



Michael Imperato has written an article about the tennis player Novak Djokovic AND HOW IT CONNECTS TO JUSTICE FOR CONTAMINATED BLOOD



Novak Djokovic - Lessons to learn in challenging the Government

By Michael Imperato

In the first few weeks of January 2022, Australia dominated the news headlines across the world with its attempt to keep the world number one tennis player, Novak Djokovic, out. Djokovic had arrived expecting to contest the Australian Open Tennis but was detained by border staff because of his non vaccinated covid status.

Djokovic immediately instructed lawyers to challenge. Initially Djokovic's lawyers were successful. The original decision was overturned. However, the Australian Immigration Minister, Alex Hawke, intervened. He used powers under the Australian Immigration Act to cancel Djokovic's visa on reasons of posing a health risk to the Australian community, because it may foster anti vaccination sentiment.

Again, Djokovic's lawyers challenged before a full federal Court, he lost.



The whys and wherefores of the Djokovic case are not the purpose of this note. What all this does illustrate though is, how one can challenge Government when you consider a decision unfair. The process Djokovic's lawyers used is known as Judicial Review. This is where the decision from a public body or of the Government itself, can be challenged. It can be seen that, in the first instance Djokovic was successful in overturning the decision. He failed in a second – separate challenge. In Judicial Review one normally challenges on the basis that the decision is irrational or that proper procedure – leading up to the making of the decision – has not been followed. What the Djokovic case also illustrates is that Judicial Review cases can be launched quickly, and court decisions reached rapidly when necessary.

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In the United Kingdom, victims of the infected blood scandal had fought for many years for a full public inquiry. Successive Governments refused. Eventually, in 2017, in acting for victims in Wales, I wrote to the Secretary of State for Health once again asking for a full Public Inquiry. I received a dismissive letter of rejection. However, that rejection was effectively a “Government decision”. It was one which we considered challengeable. Therefore, my next letter to the Government was threatening Judicial Review proceedings. Shortly thereafter the then Prime Minister Teresa May announced the setting up of the Public Inquiry into the Infected Blood scandal in the UK. The Inquiry is still continuing. At the same time, I was writing to the Government, there was a great deal of political pressure being applied. It is impossible to know exactly for what reason the UK Government u turned. However, our threat of Judicial Review was very real, and I would like to think it was a factor in helping to win the Inquiry for the victims and their families.

The lesson for all this is that what has happened in the UK might happen in Australia. Victims in Australian are a part of a global scandal. There have been detailed Public Inquiries in Canada, Ireland, and the UK. Why not Australia? The lesson from the UK Inquiry is that political pressure and legal pressure needs to be put on Governments. The lesson from Novak Djokovic is that the Judicial Review process is alive and well in Australia and – although it ultimately did not save Djokovic – it can be successful.

"...it can be successful"!



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