

2008 Semi-final Moot Problem

Peter Meadows is a practising Hindu who lived in a house just outside the border of the town of Winston, Victoria with his wife and two young children. Winston is a small farming community with approximately 200 residents. Most members of the community are involved in cattle grazing, and cattle export is the community's main source of income. As a Hindu, Peter does not eat any cow meat, and has never harmed any of the cows in his community. He operates a small vegetarian supermarket in the town centre.

Four residents of Winston suddenly came down with flu-like symptoms and were immediately transported to the town's medical facility. Shortly after being admitted, two of them died and the other two remained seriously ill. A few hours later, another resident of the town came down with similar symptoms, was taken by a neighbour to the medical facility but passed away soon after he arrived. Other residents started to become ill and it was apparent that some sort of virus was making people seriously ill and in some cases even causing death. Captain Sandra Anderson was the head of the police force stationed in Winston and enjoyed the authority her position gave her. When she heard of the five individuals falling ill, fearing that the disease could be the Bovine influenza (which had recently broken out in a community in north east New South Wales), she immediately ordered a lock down of the entire town of Winston.

Captain Anderson dispatched the seven other police officers stationed in Winston and the surrounding area to maintain a perimeter around the community to ensure no one entered or left the town. She told the residents that they were not allowed to leave Winston. Peter was working at his store in the town centre when the lock down began. He informed Captain Anderson that he lived outside the limits of the town and would like to return to his home. He told her that his youngest son was sick and he needed to be able to get to him in order to give him his medication. The medication was kept at his store as it needed to be maintained at an even temperature. Peter kept it at the store because he had a backup generator in case the power failed which it often did at his home. He explained that without his medication, his son would start to have serious seizures which could cause him to have a stroke. Additionally, he noted that the next closest medical facility with the drug was over 400 kilometres away and his son could suffer a seizure before they could get the medication to him. Captain Anderson explained to Peter that they were unable to let anyone leave the area until they were able to figure out what was causing people to become so sick. Furthermore, Peter would not be allowed to remove anything from the locked down area as it could be contaminated. The medical doctor and scientists in the town were looking into the matter of the outbreak and supported Captain Anderson's decision to have everyone remain in the town until the cause of the outbreak had been determined.

Over the next few hours, more and more members of the town became ill. However, others who had fallen sick earlier started to recover. While Captain Anderson had been told that other government employees would be coming to Winston to assist, they were delayed because of a bridge collapse on the only road from Melbourne to Winston.

Three hours after the lock down was issued, the doctors determined that the outbreak was from a virus that was coming from the cattle in the community, though they were

unsure if it came from the live cattle or from the beef that had been sold in stores and restaurants in Winston.

Captain Anderson told Peter that since his was the only vegetarian store in the town, his products were the only ones free of contamination. She ordered him to provide food to the rest of the community during the lock down otherwise he would be arrested. Peter reluctantly complied with the order and started providing food to the police officers and town residents.

After hearing the news that the disease was coming from the cows, the people in the town started to panic. Captain Anderson decided that it would be necessary for all residents who were not sick, to assist in rounding up all the cattle (given the small number of police officers, it would be impossible for the police to round up the cattle and enforce the lock down simultaneously). Once the cattle were rounded up, it would be necessary to euthanise them in order to prevent the spread of the disease. While most of the residents were well were willing to undertake the task, Peter would not.

Peter told Captain Anderson that he would not participate in the round-up and killing of cows. He explained that as a Hindu, it was against his religious beliefs to do any harm to cows, as he considers them to be sacred animals. Thus, being involved in the rounding up of cows so they could be slaughtered was against his religion. He argued that now that they knew what the cause was, that he should be able to leave Winston so he could get to his son. Captain Anderson explained that under the circumstances, it was necessary for Peter to assist in the round up and that he was required to join the rest of the residents working to eliminate the disease. Peter pointed out that there were more than enough people who were willing to assist and one other person would not make a huge difference. Furthermore, some people who had been sick previously had started to recover and could now help. Captain Anderson exclaimed that every able body person was needed to help eradicate the disease and Peter's assistance would be necessary in order to prevent further deaths. She also told Peter that the sooner the cows were rounded up and euthanised, the sooner he would be able to leave Winston to see his son. Additionally, should Peter refuse to assist in the round-up, he would be arrested and charged for refusing to obey the order of a police officer.

Out of fear of being arrested and thereby stopped from getting to his son, Peter started assisting in the round up of the cattle. Once Peter saw the cows actually being euthanised, he started to feel nauseous and had major regrets about his involvement in the slaughter of the cows. He refused to take part any longer. Captain Anderson took Peter into custody. While in custody, Peter found out that his son had had a seizure but had not suffered serious injury.

Peter has sued the Victoria Police for negligent infliction of mental distress and for breaching his rights under the *Victorian Charter of Human Rights and Responsibilities Act 2006*. He argues that the Victoria Police violated a number of his rights under the Charter including his right to practice his religion and freedom from forced labour. Additionally he argues that he was deprived of property, and denied his right to freedom of movement.

The lower court found that the Charter had been appropriately raised, yet found no actual breaches of Charter rights. Peter has appealed that decision. As such, mooters do not need to argue whether or not the Charter could have even been legitimately raised in the lower court and should focus their arguments on whether or not there have been any Charter rights breached.