

PRESS RELEASE

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Court of Appeal to consider whether criminal injuries compensation rules breaches victim of domestic homicide's daughter's human rights

The Court of Appeal will tomorrow consider the case of *R (AXO) v FTT (Social Entitlement Chamber) & Another*. The appeal arises from the decision of the Upper Tribunal, made on an application for judicial review: [\[2022\] UKUT 265 \(AAC\)](#). Dingemans LJ granted permission to appeal to the Court of Appeal on 8 March 2023 stating that there was a compelling reason to hear the appeal.

AXO's mother was killed by her former partner in 2011. AXO applied for an award from the criminal injuries compensation authority (CICA) in respect of her mother's death. She later successfully brought and settled a claim under Article 2 and Article 3 ECHR against three state agencies: the police, the local authority and the probation service for state failures that had occurred prior to her mother's murder. The claim settled for £10,000 for a breach of Article 2 ECHR (right to life) and £5,000 for a breach of Article 3 ECHR (right not to suffer inhumane and degrading treatment).

Following the settlement, CICA sought to recover all of AXO's damages on the basis that she had already received criminal injuries compensation for her mother's death. AXO challenged that decision, first to the First-tier Tribunal who found in the first instance that she should repay all of the damages. She challenged this decision by judicial review to the Upper Tribunal who found that only £10,000 of the damages for a breach of Article 2 ECHR were repayable but the £5,000 in Article 3 ECHR damages did not need to be repaid as they were not in respect of the same injury.

In the Court of Appeal, AXO will argue that CICA's efforts to remove her Article 2 ECHR damages are unlawful, including because the requirement to relinquish them breaches her rights under Articles 2 and Article 1 Protocol 1 ECHR.

Sophie Naftalin, solicitor for AXO said:

"AXO – by way of her grandmother and litigation friend - has been seeking accountability for her mother's death for over a decade. By bringing civil proceedings against the state, AXO sought acknowledgement of state failures separate to the criminal act of the perpetrator who murdered her mother. Her sole wish was for lessons to be learned from the murder and the state failures prior to the death.

The attempt by the CICA to recoup AXO's damages serves to deny AXO the acknowledgement of those state failures. It is very much hoped that the Court of Appeal will settle this question of law and deliver for AXO and other family members of victims of domestic homicide who also find themselves in these circumstances".

NOTES TO EDITORS

For further information or request for comment please contact **Sophie Naftalin** at Bhatt Murphy on 020 7729 1115 or s.naftalin@bhattmurphy.co.uk

AXO is represented by **Sophie Naftalin** of Bhatt Murphy and by [Richard Hermer KC](#) and [Jesse Nicholls](#) of Matrix Chambers.

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