

State Courts Could Literally Decide Your Fate if This Bill Goes Through

A battle for hearts and minds has been waged across America this year on the issue of physician-assisted suicide, the taking of deadly drugs to prematurely end one's life.

While euthanasia is currently illegal in all but five states, half of our nation's state legislatures have proposed legalizing it in the current 2015 legislative session. Thus far, America's elected representatives have voted against assisted suicide in state after state.

Now assisted suicide advocates are taking their case to state courts. A California lawsuit is still pending after the state's "death with dignity" bill stalled last week in the state Legislature.

Days ago, the national drama came to a Tennessee county courthouse as the case *Hooker v. Slatery* considered one elderly man's legal "right to die" claims. I was present in the courtroom.

John Jay Hooker is a familiar name in the state of Tennessee. Until recently, he had been described in a tongue-in-cheek manner as a political gadfly and perennial candidate.

A gifted orator born to a prominent family, Hooker's penchant for verbal wrangling has often led to an ordea—as in 2010 when he had his law license suspended for 30 days, publicly censored for filing frivolous lawsuits and making statements regarding judges with "reckless disregard of their truth or falsity."

Hooker is known for championing his causes with passion and

flamboyance. Now in his eighties and diagnosed with a terminal form of cancer, he is being presented as Tennessee's version of Brittany Maynard as he seeks to bring physician-assisted suicide to his home state.

Tennessee, along with 44 other states, currently outlaws physician-assisted suicide. This should not be confused with a patient's right to decline treatment, or use a *living will* to stipulate what measures they want used to keep them alive. It also does not prohibit the use of *palliative care*, which has the purpose of relieving pain until natural death occurs.

Physician-assisted suicide would allow a doctor, upon request, to give a prescription for a lethal drug to end the life of the patient. In other words, he would alleviate pain by killing the patient.

A bill was introduced in the Tennessee General Assembly earlier this year as a courtesy to Hooker by his friends. In the strongly conservative and pro-life state, this proposal was promptly assigned to a summer study committee, a polite but lukewarm response that does not indicate broad interest in a vote.

Hooker, who never gently ends any discussion, then brought a lawsuit against the state—arguing that the law forbidding assisted suicide was unconstitutional, citing the privacy clause in the state constitution.

He is attempting to accomplish by judicial fiat what could not get done in the legislative body, who are answerable to the people. That tactic has been used successfully before—when the ACLU and Planned Parenthood worked through the courts to remove state restrictions around legalized abortion, passed democratically by the state legislature.

On the life issue, it took 14 years and amending the state constitution to correct this.

The editorial board of the *Tennessean* quickly endorsed physician-assisted suicide and lionized Hooker as a civil rights champion, failing to mention his earlier ties to the paper. They praised his fiery rhetoric as they endorsed him and his cause.

"At last month's TedX Nashville conference, Hooker gave a rousing speech concerning his desire to take his life with a physician's help, and it earned him a standing ovation after he recited at the end Martin Luther King Jr.'s famous words: "Free at last, free at last."

I sat through the two-hour court case heard in Chancery Court on July 10, presided over by Chancellor Carol McCoy. The state's main argument was straightforward, asking the judge to dismiss the suit—as public policy matters should be decided in the General Assembly and not the courts.

Lawyers with the Tennessee Attorney General's office pointed out the state's compelling interest in preserving all life. They warned of the eroding protections for the vulnerable population that may be at risk with the overturning of this protective law.

Poor, elderly, disabled, and mentally deficient citizens would be endangered, they noted, as the "right to die" would morph into a *duty to die*. Allowing assisted suicide would also erode the trust between patient and doctor, who would go from healer to executioner.

What astounded me most about the arguments from the lawyers supporting assisted suicide was the amount of time spent on telling emotional stories, laced with extreme hyperbole of slow, painful deaths. They emphasized the discomfort of family members having to watch loved ones lose their bodily functions and dignity, instead of focusing on the legal merits of their argument.

When they did mention the merits of the case using the law,

they argued that the Constitution should be an evolving and growing document that responds to changing times and poll numbers.

They referenced the growth of the aging population, saying this practice may be in great demand by this age group. In fact, recent Gallup polling shows the lowest levels of support for physician-assisted suicide are among the elderly. The lawyer's final argument centered on the privacy clause in the state constitution, attempting to show that current language in the law forbidding assisted suicide was vague.

John Jay Hooker seemed larger than life in the courtroom. Though he did not speak, all cameras were trained on his every expression. His lawyer used terms like "rendezvous with death," speaking of Hooker's desire to have dignity and die at home surrounded by loved ones.

Insisting that the democratically passed law against assisted suicide forced his client "to endure a slow death," his lawyer stoked fear. He referred to being refused assisted suicide as like "being in hell continually tormented by the devil."

There were even weak and inappropriate attempts at humor, comparing assisted suicide to people with a fear of flying who smuggle small bottles of vodka on board to ease their fear. Lacking an understanding of the sanctity of human life, the lawyer suggested that we are kinder to dogs that we put down "with sorrow in our hearts."

After two hours of testimony, the Chancellor did not deliver her ruling—which is pending the submission of supplemental briefs from each side. She promised to expedite her decision, noting that time was of the essence for Hooker.

As Hooker exited the courtroom, he was surrounded by reporters and cameras. He stopped to give a statement that was run on many media outlets.

Exiting the courtroom in wheelchairs or with assistance, those representing Not Dead Yet and other disability rights organizations were largely ignored. They silently made their way past the media frenzy. Seeing how the media regarded both sides, to me it was a clear picture of marketing the culture of death.

These men and women in wheelchairs understood clearly what this case could mean for them. Their lives may be seen as less valuable and a burden on society. They understood the subtle way that they would be made to feel that society would be better if they would embrace the “right to die” rather than live full lives.

What I heard in that courtroom was all about control. *I want to decide how and when I die.* The old Frank Sinatra song echoed in my head: “I did it *my way!*”

Any higher way or ethical principles were not a concern. In the arguments on Hooker’s behalf, the value of caring for the weak and vulnerable by caregivers or society was never recognized. It seems when God is not revered as the Author and Creator of life, the very sanctity of human life becomes dependent on polling numbers; thus, we are all diminished.

As someone who lost a spouse to a malignant brain tumor (the same type of tumor Brittany Maynard suffered from) and married to a man who also lost his first wife to this type of cancer, we can attest to the dignity of one dying a natural death, surrounded by loved ones with the assistance of palliative care.

Caring for them was not a burden, but an honor and privilege that we cherish. Every day, hour and minute they lived was precious to us. They were the true heroes. They had death with dignity.

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