

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



KDYG AND NATIONAL DISABILITY INSURANCE AGENCY [2019] AATA 3411

Administrative Appeals Tribunal, Mrs J C Kelly, 10 September 2019

Whether an applicant having a prolonged history of therapy treatment for Post Traumatic Stress Disorder with Dissociative Identity Disorder, qualified under the NDIS.

Keywords: NDIS, Commonwealth, Disability, Post Traumatic Stress, Permanent Impairment

1. The Applicant made a request to the National Disability Insurance Agency (the Agency) to become a participant in the National Disability Insurance Scheme launch (the Scheme) because of her disability, which is complex Post Traumatic Stress Disorder (PTSD) with Dissociative Identity Disorder (DID), severe anxiety, severe depression, chronic suicidal ideation, and disorientation.
2. The Agency denied entry as the impairment or impairments were not, or were not likely to be, permanent (s 24(1)(b)) and the impairment or impairments would result in substantially reduced functional capacity to undertake, or psychosocial functioning in undertaking a number of activities (s 24(1)(c)); and the person is not likely to require support under the National Disability Insurance Scheme for the person's lifetime (s 24(1)(e)).
3. The Tribunal found that it was clear from the medical evidence that the Applicant suffered from the impairment or impairments since about 1995. The nature of the symptoms has remained consistent, although varying in severity at times.
4. The Agency contended that not attending a PTSD therapy group leads to the conclusion that her impairment or impairments are not or not likely to be, permanent. The Tribunal decided that given the Applicant's lengthy history of therapy, that not attending a PTSD therapy group does not lead to the conclusion that her impairment or impairments are not or not likely to be, permanent.
5. Given the lengthy history of the Applicant's mental health condition and treatment by various medical and allied practitioners, the Tribunal was not persuaded that because she has not been assessed by a clinical psychologist her impairment or impairments are not permanent.
6. The Tribunal having found that the Applicant's impairment or impairments are permanent and that they result in substantially reduced functioning to undertake self-care, it decided that she is likely to require the support of the NDIS for her lifetime pursuant to s 24(1)(e) of the Act.

7. Thus the Tribunal decides that the Applicant meets the disability requirements of the Act (s 24).

IMPLICATIONS



It appears that the Applicant could not tick all the boxes set out by the NDIA, but could provide other evidence which was sufficient for the Tribunal to make a decision in their favour.

VIEW THE CASE



This case may be viewed at: <http://www.austlii.edu.au/au/cases/cth/AATA/2019/3411.html>

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