

**GILBERT v. FLORIDA**  
11 FLW 1007, 487 So.2d 1185 (1986)

**Facts:**

Roswell and Emily Gilbert were an elderly couple living in Fort Lauderdale. Roswell was a lab-abiding and respected man. He was 75 years old. Emily Gilbert had osteoporosis (a painful condition affecting the bones and joints) and Alzheimer's disease (a condition which affects memory and other thinking processes). As a result of these two problems, Emily was in pain and confused.

Emily was still able to leave her apartment and maintain most of her activities. She went to lunch every day with her husband, took short walks, and visited the beauty parlor every two weeks. However, her neighbors testified that she looked very sick and was in great pain. One day, Emily came to find her husband at a condominium meeting. She was crying. She told him, "I'm so sick, I want to die, I'm so sick . . . Ros, I want to die, I want to die."

On March 4, Emily again came to the condominium meeting to find her husband. Roswell took her back to their apartment. As she laid on the couch, she cried, "Please, somebody help me. Please, somebody help me." In his own words, Roswell describes his reaction to her words:

Who's that somebody (to help her) but me, you know, and there she was in pain and all this confusion. . . I thought to myself, I've got to do it, it's got to be mine, I've got to end her suffering, this can't go on.

I went in. The gun was up on the top shelf with a clip in it. I loaded it with one shell, pulled the clip out. I don't like to leave loaded guns laying around.

Well, then I shot her in the head . . .

Roswell testified that the only important thing to him was that she didn't have to suffer any more. Although he had never discussed this with his wife, he felt that he was carrying out Emily's wishes.

**Questions:**

1. The act of killing someone because you believe they want to die is called mercy killing or  **euthanasia**. Do you believe that euthanasia is murder? Is there a difference between Roswell shooting his wife and a person making the decision to shut off life-support systems for a relative who is brain-dead? Is it hard to draw a line between kinds of euthanasia which are and are not murder?

2. Do you believe that killing someone can ever be justifiable, or in other words, are there situations when you shouldn't have to go to prison for killing someone? Is euthanasia one of these situations?
3. Pretend for a moment that you have decided that any person who does what Roswell did should go to prison. Do you think that he should receive different treatment, like a shorter time in jail, because of the circumstances (he didn't hate his wife, but killed her because he wanted to see her pain end)?

**Verdict:**

Roswell Gilbert was convicted of first degree murder and sentenced to life in prison. The Florida Supreme Court affirmed this conviction. We haven't yet discussed the different types of murder that the courts use for sentencing people. So for now, you just need to understand that the Florida Supreme Court decision means that when a person fully intends to take a person's life and understands what he is doing, it is murder, even if his intentions were good. The fact that it is a mercy killing does not change the court's determination of guilt or innocence. It also makes no difference when the judge is deciding what punishment to give.

One of the judges writes his own opinion (the concurrence) in which he distinguishes between this type of euthanasia and "pulling the plug" on life support systems. He says that this second type of act is letting "nature take its course" because the person would die with artificial means to keep him alive. The court says that this act isn't murder.