

WASHINGTON v. GLUCKSBERG (1997)

The State of Washington passed a law that made it a crime to cause or aid a suicide. Under the law, a person is guilty of promoting a suicide attempt when he or she knowingly causes or aids another person to attempt suicide. Under the law, promoting a suicide is a felony and carries a prison term of up to five years and a fine of up to \$10,000. While the law prohibits people from helping others kill themselves, the State of Washington allows patients to refuse life support and allows doctors to remove life support on the patient's request. Under the law, taking the patient off life support is not a suicide and carries no criminal liability.

A group of doctors who practice medicine in Washington and a citizen's rights group, called "Compassion in Dying," claim the law is against the constitution and violates a patient's right to privacy and right to die. The doctors claim that if it weren't against the law, they would give their dying patients prescription medicines in order to speed up the dying process and allow them to die without pain. The doctors' and citizens' group argue that a person should have a right to choose when they will die and how they will die, especially if they are legal, competent adults who have a deadly, non-curable disease, such as AIDS. These groups claim that people who are going to die soon anyway should not be forced to live the rest of their lives in pain and should be able to speed up their death with doctor prescribed medications that will help them die painlessly.

The State of Washington says the law does not violate the constitution. They claim that suicide is the intentional killing of a human being just like homicide, and that it has always been illegal in that state to help people kill himself/herself. The State of Washington says that helping someone commit suicide is like helping someone commit homicide — the only difference is that the person is killing themselves. The State of Washington also says that allowing doctors to take patients off of life support is not assisting suicide because the doctors are not helping people die, but are, instead, simply not helping them to live. The state says that a person has a right to reject medical treatment and assistance, but does not have a right to have the doctors help him/her die.

Washington v. Glucksberg **117 s. Ct. 2258 (1997)**

This case study exercise should be conducted as part of the Criminal Law or Individual Rights section of your course and should be used in conjunction with, or immediately following, the *Cruzan* case study and the discussion of the right to refuse medical treatment, living wills, and suicide. The case study explores the controversial topic of Euthanasia and attempts to get the students thinking about the differences between the different topics mentioned above. Further, it can be used to introduce or supplement a discussion about where constitutional rights come from. The Court in *Glucksberg* based its opinion on the “history and tradition” argument. Focusing on this, you can explore with the students whether constitutional rights should be based on history or on something else. You can discuss problems resulting from relying too much on history (i.e., how the cases on discrimination, abortion, etc. would have come out differently). Also, by using the group method and placing students in the hypothetical situation of being the Supreme Court, you are able to review and further explain the role of the Supreme Court, how the Supreme Court makes decisions, and the differences between majority and dissenting opinions.

The instructions suggest that the class be broken into groups of nine - representing the nine justices on the Supreme Court. The actual number of students will depend on class size, the nature of your class, and whether or not you think a group of nine can be productive. It may very well be that nine are too many. A group of five may be a good substitute since most State Supreme Courts have five justices. You also may choose not to break into groups at all. You could have the students complete the questions on their own, as homework, or you could use the questions as classroom discussion.

Instructions:

You are the nine justices on the Supreme Court of the United States. It is your job to decide the case. Answer the following questions. Then, as a group, come up with a decision. Like the real Supreme Court, only a majority (5) of you need to agree. Once you have decided, one member of the majority should be selected to report your decision. This person should be ready to talk about how the group answered each of the questions and explain the group's final decision. If you do not all agree, one person on the losing side should be prepared to present the opposite decision to the class. (Just like the Supreme Court issues majority and dissenting opinions.)

Questions:

1. Should doctor-assisted suicide be treated the same as regular suicide?
2. Should people who are sick, dying, and in pain be allowed to take their lives under the law?
3. Should doctors be able to help such people take their own lives?
4. Just as there is a constitutional right to refuse life-saving treatment, as we saw in the Cruzan case, should there be a constitutional right to die?
5. Assuming there is a constitutional right to die, should only the sick and dying people have this right? What about people who have depression and take medication for it. Do they have a right to die?
6. Should it matter that suicide has historically been seen as a bad thing and has, in the past, been against the law? Should constitutional rights be based on what has happened in the past.
7. How should this case be decided?

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Supreme Court's Decision

In actually deciding this case, the majority of the United States Supreme Court held unanimously that the Washington law did not violate the constitution. The Court held that while there is clearly a constitutional right to reject medical treatment, a right which is as old as the constitution itself, there is not an actual right to die. The Court held that laws against suicide were common in almost every state at one time, and that, while most states no longer outlaw suicide itself, the majority of states still make assisted suicide a crime. The Court stated that suicide is considered a public wrong and that it is to be avoided whenever possible. The Court held that helping people die before their bodies give out is much different than taking someone off of life support and letting their bodies die on their own. The Court said that the State of Washington was trying to protect human life and that the State could protect human life by prohibiting assisted suicide because there is no right to die in the constitution.