

EPC INTERVENED IN THE CARTER CASE IN BC



Hugh Scher, founder of Scher Law, practices employment and human rights law. He served for six years as Chair of the Human Rights Committee of the Council of Canadians with Disabilities where he directed interventions in 15 cases before the Supreme Court of Canada and Appeal Courts across Canada.

EPC legal counsel, Hugh Scher, argued the points of our intervention in the Carter case in Vancouver before Justice Smith on December 14, 2011.

The Carter case, which is being pro-

moted by the BC Civil Liberties Association, is attempting to legalize euthanasia and assisted suicide in Canada through the court. The case started with the Carter family who were arguing that the law infringed on the rights of their mother, Kay Carter, who died by assisted suicide at the Dignitas clinic in Switzerland. The case later added Gloria Taylor, who is living with ALS.

EPC argued that prohibiting euthanasia and assisted suicide is necessary to protect all people. We argued that the reasons given by the Supreme Court of Canada, for the Rodriguez decision, are still valid today. We argued that in practice, the concepts of choice or autonomy cannot be assured and do not protect people who are dependent on others. We argued that legalizing euthanasia or assisted suicide, in any form, will lead to new paths for elder abuse and abuse of vulnerable persons.

We have no idea when Justice Smith will release her decision. We hope that she will make the correct decision by refusing to legislate from the bench

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Rasouli case goes to the Supreme Court of Canada

The Rasouli case asks the question, who has the right to withdraw life-sustaining treatment or care. The doctors for Hassan Rasouli, a man who is being cared for at the Sunnybrook hospital in Toronto, told the Rasouli family that they were going to withdraw the ventilator. The Rasouli family refused consent to the withdrawal of the ventilator.

The Rasouli family brought the case to court to obtain a court order preventing “the doctors” from withdrawing the ventilator without consent. “The doctors” argued that they do not require consent to withdraw life-sustaining treatment or care that they deem to be futile. The family holds that doctors cannot unilaterally decide to withdraw the ventilator.

The case was heard by Justice Himel, who decided that the doctors did not have the unilateral right to withdraw life-sustaining treatment and that if consent could not be obtained from the family that “the doctors” could bring their case to the

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ISSUE NUMBER ONE HUNDRED TWENTY FIVE

We have now been operating for more than twelve years. This newsletter, number 125, represents a very important milestone for the Euthanasia Prevention Coalition.

It is our goal to continue building a well-informed broadly-based network of groups and individuals to create an effective social barrier to euthanasia and assisted suicide.

A quick look at our headlines this month shows that we are accomplishing more than ever. Each month brings new challenges and new successes.

THANKS FOR TWELVE YEARS OF LOYAL SUPPORT

PETITION CAMPAIGN INCREDIBLY SUCCESSFUL

The petition campaign to the Attorney General of Canada (AG) successfully obtained almost 31,000 signatures.

The petition campaign was done to encourage the AG, the Hon. Rob Nicholson, to do whatever is necessary to uphold Canada's laws against euthanasia and assisted suicide.

EPC is concerned that the court in BC or Quebec may decide to legislate from the bench. We would need the Attorney General of Canada to immediately appeal the decision.

If you have not done the petition campaign, you can still collect more signatures now that the LeBlanc case is happening in Quebec.

You may consider writing a hand-written letter to the AG and to your Member of Parliament. You should ask your MP to urge the AG to do whatever possible to uphold our laws protecting us from euthanasia and assisted suicide. You need to keep your letter simple. Please use the following sample talking points:

As a Canadian, I ask that you do whatever possible to uphold our laws that protect me from Euthanasia and Assisted Suicide.

- I am concerned that legalizing euthanasia and/or assisted suicide will lead to pressure being placed on people with disabilities. Some deaths may occur without request or consent, as has happened in other jurisdictions. OR
- I am concerned that legalizing euthanasia and/or assisted suicide will lead to new paths for elder abuse which is already a serious social problem in Canada. Dependent elderly people may die by euthanasia or assisted suicide because of pressure from abusive relationships that they are already experiencing.

Please send your letter to both:

Your MP
House of Commons
Ottawa ON K1A 0A6

Attorney General of Canada
Hon. Rob Nicholson
House of Commons
Ottawa ON K1A 0A6
rob.nicholson@parl.gc.ca

NEWS FROM AROUND THE GLOBE

ASSISTED SUICIDE LOBBY IN THE UK PUBLISHES REPORT CALLING FOR THE LEGALIZATION OF ASSISTED SUICIDE

The Commission on Dying in the UK published a 400-page report that calls for the legalization of assisted suicide. This is not surprising to EPC or the Care Not Killing Alliance - UK who have followed the Commission.



Dr. Peter Saunders Campaign Director of the Care Not Killing Alliance, a coalition of over 40 professional groups, healthcare providers and disability rights groups promoting palliative care and opposing the legalisation of euthanasia and assisted suicide in the UK.

Two years ago, Dignity in Dying, the largest assisted suicide lobby group in the UK, established the Commission with Lord Falconer as its chair. Lord Falconer is a long-time promoter of legal assisted suicide and a few years ago helped lead a failed attempt at legalizing assisted suicide. The Commission was partially paid for by author and euthanasia activist, Terry Pratchett.

It appears that the assisted suicide lobby leaders in Canada and the UK

came up with similar ideas. The Royal Society of Canada released a one-sided report advocating for the legalization of euthanasia and assisted suicide in Canada. The Royal Society of Canada report was conceived by Jocelyn Downie, a pro-euthanasia leader.

The UK Commission reserved judgement on euthanasia but promotes the legalization of assisted suicide for people who are deemed to have less than 12 months to live. Julia Manning wrote in the UK Daily Mail that her father was given 6 months to live and died more than 6 years later.

The problem is that many of the media, government officials, and so-called intellectuals refer to these reports as independent “expert” reports. EPC fears that many people will treat these “ink on paper” reports seriously and use them as evidence for legalization.

MASSACHUSETTS INITIATIVE MUST BE DEFEATED

The state of Massachusetts is the next assisted suicide battleground in the US. In December it was confirmed that the suicide lobby collected enough signatures for the issue of assisted suicide to be placed on the November 2012 ballot in Massachusetts.

Massachusetts is a key state because of its location, population and its health care centres. Many respected medical institutions and medical training centres exist in Massachusetts.

Several groups have formed to oppose the assisted suicide initiative in Massachusetts.

If Massachusetts voters legalize assisted suicide during the November election, this will cause a national tidal wave of assisted suicide legislation.

The only way to turn back the tide is by Massachusetts citizens voting against the assisted suicide Initiative.

EPC will keep you up-to-date throughout the assisted suicide campaign.

BILLS TO LEGALIZE EUTHANASIA IN SOUTH AUSTRALIA

New attempts to legalize euthanasia in South Australia are becoming annual. Last year, two legislative attempts to legalize euthanasia in South Australia were attempted with one being an attempt to legalize euthanasia under the disguise of palliative care.



Paul Russell For many years Paul served as president of the National Civic Council. In response to euthanasia bills introduced in South Australia, Paul established the Australian HOPE network to prevent euthanasia & assisted suicide. He is VP of EPC International.

State MP’s Steph Key and Bob Such have decided to introduce two different bills. HOPE, the group that is founded and led by Paul Russell, the VP of EPC – International, will be incredibly busy to defeat these bills and the upcoming bills that are anticipated in Australia’s federal parliament and possibly several state legislatures.

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Consent and Capacity Board. Instead of bringing the case to the Consent and Capacity Board “the doctors” appealed the decision to the Ontario Court of Appeal (OCAP). EPC obtained intervener standing in the Rasouli case.

On May 18, 2011, EPC legal counsel Hugh Scher successfully argued that doctors do not have the right to unilaterally withdraw life-sustaining treatment. Scher argued that withdrawing life-sustaining treatment represented a change in the “treatment plan” which requires consent.

The three judges on the OCAP unanimously agreed with EPC that doctors do not have the right to unilaterally withdraw life-sustaining treatment. Many of the arguments used by the Justices were taken from our intervention.

“The doctors” appealed the unanimous decision of the OCAP to the Supreme Court of Canada. EPC sent an affidavit to the Supreme Court of Canada arguing that the

Supreme Court should not hear the case because it was unanimously decided by the OCAP and many of the arguments in the appeal by “the doctors” were not argued at the OCAP.

The Supreme Court of Canada has agreed to hear the Rasouli case. EPC will be asking for intervener from the Supreme Court of Canada. We believe that our perspective is unique and important to the public debate and our goal is to define the issue for the Supreme Court Justices.

If the Supreme Court of Canada overturns the previous Rasouli decision, the withdrawal of end-of-life treatment or care will be imposed by doctors. EPC is also concerned that if euthanasia or assisted suicide is legalized that End-of-life decisions will also be imposed by doctors.

The time-frame on this case has not been announced. We will keep you up-to-date.

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and therefore not imposing euthanasia and assisted suicide upon Canada.

Whatever decision Justice Smith makes, it will be appealed to the BC Court of Appeal and in the end this case will be heard by the Supreme Court of Canada.

Currently EPC has raised almost \$23,000 toward our costs in the Carter case. Our current legal fees are more than \$50,000. We need your generous support today.

EPC SEEKS TO INTERVENE IN THE LEBLANC CASE IN QUEBEC

As if the Carter case in British Columbia wasn't enough, Rene Duval, a human rights lawyer in Quebec, launched a case on behalf of Ginette Leblanc to strike down Section 241b of the Criminal Code. Section 241b prohibits *aiding and abetting* (encouraging) suicide. Duval is not challenging Section 241a of the Criminal Code which prohibits *counselling* suicide.

The Leblanc case is identical to the Rodriguez case (1993). Like Rodriguez, Leblanc is living with ALS. Both cases challenged the constitutional validity of Section 241b.

EPC and *Vivre dans la Dignité* in Quebec have agreed to intervene in the Leblanc case together. *Vivre dans la Dignité* is a grassroots organization in Quebec that was founded in response to the Quebec government – Select Committee on Dying with Dignity. There will be a hearing on January 27 in Trois-Rivières to determine whether or not we will be granted intervener standing.

Intervening in the Leblanc case will be more difficult because our submissions must be bilingual. EPC legal counsel, Hugh Scher, is bilingual and many of the arguments that were made in the Carter case will be similar to the Leblanc case. Nonetheless, everything must be translated.

The cost to intervene in a court case is prohibitive but the cost of not intervening may be the legalization of assisted suicide in Canada. Because *Vivre dans la Dignité* is a younger organization with a smaller donor base, EPC will be required to bear most of the costs of the case.

EPC received a bill of more than \$50,000 for our intervention in the Carter case. We will need even more financial support if we gain intervener standing in the Leblanc case. Please be generous by supporting EPC in our work to protect people from euthanasia and assisted suicide.