

Dying man challenges doctors over right to live

Clipped from Safari (<http://www.timesonline.co.uk/printFriendly/0,,1-210-1017727-210,00.html>):

February 27, 2004

Dying man challenges doctors over right to live

By Michael Horsnell

A FORMER postman who is terminally ill with a degenerative brain condition mounted a legal challenge to doctors yesterday for his right to live.

Leslie Burke, 44, took the General Medical Council (GMC) to the High Court in an attempt to overturn its guidelines that enable doctors to stop artificial feeding and hydration, and allow patients to die.

He claims that the guidelines issued by the GMC in 2002 contravene the European Convention on Human Rights and allow the medical profession to end life by legally sanctioned euthanasia.

Mr Burke, from Lancaster, who was given a diagnosis of cerebellar ataxia in 1983 and given 15 years to live, appeared in court in a wheelchair. He has lost the use of his legs, his movements are unco-ordinated and his speech is impaired, but he says he most fears losing the ability to communicate.

Before the hearing, he said: "I think there can be a tendency for doctors to play God. The medical professional in general don't realise how good a quality of life you can have if you are physically disabled."

Referring to the consequences of his continued degeneration, he added: "I may not be able to communicate with the doctors and it takes two to three weeks to die when hydration and nutrition are withdrawn. I will be acutely aware of that every single day and physically unable to do anything about it."

He is seeking a judicial review of the guidelines under which he claims doctors could decide his quality of life was so poor that he should not be kept alive. Mr Burke listened as his counsel, Richard Gordon, QC, argued that the guidelines — Withholding and Withdrawing Life-Prolonging Treatment: Good Practice in Decision-Making — are confused and could lead to inhuman and degrading treatment.

Dying man challenges doctors over right to live

Asking Mr Justice Munby to clarify the law, Mr Gordon said that stopping the supply of food and water breached his client's right to life. He referred to "the anomaly under which patients can refuse life-prolonging treatment, but cannot make a decision to live".

In 1993 the House of Lords ruled that doctors treating the Hillsborough football disaster victim Tony Bland, who was in a persistent vegetative state, required court approval before discontinuing feeding.

But GMC guidelines now sanction its withdrawal when the patient's death is not imminent if doctors decide the patient is never going to recover or if intrusive feeding and hydration would cause more suffering.

Mr Burke said he had chosen life, despite his condition, and wished to die of natural causes when the time came.

Mr Gordon said: "He is concerned that doctors will determine for him whether or not he ought to continue to live and whether or not a decision should be taken to withhold or withdraw lifeprolonging treatment.

"The advice given in the guidelines fails to comply with the obligations imposed on public authorities to safeguard the right to life."

In a statement before the court Mr Burke said: "I am very conscious that a time will come when I may need artificial food and hydration. I am afraid that doctors who do not know me will make a decision as to whether my life is worth living." The case continues.