

Court rules killing a legal medical practice

by Linda Everett

In a decision that calls the intentional killing of sick or disabled individuals a "legitimate" and "accepted" medical practice, Oakland County, Michigan Circuit Court Judge David F. Breck on July 21 dismissed murder charges against Michigan serial-killer Jack Kevorkian for the October 1991 deaths of two Michigan women.

Kevorkian, a pathologist who claims he has killed "only four" times, lost his medical license in November after he carried out the murders of Sherry Miller, 43, and Majorie Wantz, 58, in a secluded Michigan cabin, using homemade devices. Miller, who had multiple sclerosis, believed she was a burden to others. Her life, Judge Breck says, had "no quality." She allegedly wanted to commit suicide due to a "lack of joy in life."

Wantz allegedly sought Kevorkian's suicide help due to years of severe, chronic pain. Yet, Wantz refused to undergo treatment for pain management, and, after her death, the medical examiner found "virtually no evidence of any disease process." Weeks prior to the planned murder, three physicians sought to have Wantz institutionalized. These desperate women, physically or psychologically disabled, were, for whatever reason, bereft of society's help and manipulated into focusing on suicide as a resolution to their problems.

Now, after years of preposterous legal precedents that a patient's interests are best served by killing him or her by starvation or the termination of medical treatment, Judge Breck ruled that the next logical step, the outright killing of those society is unable or unwilling to help, is "an option."

Kevorkian and his attorney Geoffrey Feiger have created a surreal circus in which the issue of taking a human life is intentionally reduced to manipulating a swarm of interpretations of existing case law and common law on the legality of so-called assisted suicide. Judge Breck drives this process to a new low. His ruling undercuts a Michigan Supreme Court ruling (*Roberts*, 1920) that found a husband guilty of murder for supplying his wife with the poison she used to commit suicide, by citing a Michigan Appeals Court's decision (*Campbell*, 1983) that found the defendant not guilty of murder after he incited a friend to kill himself with the loaded gun he provided.

Breck claimed the ruling makes sense: "If suicide is not a crime . . . then someone who assists should not be criminally responsible." He cited the court in the *Campbell* decision: "The common law is an emerging process. When a judge

finds and applies the common law, hopefully he is applying the customs, usage, and moral values of the present day."

Breck determines today's values on assisted suicide by citing another assisted suicide case (*Slaughter*, 1982) in which manslaughter charges were dismissed: "The law is a breathing, living dynamic tool that is supposed to be consistent with serving the more noble objectives of human kind, and our attitudes and our sensitivities to [assisted suicide] have hopefully grown since 1920," when *Roberts* was decided.

Breck's objectives are clear. He concludes that *Campbell* held assisted suicide, whether physician-assisted or not, legal. He admits, but discounts, any problems legalized assisted suicide brings, like the "unauthorized euthanasia by family members of incapacitated patients." But, he says, the appeals court decision in *Campbell* cannot overrule a Supreme Court opinion (*Roberts*). And, although the Supreme Court found in *Roberts* that assisted suicide constituted a crime of murder under common law, this does not apply to Kevorkian because "physician-assisted suicide was not a crime at common law."

'Right to die' case law

Since Kevorkian had a physician-patient relationship with his victims, Breck applied "right to die" case law to physician-assisted suicide. "There is no morally important difference" between the doctor's act of disconnecting life-support and the connecting of equipment designed to cause death when activated by the patient, he said. For backup, Breck cited legal precedents on euthanasia that targeted especially the mentally or physically disabled, along with articles by the Euthanasia Society and others who seek to legitimize what Americans once recognized as Nazi medicine, from current medical and law journals.

Kevorkian was charged with the unlawful delivery of a controlled substance (which he used on Wantz). Breck upheld the dismissal of that charge because he found that Kevorkian had a physician-patient relationship with the victim. He also cited testimony that indicated there are some "physicians who support physician-assisted suicide as a legitimate medical practice." Finally, although the way Kevorkian used the drug (to induce death) was not an accepted medical practice, he was "acting in good faith by responding to [Wantz's] request to use the [drug] to end her life." Breck concluded, "For those people, whether terminal or not, who have unmanageable pain, physician-assisted suicide remains an alternative."

Oakland County Prosecuting Attorney Richard Thompson will appeal the ruling. Meanwhile, Kevorkian says he is currently "counseling" another 100 victim-patients. Considering Breck's ruling which, Oakland County Chief Assistant Prosecutor Gerald Poisson told *EIR*, is "much broader than what even Kevorkian is currently doing," no end to Kevorkian's rampage is in sight.