

British court: Right-to-die case can proceed

March 12 2012, By MARIA CHENG , AP Medical Writer



In this family photo released in Jan. 2012 by Tony and Jane Nicklinson, former corporate manager, rugby player, skydiving sports enthusiast Tony Nicklinson sits at his home in Wiltshire, England, where following a stroke he suffers from locked-in syndrome. A British judge is due to make a preliminary ruling on a paralyzed man's wish that a doctor be allowed to end his life. The ruling expected Monday March 12, 2012 is on the government's bid to throw out the case.(AP Photo/Tony and Jane Nicklinson)

(AP) -- In a case that challenges Britain's definition of murder, a severely disabled man who says his life has no "privacy or dignity" will be granted a hearing on his request that a doctor be allowed to give him a lethal injection.

Tony Nicklinson suffered a paralyzing [stroke](#) in 2005 that left him unable to speak or move below his neck. The former [rugby player](#) and corporate manager requires constant care and communicates largely by

blinking, although his mind has remained unaffected.

"I am fed up with my life and don't want to spend the next 20 years or so like this," Nicklinson said in a statement.

In January, Nicklinson asked the High Court to declare that any doctor who kills him with his consent will not be charged with murder. On Monday, a judge said the request may proceed, making it the first right-to-die case of its kind to get a hearing in a British court.

The 57-year-old's condition is stable, though Nicklinson has refused since 2007 to take any life-prolonging drugs recommended by [doctors](#), including heart medication or [blood thinners](#).

The ministry of justice argued that granting Nicklinson's request would require changing the law on murder and that such changes must be made by Parliament. The government had applied to have the case dismissed.

In his ruling, Justice William Charles said Nicklinson was "now inviting the court to cross the Rubicon" and that his case had "an arguable base."

Nicklinson argued that British law hindered his right to "private and family life" - guaranteed by the European Convention on Human Rights - on the grounds that being able to choose how to die is a matter of [personal autonomy](#).

"The decision to go to a hearing is quite a small step, but what's tremendously significant is what Tony Nicklinson is asking for," said Emily Jackson, a law professor at the London School of Economics. "Normally, it would be for [Parliament](#) to make any change to the law on murder, so it would be a very, very big deal for the court to make a change like this."

Nicklinson's wife, Jane, says the only way to end her husband's suffering is for him to die.

"A life like this is unbearable for him," she said. "We know there are doctors out there that would do this if it is made legal."

A recent British commission headed by a former justice secretary concluded there was a strong case for allowing assisted suicide under strict criteria. The commission was set up and funded by advocates who want the current law changed.

Assisted suicide is usually for people who have at least some capacity to kill themselves, perhaps by drinking a lethal beverage or taking a fatal dose of drugs. The report did not support euthanasia, which is when a doctor actively kills a patient.

The commission recommended assisted suicide only be allowed for terminally ill people, which would exclude Nicklinson.

In 2009, the British government's top prosecutor said people who helped terminally ill relatives and friends die were unlikely to be charged if they acted out of compassion.

In Europe, euthanasia is allowed in Belgium, the Netherlands, Luxembourg and Switzerland.

Penney Lewis, a [law professor](#) at King's College London, said the U.K. had become more receptive to allowing [assisted suicide](#) in recent years but not euthanasia.

"Granting Nicklinson a hearing does not mean euthanasia will be allowed, but it is a big step," she said.

Legalizing euthanasia in the Netherlands began in a similar fashion, with doctors in court cases employing arguments much like those of Nicklinson's legal team, Lewis said.

Part of Nicklinson's argument depends on the "defence of necessity," meaning that in exceptional circumstances, a person must be allowed to break the law. In the Netherlands, doctors on trial for killing their patients argued they had no choice when confronted with dying patients begging for relief.

In 2010, Kay Gilderdale was found not guilty of the attempted murder of her severely disabled daughter. Gilderdale admitted she had tried to kill her daughter, who had repeatedly asked to die.

Nicklinson's hearing could happen as early as this summer. It is expected to take at least five days.

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