

US state judge: Doctors can aid in dying (Update)

January 13 2014, by Susan Montoya Bryan

Competent, terminally ill patients have a fundamental right under the New Mexico Constitution to seek a physician's help in getting prescription medications if they want to end their lives on their own terms, a state district judge ruled Monday.

Second Judicial District Judge Nan Nash said the constitution prohibits the state from depriving a person of life, liberty or property without due process.

"This court cannot envision a right more fundamental, more private or more integral to the liberty, safety and happiness of a New Mexican than the right of a competent, terminally ill patient to choose aid in dying," Nash wrote.

Nash also ruled that doctors could not be prosecuted under the state's assisted suicide law, which classifies helping with suicide as a fourth-degree felony. The plaintiffs in the case do not consider physicians aiding in dying a form of suicide.

Nash's decision stems from a two-day bench trial in December in which two doctors and a Santa Fe woman with advanced uterine cancer asked the judge to determine physicians would not be breaking the law if they wrote prescriptions for competent, terminally ill patients who wanted to end their lives.

Doctors Katherine Morris and Aroop Mangalik and patient Aja Riggs

initially filed their lawsuit in March 2012.

The lawsuit had the support of the American Civil Liberties Union of New Mexico, Denver-based Compassion & Choices and the New Mexico Psychological Association, the largest organization of professional psychologists in the state. The psychologists' group argued that assisted suicide and "aid in dying" for terminally ill patients were fundamentally different.

Riggs, a 49-year-old Santa Fe resident who has undergone aggressive radiation and chemotherapy treatment, testified in December that her cancer was in remission but there have been days when getting out of bed and walking 15 feet (five meters) were an uphill battle.

Riggs said she wanted to live, but she also wanted the option of dying if her condition worsened.

"I don't want to suffer needlessly at the end," she told Nash.

Kathryn Tucker, director of legal affairs for Compassion & Choices, has said there's growing support for physicians to help terminally ill patients who want to end their lives.

Five states, including Oregon, allow patients to seek aid in dying if their conditions become unbearable, she said.

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Citation: US state judge: Doctors can aid in dying (Update) (2014, January 13) retrieved 20 September 2024 from

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