

Right to Life Association (NSW) Inc v Secretary, Department of Human Services and Health (1995) 56 FCR 50

<http://lawcasesummaries.com/knowledge-base/right-to-life-association-nsw-inc-v-secretary-department-of-human-services-and-health-1995-56-fcr-50/>

Facts

- The Right to Life group, who passionately oppose abortion, wrote to the Secretary of the Department stating that clinical trials into an 'abortion drug' should be stopped on the grounds that they were against public interest.
- The *Therapeutic Goods Act 1989* (Cth) made it a condition that for a drug trial to proceed, the Secretary must not have declared it contrary to the public interest.
- The Secretary responded to the letter stating that he would not stop the clinical trials.
- The Right to Life group looked to appeal this decision, arguing it was a "reviewable decision" under the ADJR Act.

Issue

- Was the letter from the Secretary stating he would not stop the trials a 'reviewable decision'?
- In other words, had a decision actually been made by the Secretary?

Held

- Lockhart J explained that where relevant matters are brought to the attention of the decision maker, and that decision maker considers them and then forms an opinion, he may have made a reviewable decision.
- Each case will turn on its own facts and it can be a 'grey area' determining when exactly a decision has been made.
- In this case, a relevant decision was made - relevantly, if the Secretary had decided to stop the trial, that definitely would have been a reviewable decision. Therefore the opposite is also true.
- The decision "had the character or quality of finality" (quoting *ABT v Bond*) [248]

It is worth noting that although Right to Life succeeded on the 'reviewable decision' question, their appeal failed as they did not have standing.