

New Mexico Judge OKs Assisted Suicide

Susan Montoya Bryan, Associated Press



Aja Riggs has undergone aggressive radiation and chemotherapy treatment for advanced uterine cancer. The 49-year-old Santa Fe resident remembers the feeling of her skin burning, all the medication, the nausea and the fatigue so immense that even talking sapped too much energy.

All she wanted was the choice to end her life if the suffering became too great.

She has that option now thanks to a New Mexico judge's landmark ruling Monday, which clears the way for competent, terminally ill patients to seek their doctors' help in getting prescription medication if they want to end their lives on their own terms.

Second Judicial Judge Nan Nash said such patients have a fundamental right to seek aid in dying because the New Mexico Constitution prohibits the state from depriving a person from enjoying life and liberty or seeking and obtaining safety and happiness.

"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," the judge wrote.

Nash also ruled that doctors who provide aid 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

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suicide.

The New Mexico Attorney General's Office said it is discussing the possibility of an appeal but needs to fully analyze the judge's opinion before commenting further.

Nash's ruling stems from a two-day bench trial in December in which Riggs and other plaintiffs asked the judge to determine that 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 filed their lawsuit in March 2012. Riggs joined the fight a couple of months later.

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.

"New Mexicans, both healthy and sick, now enjoy the comfort and peace of mind that come with knowing they can prevent a prolonged, agonized dying process at the end of life," ACLU of New Mexico Legal Director Laura Schauer Ives said in a statement.

Riggs testified in December that her cancer was in remission but said there have been days when getting out of bed and walking 15 feet were an uphill battle. She said she wanted to live but also wanted the option of ending her life with dignity if her condition worsened.

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

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.

Four other states, including Oregon, allow patients to seek aid in dying if their conditions become unbearable.

The New Mexico Conference of Catholic Bishops was disappointed with Monday's ruling, saying there's a difference between fundamental rights guaranteed by the constitution and the ability of someone to take a person's life.

Opinions can differ with regard to the survivability of illnesses, and medical treatments can progress, said Allen Sanchez, executive director of the bishops' group.

"As long as there is a chance for human error, we can't have that. You can never reverse the decision you've made. It's the finality of it," Sanchez said. "If we are not willing to give that ability to a judge and jury by doing away with the death penalty

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in New Mexico, we should not be willing to give one doctor and two witnesses that ability."

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