

NEW ZEALAND MP INTRODUCES BILL TO LEGALIZE EUTHANASIA

In August, Maryan Street, a Labour MP in New Zealand, introduced a private members bill to legalize euthanasia. In New Zealand, private members bills are drawn randomly, meaning, no one knows when or if Street's euthanasia bill will get debated.

At the same time, John Key, the President of New Zealand who supports legalizing euthanasia, stated to Newstalk ZB that he supported euthanasia and that it occurs all the time in New Zealand.

Key then falsely connected withdrawing life-sustaining medical treatment with euthanasia when he stated:

"if they just effectively wanted to turn off the switch and legalize that by legalizing euthanasia, I'd want that."

To withdraw life-sustaining medical treatment is not euthanasia, but rather allowing a natural death to occur. Euthanasia is a direct and intentional action or omission that causes death and it is usually done by lethal injection.

Dr. Sinead Donnelly, the chair woman for the Australian and New Zealand Society of Palliative Medicine responded to Key by stating to Stuff New Zealand that:

"We never practice euthanasia; euthanasia is the deliberate ending of life, and it illegal and unethical."

Hospice New Zealand clinical adviser Sandy Macleod told Stuff New Zealand that: "euthanasia does not occur in our hospitals, full stop".

Dr. Macleod, a palliative care specialist at Christ Church Hospital told Stuff New Zealand that Mr. Key's comments were misguided and incorrect. ■

SOUTH AUSTRALIA WILL DEBATE EUTHANASIA AGAIN

The one thing that South Australians can count on is that their state parliament will debate the legalization of euthanasia. Both Bob Such MP (Independent) and Steph Key (Labor) MP have promised to introduce new euthanasia bills in September.

The last version of Such's euthanasia bill was defeated by a 22 to 20 vote in last June. Such has promised to "re-jig" his bill and try again.

Steph Key, who attended the presentation by Alex Schadenberg to the South Australian legislature last June, has promised to introduce a bill that would focus on palliative care, advanced directives and euthanasia. The last Key bill was a stealth euthanasia bill that was hidden within a palliative care bill.

HOPE Australia is once again working to defeat the sixth and seventh attempts to legalize euthanasia in South Australia since 2010. ■



BRITISH COLUMBIA JUDGES CONTINUE TO TAKE THE LAW IN THEIR OWN HANDS

On June 15, Justice Lynn Smith decided, in the Carter case in BC, to legalize euthanasia and assisted suicide, to order parliament to fulfill her demands by June 15, 2013 and to grant Gloria Taylor a constitutional exemption, allowing a judge to decide when it is appropriate for someone to take her life by lethal dose.

It needs to be stated that the Carter case is a federal case that is being heard in BC. Many people have asked if this case only applies to BC, or if it applies to all of Canada. That is why the case is referred to as: Carter v Canada (Attorney General). Since this is a federal case, it affects everyone in Canada.

On July 13, Attorney General, Hon. Rob Nicholson announced that the federal government was appealing the decision by Justice Smith, and all the effects of the decision to the BC Court of Appeal. This means that the federal government appealed the decision, the Constitutional exemption, and the order forcing parliament to legalize euthanasia and assisted suicide by June 15, 2013.

On August 3, Madam Justice Prowse heard the appeal of the Constitutional Exemption granted to Gloria Taylor and the appeal of the order that parliament must legalize euthanasia and assisted suicide by June 15, 2013.

On August 10, Justice Prowse decided to uphold the constitutional exemption for Gloria Taylor but she lifted the decision ordering parliament to legalize euthanasia and assisted suicide by June 15, 2013 since all parties agreed to that position. Therefore Gloria Taylor can die by a court ordered lethal dose.

On August 20, Justice Smith announced her retirement from the bench in early September.

On August 31 the Hon Rob Nicholson announced that the government of Canada will appeal the August 10 decision by Justice Prowse.



Now retired Justice Lynn Smith

WHAT IS PARTICULARLY GALLING ABOUT THIS CASE IS HOW JUSTICE SMITH DECIDED:

- to interpret previous precedent setting cases with a slant towards legalization
- to discount the expert witnesses who opposed euthanasia while accepting the expert witnesses who support euthanasia
- to refer to the information from pro-euthanasia witnesses in an unbiased manner while emphasizing the bias of those who oppose euthanasia
- to retire from the bench with the hope that she has established a legacy

The BC Court of Appeal will hear the Carter case from April 4 – 8, 2013. The case will likely be appealed to the Supreme Court of Canada.

High Court justices in the UK decided the Nicklinson/Martin case on August 16, 2012 in the exact opposite way that Justice Smith decided the Carter case in Canada. The three judge panel unanimously decided not to strike down the laws preventing euthanasia and assisted suicide in the UK. The High Court also decided that it was the role of parliament and not the court to change laws pertaining euthanasia and assisted suicide.

Tony Nicklinson died on August 22 at home of natural causes.

The following article was written by Dr. Andrew Fergusson for the Care Not Killing Alliance in the UK.

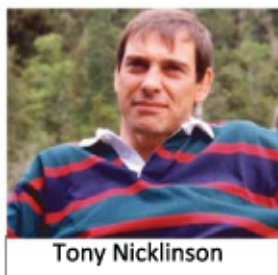
DISPASSIONATE COURT GETS IT RIGHT COMPASSIONATELY

The two cases of men with conditions resembling locked-in syndrome have been concluded. Heard before three judges in the High Court from 19-22 June, judgment was handed down at 2pm on Thursday 16 August.

Tony Nicklinson, 59 and paralysed from the neck down after a stroke in 2005, was actually arguing for permission that a doctor who performed voluntary euthanasia on him would have an effective defence when prosecuted for murder. He argued this on two grounds: A common law defence of necessity - his physical condition meant he could not kill himself even with assistance, and there was no other way he could achieve adequate relief from his overwhelming distress. That the current legal position was interfering with his right to a private life under Article 8 of the European Convention on Human Rights, now incorporated in British law.

His legal team had described these applications as 'a full frontal assault on the law on murder' and agreed in court it was a 'bold' approach.

Tony Nicklinson had sought and achieved massive media publicity for months beforehand, and it will doubtless continue, but the other patient linked in the hearing (Martin) had avoided publicity, and indeed had a court ruling to protect his anonymity.



Tony Nicklinson

He was seeking more modest ends to do with assisted suicide: greater clarification from the court about the likelihood of the Director of Public Prosecutions bringing criminal charges against a health professional or solicitor who might give assistance with his suicide at Dignitas, and similar clarification about disciplinary action from professional regulatory bodies.

The Care Not Killing Alliance intervened formally in these cases via pro bono help from solicitors and counsel. The CNK submission confined itself to a succinct review of UK and European law and argument, and refused to enter the many 'controversial and easily rebuttable' arguments put forward in very lengthy submissions from both men's legal teams.

The hearing itself stayed clearly focused on principle and legal precedent. So does the judgment which rejected all the arguments to change the law. The court examined in great detail the merits of these arguments, drawing on statute law, UK and European court rulings, debates in Parliament, the European Convention on Human Rights, evidence from advocates on both sides of the debate, and expert advice from the General Medical Council and Solicitors Regulation Authority.

The three judges, Lord Justice Toulson, Mr. Justice Royce and Mrs. Justice Macur, acknowledged cogently that while these are two tragic cases, it would be wrong for the court to change the current law. That issue is for Parliament, which has debated and voted against law change several times in recent years.

Months before the hearing, Tony had said 'I am delighted that we can now move on to discuss the pertinent issues properly in a dispassionate court of law'. That dispassionate discussion has now happened, and disabled people are all the safer for this welcome result.

It may be small comfort to Tony Nicklinson but I have been impressed by the compassionate approach of the court: recognizing the desperate situations of the two men, in the fairness and tone of debate.

MASSACHUSETTS ASSISTED SUICIDE PROPOSAL - A RECIPE FOR ELDER ABUSE

By Margaret Dore, Seattle Attorney

A recent New York Times article expressed "surprise" regarding the users of assisted suicide: "They are overwhelmingly white, well educated and financially comfortable." [1] They are also age 65 and older. [2] In other words, users are older people with money, which would be the middle class and above, a group disproportionately at risk of financial abuse and exploitation. [3]



In the United States, elder financial abuse costs elders an estimated \$2.9 billion per year. [4] Perpetrators include strangers, family members and friends. [5] The goals of financial abuse perpetrators are achieved "through deceit, threats, and emotional manipulation of the elder." [6]

The Oregon and Washington assisted suicide acts, and the similar Massachusetts proposal, do not protect users from this abuse. Indeed, the terms of these acts encourage abuse. These acts allow heirs and other persons who will benefit from an elder's death to actively participate in his or her lethal dose request. [7] There is also no oversight when the lethal dose is administered, not even a witness is required. [8] This creates the opportunity for an heir, or someone else who will benefit from the person's death, to administer the lethal dose to that person without his consent. Even if he struggled, who would know? ■

[1] Katie Hafner, "In Ill Doctor, a Surprise Reflection of Who Picks Assisted Suicide," New York Times, August 11, 2012. [2] See e.g., the most current official report from Oregon, "Oregon Death with Dignity Act-2011" ("Of the 71 DWDA deaths during 2011, most (69.0%) were aged 65 years or older; the median age was 70 years"), available at: www.public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year14.pdf [3] The MetLife Study of Elder Financial Abuse, "Crimes of Occasion, Desperation, and Predation Against America's Elders," June 2011 (a follow up to MetLife's 2009 "Broken Trust: Elders, Family, and Finances"), available at: www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf [4] Id., page 2, key findings [5] Id. [6] Id., page 3. [7] See Memo to Joint Judiciary Committee (regarding Bill H.3884, now ballot measure No. 2), Section III.A.2. ("Someone else is allowed to speak for the patient"), available at: www.massagainstassistedsuicide.org/p/memo-to-joint-judiciary-committee.html [8] See above memo at Section III.A.1 ("Nowitnesses at the death"). See also entire proposed Massachusetts Act at: www.choiceisanillusion.files.wordpress.com/2011/10/ma-initiative.pdf

LEBLANC CASE TO BE HEARD IN QUEBEC IN DECEMBER 2012

Many EPC supporters are aware that the Carter case in British Columbia is not the only case in Canada that deems to decriminalize assisted suicide. In December 2012, the Leblanc case will be heard in Quebec.

In July EPC learned that we were granted intervener standing in the Leblanc case. The Court granted EPC the right to present a factum before the court, the right to make an oral pleading before the court and the right to cross-examine witnesses, when the principle parties have not covered a particular point of view.

EPC has been granted a greater standing before the court in the Leblanc case as compared to the Carter case, where we were not granted the right to cross-examine witnesses.

EPC will require significant support from our donors and supporters in order to ensure that we are legally represented everyday of the trial in order to cross-examine fact witnesses, especially when they make false statements.

Justice Smith intentionally accepted nearly every statement from the pro-euthanasia fact witnesses in the Carter case while intentionally rejected many of the statements from the fact witnesses who opposed euthanasia.

It is our goal to uncover the false arguments that are made by the witnesses for the euthanasia lobby in the Leblanc case.

Please support us in our important work. ■

Coming Up

EPC National Conference - November 10 - in London Ontario

The theme of the 2012 EPC National Conference is Protecting People from Euthanasia and Assisted Suicide. The conference will update people on our current challenges while emphasizing the direction that we will follow.

See insert for details. Please consider donating \$99 to enable a student or a person with a disability to attend for free.