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Newsletter

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FROM CANADA

Quebec court invalidates some requirements for assisted death

By Christopher Curtis, September 11, 2019 Montreal Gazette

In a groundbreaking ruling, a Superior Court judge has granted two Quebecers the right to seek medically assisted death after both had been turned aside by their physicians.

Jean Truchon and Nicole Gladu are both severely handicapped by degenerative illnesses that, while not immediately life-threatening, are eroding their quality of life. Both say they suffer paralysis as well as debilitating pain daily, while Truchon told the courts he has contemplated killing himself by hurling his wheelchair in front of a car.

They had applied for the right to physician-assisted death, but since the Criminal Code dictates that “natural, reasonably foreseeable death” is a prerequisite, both were turned down. They took their fight to the courts.

In her 187-page ruling published Wednesday, Judge Christine Beaudoin invalidated those sections of the Criminal Code. The judge writes that this requirement violates Sections 7 and 15 of the Canadian Charter of Rights and Freedoms which guarantee the right to life, liberty and security of the person.

The laws, as they’re written, prevent Truchon and Gladu from having a “dignified, peaceful death”, according to Beaudoin.

Beaudoin is delaying her ruling by six months so the federal government can amend the Criminal Code. In the meantime, she has given Truchon and Gladu a constitutional exemption to the Criminal Code so they can end their lives under medical supervision.

The argument goes, “Look, if you force somebody to remain alive in conditions that cause them irremediable suffering, with no way of alleviating that suffering, you’ve affected their Section 7 right to security of the person,” said Daniel Weinstock, a McGill law professor and constitutional expert.

“It may seem paradoxical to say that something that is going to abridge the life of a person affects their right to life, liberty and security. But it has become a standard Canadian constitutional argument that having to continue to live in conditions that one deems unacceptable, in virtue of their suffering, is a violation of one’s right to a certain quality of life.”

The Quebec National Assembly unanimously adopted the country’s first medically assisted death legislation in 2014. Under the law, adults facing incurable illness could seek a doctor’s assistance in dying

provided they were lucid and their death was imminent.

The right to die under medical supervision won a major victory in 2015 after two British Columbia residents took their case to the Supreme Court. In a 9-0 decision, the court ruled that consenting adults who faced incurable illness should have access to medically assisted death.

The Supreme Court decision paved the way for the federal government to modify the Criminal Code in 2016, allowing for access to medically assisted dying. But Weinstock says both the federal and provincial laws have a much stricter interpretation of who is eligible than what the high court had originally intended.

“It was clear that a case like this was going to turn up,” Weinstock said. “In the Supreme Court decision, imminence of death was not a make or break factor in a person’s right to physician-assisted suicide. There’s such a discrepancy between the laws that are on the books and the Supreme Court’s ruling.”

To illustrate Weinstock’s point, Gloria Taylor, one of two plaintiffs whose case led to the Supreme Court ruling, would not have been eligible for physician-assisted death under Canada’s current laws. Taylor was afflicted with amyotrophic lateral sclerosis (ALS), a disease that causes patients to slowly lose their ability to talk, walk, use their arms and eventually breathe. But because her death wasn’t imminent, Taylor wouldn’t have qualified for medical assistance in dying. Taylor died of an infection three years before the Supreme Court ruled in her favour.

Ahead of Wednesday’s ruling, the Quebec Crown and federal lawyers argued that the dying with dignity laws strike a balance between a person’s right to autonomy and protecting vulnerable people. The legislation was drafted after consulting with a who’s who of medical and ethical experts, they argued. The Quebec Crown and federal prosecutors could launch an appeal to Wednesday’s ruling.

“I don’t know if there will be an appeal, I don’t know if this ends up before the Supreme Court, but this ruling is a big deal,” Weinstock said. “The range of cases that are eligible for physician-assisted dying broadens considerably. There are so many diseases where doctors can’t put a timeline on death and, once you take that requirement away, it changes the law considerably.

Advocates raising money for Saskatoon assisted death facility [excerpts]

By Amanda Short, September 7, 2019 Saskatoon Star Phoenix

A group of health care workers in Saskatoon have started a fundraiser for a dedicated in-patient facility to provide Medical Assistance in Death (MAiD).

Similar to hospice care, The Cider House would provide a homelike space for patients to access the procedure, staffed by either a doctor or nurse practitioner and a team of end-of-life doulas.

Currently, the procedure can be accessed through Royal University Hospital or City Hospital, or in the patient’s home. Saskatoon currently has in-home hospice care provided by Prairie Hospice Society’s “hospice without walls” care, but no brick-and-mortar hospices.

Construction of a 15-bed hospice operated by St. Paul’s Hospital starts this fall. It’s expected to open in 2020.

However, according to a statement from the hospital, Medical Assistance in Dying (MAiD) is not a service that is provided at St. Paul’s Hospital.

“If someone is considering MAiD, staff at St. Paul’s will compassionately care for and support them as they make their decision and facilitate their transfer to a facility where that service can be provided,” it added.

The hospital also houses the city’s only palliative care unit.

FROM SCOTLAND

Assisted suicide campaigner Richard Selley ends life at Dignitas [excerpts]

By Andrew Learmonth, September 7, 2019 The National

Richard Selley, the Edinburgh teacher struck down by MND [motor neurone disease] who became a determined campaigner for assisted suicide, has ended his life at the Dignitas clinic in Switzerland.

In a final video message released yesterday morning, he urged MSPs [Members of the Scottish Parliament] to support a change in the law. “I think the momentum for a change in the law is growing,” he said. “It will be too late for me, but I hope that sometime soon people in my position will have the choice to have a peaceful death at a time of their choosing.”

The 65-year-old had travelled from his home in Glenalmond near Perth to Zurich earlier this week. His wife Elaine announced the news of his death on Richard’s blog yesterday afternoon.

“I am writing this post from my hotel room in Zurich. Richard died very peacefully at lunchtime today. His brother Peter and I were at his side. I will continue to fight for the human right of those who are terminally ill to choose how and when they die in Scotland. The experience of travelling to Switzerland will never leave me. It was traumatic. No-one should ever need to make that journey from a supposedly humane and compassionate country like Scotland.”

The Scottish Parliament at Holyrood has twice considered Bills aimed at introducing assisted suicide. They were first brought forward by independent MSP Margo MacDonald and, following her death from Parkinson’s disease, Green MSP Patrick Harvie. Both failed to get enough support.

FROM AUSTRALIA

Analysis: Marathon sitting to debate voluntary euthanasia may well have been WA Parliament at its worst [excerpts]

By Jacob Kagi, September 7, 2019

...While nobody thought it would be easy, few would dispute that the marathon 20-and-a-half hour sitting of State Parliament was harsh. What next for WA's Western Australia's assisted dying plans? "No-one is the winner here," sighed one MP, amid the Legislative Assembly's longest sitting in more than 20 years.

It was a far cry from the previous week, when scores of MPs openly wept and embraced as they shared deeply personal and emotional stories of severe trauma and heartbreak from within their own families.

...Perhaps unsurprisingly, both sides of the debate blamed each other for the all-nighter, which ran from 9:00am on Thursday until just before 5:30am on Friday.

According to the Government, critics of voluntary euthanasia have been needlessly delaying the bill by filibustering with repetitive questions and attempts to amend the legislation that stand no chance of passing.

With the bill progressing at a glacial pace Labor was left with no choice but to keep MPs there all night, or so that argument goes.

"Some of the commentary just simply went over old ground and there was a suggestion that part of their tactic was to filibuster, so we simply had to sit longer tonight," Health Minister Roger Cook said.

...The Lower House has spent more than 30 hours on the current stage of debate, which involves going through the bill clause-by-clause, with questions being asked and possible amendments considered.

But there are still 134 of the 184 clauses still to go. And once that is done, the process will start all over again in the Upper House.

NSW Parliament at war over abortion reform. What does it mean for VAD?

NSW Parliament is currently debating a bill to decriminalise abortion. It has been very controversial and caused bitter divisions within parliament, particularly within the Liberal Party, with two Christian MPs threatening to leave the party and join the cross-benches. This would put the Coalition into minority government.

DWDNSW fears that this will make it very difficult for parliament to pass voluntary assisted dying laws. Unfortunately, the Premier has told her party room that there will be **"no more conscience votes"**. Despite this, DWDNSW will not relent in their campaign. It is too important.

DWDNSW is asking supporters to tell their MPs why VAD is needed in NSW. The MPs must not be influenced by the noisy religious groups who are spreading fear and misinformation to frighten them out of voting for a law overwhelmingly supported by the community.

NTVES AGM 10 AUGUST 2019

At the recent AGM, the following office bearers were elected:

<i>President</i>	Judy Dent
<i>Vice-President</i>	Robyn Harrison
<i>Secretary</i>	E A (Janie) Mason
<i>Treasurer</i>	Shirley McKerrow
<i>Public Officer</i>	Shirley McKerrow

Shirley McKerrow gave notice that this is her last year as treasurer and public officer. We thank her for her long and dedicated service. Please, will someone step forward and take on these roles?

NTVES had over \$5000 in its bank account. The meeting decided to send a cheque for \$1000 to each of five societies with a chance of having a VE law passed in their state. The five are: SAVES, DWDNSW, DWDTas, DWDQ and DWDWA. We wish them all success in their endeavours.