

RECENT DEVELOPMENTS IN PHYSICIAN-ASSISTED SUICIDE
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Professor Valerie J. Vollmar
Willamette University College of Law

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LITIGATION

, 368 F.3d 1118 (9th Cir. 2004), petition for cert. filed (U.S. Nov. 9, 2004) (No. 04-623)

Case filed. On 11/7/01, in response to Attorney General John Ashcroft's directive that prescribing lethal medication was not a legitimate medical purpose under the Controlled Substances Act, *BT 50 0 0 50 0* *ft 0 50 1 292 0 Tm (t) Tj 59v*

Majority opinion. Judge Tallman wrote the majority opinion, with which Judge Lay concurred. The majority held that Congress did not authorize the Attorney General to determine that physician-assisted suicide violates the CSA. Specifically, (1) Congress did not clearly authorize the Attorney General to exercise control over regulation of medical care, which is an area traditionally reserved for state authority; (2) the Ashcroft directive contradicted the plain language of the CSA;

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Colombia. On 5/20/97, Colombia's Constitutional Court issued a 6-3 decision decriminalizing active euthanasia of terminally ill patients who consent; the court subsequently reaffirmed i

would appeal to the Supreme Court.

Indonesia. On 10/22/04, Hasan Kusuma applied to the Central Jakarta District Court to permit euthanasia of his wife Agian Isna Naili, who had been in a coma for more than three months following unexpected medical complications during delivery of the couple's third child. The head of the District Court, I Made Karna, established a team to discuss whether the unprecedented request was permissible under Indonesian law. He indicated that the team would consult with the Jakarta High Court and the Supreme Court in making the decision. The head of the team, Cicut Sukardiman, directed Kusuma to rewrite his initial letter to explain the legal basis for his request. After the letter is accepted, the team will hold hearings and hear testimony from expert witnesses.

Israel. After almost three years, the recommendations of the Steinberg Committee have resulted in approval of a draft bill on end-of-life decisions by the Ministerial Committee on Legislation. Under the bill, terminally ill patients who want to die could end their lives through use of living wills, ethics committees, respirators with timers that turn themselves off, and a computerized database in which individuals could restate their end-of-life decisions every five years. The bill is being prepared by the Knesset Labor, Social Affairs and Health Committee under the direction of its chairman, MK Shaul Yahalom. In January 2005 in Tel Aviv District Court, Attorney General Menachem Mazuz for the first time did not oppose the request of a terminally ill patient to have life support removed.

Japan. In December 2002, Dr. Setsuko Suda was arrested and charged with killing a 58-year-old man on 4/19/02 at Kawasaki Kyodo Hospital by removing a tracheal tube and injecting a muscle relaxant after the patient suffered a cardiac arrest and lapsed into a f

concluded after a three-year inquiry that existing Dutch euthanasia law allows a physician to help end the life of a patient who is not terminally ill but is “suffering unbearably.” This conclusion contradicts a 2002 ruling of the Supreme Court involving the conviction of Dr. Philip Sutorius of malpractice for assisting in the death of Edward Brongersma, an 86-year-old man who was not terminally ill but was obsessed with his physical decline and hopeless existence. The Dijkhuis commission recommended that protocols be developed by which to judge such cases and that further data be collected and analyzed. The Royal Dutch Medical Association (KNMG), which established the commission, will now consider the report and decide what guidance should be given to physicians faced with these cases. However, a government spokesman indicated that the Dutch government would be “extremely reticent” about allowing euthanasia under these circumstances.

Physician willingness to provide euthanasia. The Dutch Voluntary End to Life Association has asked Professor Gerrit van der Waal of the Free University medical center in Amsterdam to conduct an investigation into claims that physicians are trying to avoid performing requested euthanasia or are continually delaying carrying out the request. The st

right to die. In November 2004, Roman Catholi