



Written by [Dave Bohon](#) on February 14, 2012

Georgia High Court Rules Assisted Suicide Law Unconstitutional

Georgia's Supreme Court has overturned a law banning advertising for assisted suicide, ruling that it unconstitutionally restricts free speech. The legislature had enacted the law in 1994 in an attempt to keep "right to die" proponents such as Dr. Jack Kevorkian from offering their services in the state.



The February 6 ruling came out of a pending criminal case in which four members of a group called Final Exit Network were charged in 2009 with assisting in the suicide of a 58-year-old cancer patient. The state high court decision means that criminal prosecution in the man's death will also end. In an interesting aside, according to court documents the victim's doctor was quoted as saying that the man had made a "remarkable recovery" and was cancer-free when he ended his life.

While the law in question did not expressly ban assisted suicide, it established felony charges for anyone who, in the wording of the statute, "publicly advertises, offers or holds himself out as offering that he or she will intentionally and actively assist another person in the commission of suicide and commits any overt act to further that purpose."

In making its 7 to 0 decision against the measure, the court noted that the state had shot itself in the foot by how it had fashioned the law. "Had the state truly been interested in the preservation of human life, it could have imposed a ban on all assisted suicides with no restriction on protected speech whatsoever," wrote Justice Hugh Thompson in the court opinion. "Alternatively, the state could have sought to prohibit all offers to assist in suicide when accompanied by an overt act to accomplish that goal. The state here did neither." He added that the state had failed "to provide any explanation or evidence as to why a public advertisement or offer to assist in an otherwise legal activity is sufficiently problematic to justify an intrusion on protected speech rights."

The Associated Press reported that the four members of Final Exit Network launched a challenge to the law after they were arrested following an eight-month investigation by the state, in which an undercover agent posed as an individual seeking help to commit suicide. "The Final Exit Network members said the law only punishes those involved in assisted suicides if they speak publicly about it and does nothing to block an assisted suicide from being carried out by those who stay silent," reported the AP.

"This was politically motivated and ideologically driven as opposed to being, in any way, motivated by sound legal practice," Ted Goodwin, the group's former president and one of the four defendants, told



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the AP. "I'm just sorry that as many people have been put through what they've been put through in what turned out to be a boondoggle.

Right-to-life activists said the ruling could make Georgia the latest go-to destination for those wanting help to end their lives. "Essentially Georgia is now in the position of being the wild, wild West for those who are promoting doctor-assisted suicide," said Rita Marker of the Patients Rights Council, which opposes assisted suicide. "It opens the floodgates for anyone who wants to do this sort of activity, and that is especially troubling for vulnerable populations."

Dan Becker, president of Georgia Right to Life, warned that the "Supreme Court decision striking down our pitifully weak assisted suicide ban will open the door for Georgia to become a haven for merchants of death unless we act." He added that "we understand the pain of terminal illness, but taking a human life in the name of mercy or compassion is morally wrong. We should concentrate on providing help to those in desperate situations, not kill them."

Writing in [National Review](#), Wesley Smith, a pro-life attorney and bio-ethicist who closely monitors the issues of assisted suicide and euthanasia, criticized state legislators for their half-baked approach at banning assisted suicide. "This is the consequence of legislators writing laws based on headlines," he wrote, ridiculing their response to Dr. Kevorkian's 1990s media-inflamed assisted suicide circus.

He warned that Georgia's current lawmakers "had better remedy this fast or Georgia could become known as the Assisted Suicide State — all comers welcome — because as of now, anyone would seem to be able to assist any suicide, in any manner, for any reason in Georgia, and for compensation. That's the consequence of incompetence in legislating."

According to the [Atlanta Journal Constitution](#), a core of the state's legislators are already moving in the direction Smith is recommending. "The Supreme Court has ruled, and now it is up to us," Republican state Senator Edward Lindsey told the paper. "I certainly hope this would be something that we address this session."

Reported the paper: "There are 24 working days remaining for the legislature, and a bill [banning assisted suicide] would have to pass one chamber and make it to the other within 14 working days to have a chance at being signed into law."



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