IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

KATHERINE MORRIS, M.D.,
AGROOP MANGALIK, M.D.,
and AJA RIGGS,

Plaintiffs-Appellees,

v.

GARY KING, Attorney General of
The State of New Mexico,

Defendant-Appellant.

No. 33,630

AMICUS BRIEF OF DISABILITY RIGHTS AMICI: NOT DEAD YET, ADAPT, AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES, AUTISTIC SELF ADVOCACY NETWORK, DISABILITY RIGHTS EDUCATION AND DEFENSE FUND, NATIONAL COUNCIL ON INDEPENDENT LIVING, AND THE UNITED SPINAL ASSOCIATION

Appeal from the 2nd Judicial District Court of Bernalillo County,
NAN G. NASH, District Court Judge

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STATEMENT OF ISSUES PRESENTED

The District Court held that NMSA 1978, Section 30-2-4, New Mexico's Assisted Suicide statutory prohibition against "deliberately aiding in the taking of a ['mentally competent, terminally ill person's'] own life," violated the State's Constitution. Findings of Fact and Conclusions of Law ("D.C. Findings") ¶ II. The District Court held that the statute is unconstitutional because it "unduly burdens" a right that the District Court deemed fundamental under the State Constitution: to obtain lethal drugs, which the District Court euphemistically labeled "aid in dying" (i.e. assisted suicide and euthanasia), *id.* ¶¶ LL, and does not "further[] a compelling state interest, " *id.* ¶ MM. Not Dead Yet, ADAPT, the American Association of People with Disabilities, the Autistic Self Advocacy Network, Disability Rights Education and Defense Fund, the National Council on Independent Living, and the United Spinal Association (collectively "the Disability Rights Amici"), organizations with New Mexico members, support the Attorney General's position that Section 30-2-4 does not violate any New Mexico constitutional provisions.

This case does not concern the settled issue of the individual's right to refuse treatment, even if it might result in death. Certainly, people have a "right to die" by removing their life supports, refusing life supports, and letting nature take its course. This case concerns only whether there is a New Mexico

constitutional right to receive active "Physician Aid in Dying." *Id.* ¶ 10.

Were this Court to uphold the District Court's decision, it would soon face a number of related issues in future cases, including the following:

- Why should a constitutional right be limited to people who have a disabling condition that is labeled "terminal"? Why not any disabling condition? Why not a firm decision to commit suicide by any competent person?
- Why should the constitutional right be limited to providing only lethal medications? Why not lethal injections?
- If such a constitutional right exists, why should a person's right be limited to "aid" only from doctors? What about family members, friends, or advocates?

BACKGROUND

Plaintiffs claim, and the District Court found, that prohibiting "mentally competent, terminally ill" people from obtaining from a third party a lethal dose of drugs violates their "liberty, safety and happiness interest ... to choose aid in dying...." D.C. Findings, ¶ II. The New Mexico Constitution actually refers to "certain, natural, inherent and inalienable rights, among which are the rights of enjoying ... *life* and liberty ... and of seeking and obtaining safety and happiness."

N.M. Const., art. II, § 4 (emphasis added).[1] After trial, the District Court held that "the liberty, safety and happiness interest" protected by the New Mexico Constitution guaranteed competent, terminally ill patients the "fundamental right" to choose "aid in dying" but did not refer to "life." *Id.* ¶ HH. Because the District Court determined that Section 30-2-4 affected a fundamental right, it applied strict scrutiny and found that Defendants had failed to prove that the statute furthers a compelling state interest by criminalizing physician-assisted suicide. *Id.* ¶ LL.

Whether there is a constitutional right in New Mexico to physician-assisted suicide must be addressed and understood from the perspective of the only class of people who will be adversely affected and impacted were such a right to be found: people with disabilities. The Disability Rights Amici represent a very broad spectrum of people with disabilities, including people with physical, developmental, and/or mental disabilities, and people whose disabilities existed from birth or were acquired during their lifetimes. Many are now, or at some point have been, erroneously labeled "terminal" by a physician. Many have had doctors threaten to remove life sustaining treatment on an involuntary basis and have had to fight to receive continued care.

In fact, although pain (or the fear of pain) is often cited as the primary

[1] The Plaintiff Aja Riggs had only a "fear" her cancer would return and wanted "peace of mind" if it would return. D.C. Findings ¶¶ 12-13.

reason for enacting assisted suicide laws, doctors actually report that they issue lethal prescriptions because of patients' "loss of autonomy," D.C. Findings ¶ 26, and "feelings of being burden," and that "[p]atients' interest in physician-assisted suicide appeared to be more a function of psychological distress and social factors than physical factors."[2]

Major issues include the inadequacy of symptom control, difficulties in the person's relationships with family, and psychological disturbances – especially grief, depression, and anxiety.

> The desire for euthanasia or assisted suicide resulted from fear and experience of two main factors: disintegration and loss of community. These factors combined to give participants a perception of loss of self [...] Symptoms and loss of function can give rise to dependency on others, a situation that was widely perceived as intolerable for participants: 'I'm inconveniencing, I'm still inconveniencing other people who look after me and stuff like that. I don't want to be like that. Iwouldn't enjoy it, I wouldn't. I wouldn't. No. I'd rather die.' [3]

These are quintessential disability issues. The Disability Rights Amici's members

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[2] *See* William Breitbart, MD et al, *Interest In Physician-Assisted Suicide Among Ambulatory HIV-Infected Patients*, Am. J. Psychiatry 153, 238-242 (1996). *See also* Robert Pear, *A Hard Charging Doctor on Obama's Team*, N.Y. Times, April 18, 2009, at A14 (noting that pain is "a common stereotype of patients expressing interest in euthanasia. In most cases... the patients were not in excruciating pain. They were depressed and did not want to be a burden to their loved ones").

[3] Block SD & Billings JA, *Patient Requests to Hasten Death. Evaluation and Management in Terminal Care*, Archives of Internal Medicine, 154(18):2039-47 (Sept. 26, 1994).

know that these feelings are not inevitable, that their causes are and have been successfully addressed and that, most importantly, these emotions do not justify a lethal response.

Assisted suicide authorizes doctors to decide who is eligible – whose condition is "terminal" and whose desire to commit suicide is "rational." In the context of our current healthcare system, with profit motives of insurance and managed care companies, and financial and other pressures on family members and individuals, the risks of subtle and even blatant coercion are great.

No one is immune from the pervasive societal assumptions surrounding the disability label. Fear, bias, and prejudice against disability are inextricably intertwined in these assumptions and play a significant role in assisted suicide. Our society values and desires "healthy" bodies and minds. The idea that any person with a disability could be a happy, contributing member of society is outside the experience or thinking of most non-disabled persons. Severe disability is viewed as worse than death, thus justifying the deadly exception to laws for suicide prevention and laws against homicide. These views and assumptions are strongly opposed by people with disabilities.

The District Court use the term "dignified death" to justify assisted suicide, D.C. Findings, ¶30, but when asked what "indignities" concern them, nondisabled people invariably describe the need for assistance in daily

activities like bathing, toileting, and other disability realities. These should never be the basis for a societal double standard for providing suicide assistance only to people with disabilities, including those labeled "terminal," but suicide prevention to the rest of society.

SUMMARY OF ARGUMENT

There is no fundamental right, under the New Mexico or United States Constitutions, to assistance from a doctor or any other third party in committing suicide. Moreover, there are compelling State interests in prohibiting assisted suicide for all or some (e.g. "terminal") people with disabilities. State-sanctioned assisted suicide degrades the value and worth of people with disabilities and violates the antidiscrimination rights, protections and mandates of the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*

ARGUMENT

I. STANDARD OF REVIEW

When there are no disputed material facts, an appellate court applies a de novo standard of review. *State v. Reyes–Arreola,* 1999–NMCA–086, ¶ 5, 127 N.M. 528. "A strong presumption of constitutionality surrounds a statute." *Ortiz v. Taxation & Revenue Dep't,* 1998–NMCA–027, ¶ 5, 124 N.M. 677. Therefore, a party challenging the constitutionality of a statute has the burden of proving it is unconstitutional beyond a reasonable doubt. *City of Farmington v. Fawcett,* 1992-

NMCA-075, ¶ 6. "In construing a particular statute, a reviewing court's central concern is to determine and give effect to the intent of the [L]egislature." *N.M. Dep't of Health v. Compton,* 2001–NMSC–032, ¶ 18, 131 N.M. 204 (internal citations and quoted authority omitted).

II. ASSISTED SUICIDE DISCRIMINATES AGAINST PEOPLE WITH DISABILITIES

A. Assisted Suicide Is Part of the Long and Tragic History of Discrimination Against People with Disabilities

Assisted suicide must be viewed against the backdrop of the United States' long and tragic history of state-sanctioned discrimination against the disabled. The Supreme Court has acknowledged that at least one of the forms of such discrimination – the practice of withholding lifesaving medical assistance by medical professionals from children with severe disabilities – demonstrates a "history of unfair and often grotesque mistreatment" arising from a legacy in this country of "prejudice and ignorance," and continuing well into the 20th century. *City of Cleburne, Texas v. Cleburne Living Center*, 105 S. Ct. 3249, 3262, 3266. (1985) (Stevens, J., joined by Burger, C.J., concurring), (Marshal, J., joined by Brennan & Blackmun, JJ., concurring).

Such attitudes, unfortunately, are not completely in the past. Prominent

Ethicists, such as Peter Singer of Princeton University,[4] have advocated the killing of infants with severe disabilities based on a belief that they will not lead a "good" life and will burden their parents and society.

B. The District Court Decision Denies People with Disabilities the Benefit of the State's Suicide Prevention Protections

Assisted suicide singles out some people with disabilities, those labeled "terminal" or very severely impaired, for different treatment than other suicidal people receive. This lethal discrimination is viewed as justified based on the mistaken belief that a severe disability – which may cause, for example, use of a wheelchair or incontinence, or may require assistance bathing, eating, toileting, or other activities of daily living – is worse than death.

The District Court's decision, immunizing physicians for assisting the suicides of persons with "terminal" disabilities or conditions, turns on its head the general assumption that suicide is irrational and is a "cry for help." For people who are disabled, suicide is presumed understandable and acceptable. The District Court's ruling permits doctors to affirmatively facilitate suicide, an act that would be a crime but for the person's disability and a label of "terminal." Persons with severe health impairments will be denied the benefit of New Mexico's suicide prevention laws and programs. Indeed, the District Court's

[4] *See* Peter Singer, *Taking Life: Humans, in* PRACTICAL ETHICS, 175-217 (2d ed. 1993)

holding guarantees these suicide attempts will succeed – unlike those of the majority of other persons with suicidal ideation who are not disabled. A practice that the State would otherwise expend public health resources to prevent is instead actively facilitated based on a "terminal" label, however unreliable and slippery such predictions may be.

The United States Supreme Court has recognized that suicide is a practice that States throughout the country actively discourage through laws and prevention programs. *See Washington v. Glucksberg*, 521 U.S. 702, 711 (1997). By asserting that it is irrational for a non-disabled person to end his or her life, but rational for a disabled person to do so, the law assumes that the non-disabled person's life is intrinsically more valuable and worthwhile than a disabled person's life.

Perhaps no attitude strikes closer to the heart of the disability civil rights movement. Central to the civil rights of people with disabilities is the idea that a disabling condition does not inherently diminish one's life; rather, stereotypes, barriers preventing assistance with activities of daily living, and prejudices do so. In contrast, assisted suicide gives official sanction to the idea that life with a disabling condition is not worth living. As the U.S. Supreme Court has recognized:

> The State's interest here [in prohibiting assisted suicide] goes beyond protecting the vulnerable from coercion; it extends to protecting disabled and terminally ill people from prejudice, negative and inaccurate

> stereotypes, and "societal indifference ... " The State's assisted-suicide ban reflects and reinforces its policy that the lives of terminally ill, disabled and elderly people must be no less valued than the lives of the young and healthy, and that a seriously disabled person's suicidal impulses should be interpreted and treated the same as everyone else's.

Glucksberg, 521 U.S. at 732.

C. Denying People with Disabilities the Benefit of Both State Suicide Prevention Laws and the Enforcement of Homicide Laws Violates the ADA

Responding to the long and tragic history of discrimination against people with disabilities, in 1990 Congress enacted the Americans With Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.*, the basic civil rights statute for people with disabilities. To address and remedy the "serious and pervasive social problem" of discrimination against individuals with disabilities, 42 U.S.C. § 12101(a)(2), Congress substantively required that "no qualified individual with a disability shall. . . be excluded from participation in or be denied the benefits of the services, programs, or activities of any public entity ...." 42 U.S.C. § 12132; *See* 28 C.F.R. § 35.130(b) (discrimination includes denying or not affording an opportunity for people with disabilities to benefit from services either equal to or as effective as those afforded nondisabled persons).

Sanctioning assisted suicide only for people with disabilities, and denying them suicide prevention services based on a doctor's prediction of

terminal status or other justification violates the ADA because the presence or absence of disability determines whether New Mexico:

- Enforces its laws requiring health professionals to protect individuals who pose a danger to themselves;
- responds to expressions of suicidal intent in people with disabilities with the application of lethal measures that are never applied to people without disabilities; and
- investigates and enforces its abuse and neglect and homicide statutes in cases reported as assisted suicides.

A doctor's determination of someone's eligibility for assisted suicide confers absolute legal immunity on the doctor, and all State suicide-related procedures are set aside. The existence of a disability should never be the basis for these distinctions.

II. Assisted Suicide Poses Serious, Unavoidable Threats to People with Disabilities That New Mexico Has a Significant State Interest in Preventing

As the U.S. Supreme Court has recognized, assisted suicide is contrary to well-established medical ethics. *See Glucksberg*, 521 U.S. at 731 (quoting American Medical Association, Code of Ethics section 2.211 (1994)); *see also Vacco v. Quill,* 521 U.S. 793, 801 n.6 (1997) (discussing medical profession's distinction between withholding treatment and assisted suicide). This rejection is

firmly grounded in the potential harm the District Court's decision poses to the lives of people with disabilities.

A. The Difficulty in Ensuring Decisions to Die Are Not Coerced or Made by Others Is a Critical State Interest

Evidence exists that some persons killed under assisted suicide laws may "choose" suicide under pressure from others, and New Mexico has a significant State interest to ensure that does not happen. There is no way to ensure that persons are not unduly pressured by family members, because of financial, emotional, or other reasons.

"Choice" is a very slippery concept, filled with significant outside pressures. For example, Kate Cheney was an 85-year old woman with cancer in Oregon, and her psychologist was concerned that Ms. Cheney was not competent to make the decision to die and that her daughter was unduly pressuring her to choose assisted suicide. The daughter simply obtained an opinion from a second psychologist, who determined Ms. Cheney was competent. Ms. Cheney was accordingly prescribed lethal medication and died on August 29, 1999.[5] Similarly, given the extraordinarily high cost of health care, there is no way to ensure that health providers, whether insurance

[5]Evelyn Hoover Barnett, *Is Mom Capable of Choosing to Die?*, The Oregonian, Oct. 16, 1999, at Gl -2.

companies, health maintenance organizations, or others, are not unduly pressuring a person to request "aid in dying" for financial reasons. Doctors must not be immunized for active measures to cause death.

B. The Law's Assumption that Suicide is "Rational" When Committed by a Person with a Disability Is Not Valid

As the *Glucksberg* decision recognized, "those who attempt suicide – terminally ill or not – often suffer from depression or other mental disorders." 521 U.S. at 730. The Court continued, "Research indicates ... that many people who request physician-assisted suicide withdraw that request if their depression and pain are treated." *Id.* Pain is rarely the reason people consider assisted suicide. Most people do so because they fear they will be dependent and a burden on their families. A study of cancer patients showed that those with depression were four times more likely to want to die.[6]

In a survey of psychiatrists, over half were "not at all confident" they could assess in a single consultation whether a psychiatric condition impaired a person's judgment; only six percent were "very confident."[7] This is because

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[6] *See* William Breitbart et al., *Depression, Hopelessness and Desire for Hastened Death in Terminally Ill Patients with Cancer*, 284 JAMA 2907, 2909 (Dec. 13, 2000).

[7] Linda Ganzini et al., *Evaluation of Competence to Consent to Assisted Suicide: Views of Forensic Psychiatrists*, 157 AM. J. PSYCHIATRY, 595 (Apr. 2000).

such assessments are inherently subjective and unreliable. As one research analysis concluded:

> There is a marked lack of clarity about the goals of mandatory psychiatric assessment in all patients requesting [physician-assisted suicide]... There are no clinical criteria to guide such an assessment - just as there are no criteria to assess the rationality of any person's decision to commit suicide. [8]

C. The Uncertainty of Diagnosing a "Terminal Illness"

The diagnosis and prognosis of a "terminal condition" is inherently uncertain. Because terminal conditions are so often misdiagnosed, the District Court's decision opens the door to assisted suicide for many people with disabilities who are not "terminally ill" within any predictable time frame. The medical profession's predictions of the capabilities and life spans of people with disabilities have been historically unreliable. The risks to newly disabled people, such as those with significant spinal cord injuries, are particularly great. As the National Council on Disability has reported, "people with disabilities are aware of enough instances of dramatic mistakes that many of them have a healthy skepticism of medical predictions, particularly as it

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[8] Brendan D. Kelly et al., *Euthanasia, Assisted Suicide and Psychiatry: A Pandora's Box*, 181 British J. Psychiatry 278, 279 (2002).

relates to future life quality."[9] Evan Kemp, Director of the Equal Employment Opportunity Commission under President George H.W. Bush, wrote:

> As a disabled person, I am especially sensitive to the "quality of life" rationale that is frequently introduced in the debate [over assisted suicide]. For the past 47 years I have lived with a progressive neuromuscular disease that first began to manifest itself when I was 12. My disease, Kugelberg Weylander Syndrome, has no known cure, and I have no hope for "recovery." Upon diagnosis, my parents were informed by the physicians treating me that I would die within two years. Later, another group of physicians was certain that I would live only to the age of 18. Yet here I am at 59, continuing to have an extraordinarily high quality of life.[10]

D. The District Court's Assumption that Disability Intrinsically Deprives Life of Dignity and Value Is Not Valid

Many people identified as candidates for assisted suicide could benefit from supportive care or treatment, such as counseling, pain medication, or in-home consumer-directed personal assistance. These measures lessen their pain and suffering, perceived burden on family members, or lack of independence and choice. The National Council on Disability has found that "improving laws, policies, programs, and services for people with disabilities . . . would go a long way toward assuring that any self-assessment or decision

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[9] National Council on Disability, *Assisted Suicide: A Disability Perspective* at 27- 28, *available at* http://www.ncd.gov/publications/1997/03241997.

[10] Evan J. Kemp, *Could You Please Die Now?*, Wash. Post, Jan. 5, 1997, at C1.

about the quality of life of an individual with a disability would be made in an optimal context of independence, equality of opportunity, full participation, and empowerment."[11]

Research demonstrates the lack of this type of assistance and support, rather than any intrinsic aspect of a person's disability, is the primary motivation for suicide. Assisted suicide, however, assumes that a medical condition inherently makes life unworthy of continuation. Its availability causes medical practitioners to ignore other measures and services that might cause someone to reconsider their desire to die. As a doctor at New York's Memorial Sloan-Kettering Cancer Center has observed, assisted suicide "runs the risk of further devaluing the lives of terminally ill patients and may provide the excuse for society to abrogate its responsibility for their care." [12]

The question how to address the psychological and social needs that underlie the desire to die, however, is typically lost in a simplistic mental "competency" determination. One study noted that "the focus on competence may distract from adequate attention and resources on the person

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[11] Assisted Suicide: A Disability Perspective, *supra* note 9, at 13.

[12] Kathleen M. Foley, *Competent Care for the Dying Instead of Physician-Assisted Suicide*, 336 NEW ENG. J. MED 54 (Jan. 2, 1997).

and their circumstances ...."[13] Another study concluded that competency determinations "do not provide a framework to address social circumstances that contribute to the desire for euthanasia or assisted suicide." Lavery, supra at 366.

III. THE CREATION OF A NEW MEXICO CONSTITUTIONAL RIGHT TO ASSISTED SUICIDE FOR A CLASS OF PEOPLE BASED ON THEIR HEALTH AND DISABILITY STATUS IS A LETHAL FORM OF DISCRIMINATION

A. People with Disabilities Are the Class of Persons Affected by New Mexico's Right to Assisted Suicide.

The issue before the Court goes far beyond the 1980's cases in which courts dismissed the state interest in protecting the lives of these disabled individuals and found a "right to die" through the withdrawal of routine life-sustaining treatment. See *e.g., Bouvia v. Superior Court*, 179 Ca. App. 3d 1127, 255 Cal. Rptr. 297 (1986), *review denied* (June 5, 1986); *McKay v. Bergstedt*, 801 P.2d 617 (Nev. 1990); *State v. McAfee*, 385 S.E.2d 651 (Ga. 1989). With appropriate treatment and services, many of them would be alive today. However, even in those cases, the courts specifically distinguished any right involving active physician-assisted suicide. Before this Court is the request to obliterate this distinction. It is against the backdrop of these and

[13] Ganzini et al., *supra* note 7, at 600.

other cases that your *amici* request protection from the very real threat to the lives of people with disabilities that will result from a right to assisted suicide through active measures.

B. Adequate State Safeguards Cannot Be Adopted to Protect People with Disabilities from Assisted Suicide Threat

1. Any Purported Limitation of the Right to Assisted Suicide to Terminally Ill Persons Will Not Protect People with Disabilities

Given the "history of purposeful unequal treatment" to which people with disabilities are subjected, 42 U.S.C. § 12101 (a)(7), assisted-suicide "safeguards" cannot prevent abuse against people with disabilities. History demonstrates that assisted suicide has not and will not be limited to terminally ill persons.[14]

At issue is nondisabled peoples' intense fear of becoming disabled. When a person with a disability states a desire to die, nondisabled people believe the request is reasonable because they project their own biases and believe that living with a severe disability is a life of dependency, indignity and helplessness; in short, worse than death. The wish to die is based on the nondisabled view that the primary problem for disabled people is the permanent disability and/or dependence on life aids. Medical professionals, jurists and the public consistently ignore underlying treatable depression, lack of health care or other supports, and

[14] *See* H. Hendin and K. Goley, *Physician-Assisted Suide in Oregon: A Medical Perspective*, 106 MICH. L. REV. 1613 (2008).

exhaustion from confronting systemic discrimination. When medical professional s and the media use phrases like "imprisoned by her body," "helpless," "suffering needlessly," and "quality versus quantity of life," purportedly in a humanistic and compassionate way, they are really expressing fear of severe disability and a very misguided condemnation, "I could never live like that." Society translates these emotions into a supposedly rational social policy of assisted suicide. Whenever permanent disability is defined as the problem, death is the solution. The wish to die is transformed into a desire for freedom, not suicide. If it is suicide at all, it is 'rational' and, thereby, different from suicides resulting from the same emotional disturbance or illogical despair that nondisabled persons face.

The medical profession is not immune to these erroneous assumptions. Research shows that doctors frequently project the "quality of life of chronically ill persons to be poorer than patients themselves hold it to be, and give this conclusion great weight in inferring, incorrectly, that such persons would choose to forgo life-prolonging treatment."[15] It is particularly important to note that research on suicidal feelings among people with terminal illnesses demonstrates that such feelings are remediable through other means, including pain management, hospice

[15] S. Miles, *Physicians and Their Patients' Suicide*, 271 JAMA 1786 (1994).

services and counseling.[16] As long as physicians believe that a person with a severe disability has a "life unworthy of living," lethal errors and abuses will occur.

Safeguards cannot protect one from family pressures due to financial burdens which may accompany a disability, especially when the health care system may not pay for assistance in daily living activities. Nor can safeguards stop families from doctor-shopping when one doctor says the person is not "terminal" or acting "voluntarily," to find another doctor who will say otherwise. Nor can a state ensure that the medical professionals have prescribed adequate antidepressant and pain medications before providing lethal drugs.

2. Any Purported Limitation of a Right to Assisted Suicide Only in Cases of "Voluntary" Requests Will Not Protect People with Disabilities from Abuse

As long as people with disabilities are treated as unwelcome and costly burdens on society, assisted suicide is not voluntary, but is a forced "choice." Disability *amici* are profoundly disturbed by the finding of a constitutional right for assisted suicide in a society which refuses to find a concomitant right to adequate health care to stay alive. Now managed health care, with its emphasis on cost containment, further abridges the choices and endangers the lives of people with disabilities. Until society is committed to providing life

[16] Most death requests, even in terminally ill people, are propelled by despair and treatable depression. H. Hendin and Gerald Klerman, *Physician-Assisted Suicide: The Dangers of Legalization,* 150 AM. J. OF PSYCH. 143 (Jan.1993).

supports, including in-home personal assistance services and technology supports, there is not voluntary choice.

Without health care and consumer-directed personal care services, people with disabilities do not receive what they need to live as independently and with as much autonomy as possible. Without the professional commitment to help make living worthwhile for people with disabilities, which is the core of suicide prevention, people with disabilities, including those whose conditions are terminal, will not receive the support necessary for informed and voluntary decisions. There are no safeguards that can protect against these prejudices and realities.

Finally, no system of safeguards can control conduct which results in the death of the primary witness to any wrongdoing or duress. The only "safeguard" that offers some protection against abuse is that assisted suicide remain illegal and socially condemned for all citizens equally. If physicians are granted full legal immunity for assisted suicide, no meaningful barrier to active involuntary euthanasia will exist to protect the lives of members of this minority group.

CONCLUSION

People with disabilities in New Mexico are seriously threatened by physician-assisted suicide. The Disability Rights Amici request this Court to

recognize that, cloaked in the false rhetoric of "death with dignity," and "aid in dying," physician-assisted suicide threatens the civil rights, and the lives, of a profoundly oppressed and marginalized people.

Respectfully submitted,

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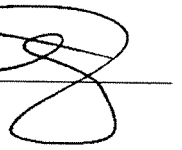
By: 

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