

FINAL REVIEW, CRUZAN

CRUZAN V DIRECTOR, MISSOURI DEPARTMENT OF HEALTH

RHENQUIST OPINION

- Rhenquist cites common law to establish the notion that the right to refuse medical treatment is encompassed by the informed consent of a competent individual. "We assume that the United States Constitution would grant a competent person a constitutionally protected right to refuse lifesaving hydration and nutrition".
- Arguing that the state is in fact, not required to remain neutral, there is a legitimate interest in protecting "the personal element of this choice through the imposition of heightened evidentiary requirements".
- This is qualified by the recognition that not everyone has loved ones to act as surrogate decision makers, that sometimes those loved ones would abuse such a privilege, and that the state cannot make quality of life judgments.
- "We do not think the Due Process Clause requires the State to repose judgment on these matters with anyone but the patient herself" and testimony offered at the hearing didn't sufficiently demonstrate that Nancy Cruzan would refuse hydration and nutrition.
- "All of the reasons previously discussed for allowing Missouri to require clear and convincing evidence of the patient's wishes lead us to conclude that the State may choose to defer only to those wishes, rather than confide to close family members"

O'CONNOR CONCURRENCE

- O'Connor agrees that refusing medical treatment is an inferred protected liberty.
- "Because our notions of liberty are inextricably entwined with our idea of physical freedom and self-determination, the court has often deemed state incursions into the body repugnant to the interests protected in the Due Process Clause".
- The opinion is only granting that one state's practice of evaluating the patient's interest is not in violation of the Constitution and "the more challenging task of crafting appropriate procedures for safe guarding incompetents' liberty interests is entrusted to the "laboratory" of the States in the first instance".

SCALIA CONCURRENCE

- Scalia agrees with the opinion but feels that the Court has no business in this field.
- He asserts that "no substantive due process claim can be maintained unless the claimant demonstrates that the State has deprived him of a right historically and traditionally protected against state interference" and thus can't be established here.
- Scalia cites common law defining suicide as any deliberate attempt to end one's life to show that the "right" to suicide is not fundamental or implicit to ordered liberty.
- He breaks down arguments seeking to distinguish the Cruzan case from suicide by 1) rejecting the notion that she is permanently incapacitated and in pain.
2) There is no distinction between action to take one's life and inaction. "Starving oneself to death is no different from putting a gun to one's temple as far as the common-law definition of suicide is concerned".
3) Interfering with her wish to die is not a violation of her bodily integrity because "It has always been lawful not only for the state, but even for private citizens, to interfere with bodily integrity to prevent a felony".
- "To raise up a constitutional right here we would have to create out of nothing...some constitutional principle whereby, although the State may insist that an individual come in out of the cold and eat food, it may not insist he take medicine; and although it may pump his stomach empty of poison he ingested, it may not fill his stomach with food he has failed to ingest."

BRENNAN DISSENT

- Missouri has interest in determining as accurately as possible how Cruzan would have exercised her rights had she been competent and in providing the treatment she articulates.
- "The state has no legitimate general interest in someone's life, completely abstracted from the interest of the person living that life, that could outweigh the person's choice to avoid medical treatment".
- It's not fair that evidence to suspend treatment requires clear and convincing evidence but no proof is needed to continue treatment. "Missouri has no such power to disfavor a choice by Nancy Cruzan to avoid medical treatment".

STEVENS DISSENT

- The court's ruling provides no protection to patients who didn't have the foresight or were unable to convey how they wished to be treated in such instances. Considering many of these cases are the result of sudden accident this disenfranchises the desires of many.
- Stevens argues that "her fate is in the hands of the state legislature instead of in those of her family, her independent neutral guardian, and an impartial judge--all of whom would agree on the course of action that is in her best interest".
- Nancy Cruzan has an interest not only in her life, but also her death.
- He asserts that Missouri's purported interest in protecting life is wrong because "it is an effort to define life rather than protect it".
- The court's approach to Nancy Cruzan seems to be that she has no "constitutionally cognizable interests" and her fate is subject to a state definition regarding quality of life.