

# Washington V. Glucksberg

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I. Facts: A Washington State law provides that " a person is guilty of promoting a suicide attempt when he knowingly causes or aids another person to attempt suicide". Such assistance is regarded as a felony. However, the state also enacted a "Natural Death Act" in 1979 that stipulates that the withholding of life sustaining equipment does not constitute suicide. Thus, the court is faced with the challenge of excising Assisted-suicide cases from the bodily integrity set of rights affirmed in both Roe-cases and the sentiments of the respondents in Cruzan.

II. Holding: The court finds that Washington's prohibition against assisted-suicide does not run afoul of the Fourteenth Amendment and Due Process juris-prudence.

III. Reasoning, Rehnquist:

Ethical, morals of the people: For 700 years, the Anglo- American common-law tradition has regarded suicide as an unlawful act. While overtime, punishment for the act has been reduced, this has only occurred out of concern for the suicide's family. Continued until today, suicide has been seen as a grievous act as indicated in State legislation.

Reigning in the Penumbra:

The court's approach on substantive-due-process is that the clause only protects those implicit rights that are "deeply rooted in this nation's history and tradition". By viewing Due Process as applicable only in the realm of fundamental rights, as recognized in history and legal tradition, the "exposition" of the due process clause may be both directed and restrained. "That many of the rights and liberties protected by the Due Process Clause sound in personal autonomy does not warrant the sweeping conclusion that any and all important intimate, and personal decisions are so protected".

"It is more than a philosophic exercise".

The right assumed in Cruzan originated from the common-law tradition that protects personal autonomy. While the decision to commit suicide with assistance may be a personal, it enjoys no such legal protection, as does the right to not be force-fed medication. The cases are "Distinct" Doctrinal, argument of stare decisis: "To hold for respondents, we would have to reserve centuries of legal doctrine and practice, and strike down the considered policy choice of almost every state"

State Interest:

State has compelling interest in protecting the ethics of the medical profession, protecting vulnerable groups and individuals, and preventing a slip of the slope to perhaps even involuntary euthanasia.

Reasoning Souter, concurring in the judgment

Holmesian view of antidemocratic court:

Souter has concern for the intrusion of an overreaching court upon what he sees as the proper venue for resolution, the legislature. "The court should accordingly stay its hand to allow reasonable legislative consideration. While I do not decide for the all time that respondents' claim should not be recognized, I acknowledge the legislative institutional competence as the better one to deal with at this time"

IV: Significance: Glucksberg helps to define limits upon the expansive and all encompassing nature of substantive due process interpretations