of seeking to "terminate Alfie's existence" is wrong. Withdrawing artificial life support is not the same as killing. Indeed, without modern medicine or the dedication of health professionals, Alfie would have assuredly died if this had been happening a few decades ago.

Ultimately, Alfie's story has not been black and white but full of grey – and emotional pain. Public opinion is on the side of Alfie's parents because most of us can imagine their torment and their desire to keep their child alive. This is about more than the calculated application of the law. Most people share an overwhelming sense that the parents should be allowed to try everything to save their son, yet the law has apparently made this impossible. That does not seem just.