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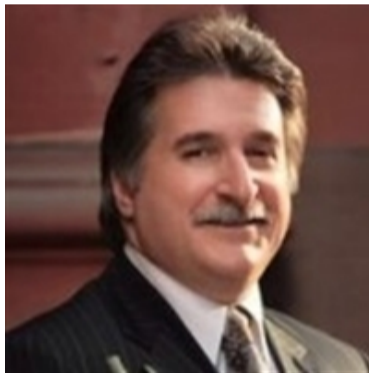
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# B.C.'s Appeal Court says Canada's ban on assisted suicide is constitutional



THE CANADIAN PRESS



VANCOUVER — British Columbia's Court of Appeal has reversed a lower court ruling that said Canada's assisted-suicide ban violated the charter rights of gravely ill Canadians.

Two of the three judges in the split decision ruled that while the law

banning assisted suicide has certainly evolved in the last two decades, it hasn't changed enough to undermine the 1993 decision from Supreme Court of Canada.

Just minutes after the decision was released Thursday, Grace Pastine, the lawyer for several plaintiffs who lost the right to assisted suicide, announced they would seek leave to appeal in the Supreme Court of Canada.

"We think the federal government has no place at the bedside of seriously and incurable ill Canadians who have made firm decisions about the amount of care they wish to receive at the end of life," said Pastine, who also represents the B.C. Civil Liberties Association.

In an interview with AdvocateDaily.com, Toronto-area estate lawyer [Charles Ticker](#) said that while it is important that the case go to the Supreme Court of Canada for their ruling on the provision's constitutionality, he questions whether the top court will hear an appeal, as the applicant has died.

Regardless of which way this case goes, however, he said this will not likely be the end of the debate.

"I think we're going to see this debate continue to be carried on as our baby boomers age and the country continues to have more seniors with debilitating or terminal illnesses. I think we're going to see increased pressure on the government to do something about this issue," he said.

The federal government had appealed the decision from the B.C. Supreme Court, which ruled last year that safeguards could be put in place to protect against the risks associated with doctor-

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assisted dying.

Several plaintiffs, including ALS patient Gloria Taylor and the children of Kay Carter, who travelled to Switzerland to seek doctor-assisted suicide in 2010, launched the challenge.

Justices Mary Newbury and Mary Saunders agreed in the decision that while the law banning assisted suicide has certainly evolved in the last two decades, it hasn't changed enough to undermine the 1993 decision from Supreme Court of Canada.

"As the law now stands, there does not appear to be an avenue for relief from a generally sound law that has an extraordinary, even cruel, effect on a small number of individuals," the judges wrote in the joint ruling.

The B.C. Supreme Court suspended its ruling for a year to allow the federal government to respond. But the judge granted Taylor an immediate exemption to seek physician-assisted suicide. She died last year of a perforated colon, which was unrelated to her ALS, or Lou Gehrig's disease.

The judge concluded the law must allow physician-assisted suicide and physician-assisted death — also known as voluntary euthanasia — in cases involving patients who are diagnosed with a serious illness or disability and who are experiencing "intolerable" physical or psychological suffering with no chance of improvement.

The earlier decision said patients in such scenarios must personally request physician-assisted death, must be free from coercion and cannot be clinically depressed.

While the current case is headed to the Supreme Court of Canada, the top court considered the issue of physician-assisted suicide in 1993 involving Victoria resident Sue Rodriguez.

Rodriguez, who, like Gloria Taylor, had ALS, said the law should be struck down as a violation of the charter, but the court ruled against her. Nevertheless, Rodriguez died the following year with the help of an unidentified doctor.

The federal government has argued the 1993 ruling on Rodriguez should be the final word on the matter, noting Parliament has voted several times, mostly recently in 2010, to maintain the status quo. But calls for a national debate have been mounting in recent years.

Politicians in Quebec are currently examining a bill that would permit physician-assisted suicide, which could prompt yet another legal challenge in that province.

Two weeks ago, a video recorded by Donald Low, a doctor who guided Toronto through the 2003 SARS crisis, made headlines for his impassioned argument in favour of legalizing doctor-assisted suicide.

As Canadians reacted to the video, Conservative backbench MP Steven Fletcher, who is a quadriplegic, made it clear he supports assisted suicide.

The Royal Society of Canada issued a report two years ago that recommended physician-assisted suicide be legalized, and an editorial printed last year in the Canadian Medical Association Journal.



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The federal ministers of justice and health have reiterated Ottawa's position in recent weeks.

Last week, Health Minister Rona Ambrose said the government's opposition to assisted suicide is "clear" and she suggested any attempt to permit the practice at the provincial level could prompt additional court cases.

Justice Minister Peter MacKay said last month that the Conservatives "have no desire to reintroduce legislation that would open this issue up."

"It is a very slippery slope when one starts to contemplate the various scenarios and the range of circumstances in which people can find themselves," MacKay said in late September.

Assisted suicide is legal in other countries, such as Switzerland, the Netherlands and Belgium, as well as the American states of Oregon and Washington.

Proponents of the legalization have pointed to those jurisdictions to argue it's possible to allow physician-assisted death while including rules and safeguards to protect vulnerable patients.

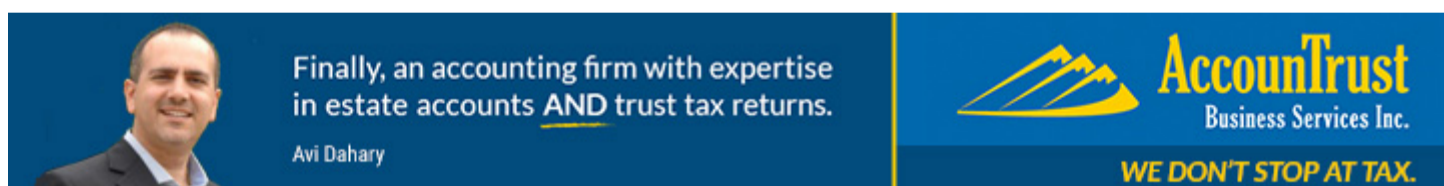
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