

October 6, 2005

Outside Court, Fierce Debate on State Law

By [JOHN SCHWARTZ](#)

WASHINGTON, Oct. 5 - The oral arguments before the Supreme Court on Wednesday over [Oregon's](#) Death With Dignity law focused narrowly on issues like the relationship between the federal government and the states.

But outside the courtroom, on the plaza in front of the building, the focus was broader: on the passion and the outrage that have fueled the debate over assisted suicide and other emotionally charged questions about the end of life.

Those who support the Oregon law say the terminally ill should be able to choose the time and manner of their death. Many who oppose the law believe that ending life is morally abhorrent. Still others see the case as a jumping-off point for other issues.

The case, *Gonzales v. Oregon*, is about the efforts by the Department of Justice to prosecute doctors who prescribe suicide drugs under the Oregon law. The law, which was passed in 1994 and went into effect in 1997, allows terminally ill patients who are likely to die within six months to acquire lethal doses of drugs, often sedatives, from doctors.

Oregon is the only state with such a law, though similar measures have been under consideration in [Vermont](#) and [California](#).

The case arose after John Ashcroft, then the Bush administration's attorney general, ordered the Drug Enforcement Agency in November 2001 to use a federal antidrug law to prosecute doctors who participated in the Oregon plan.

After the arguments on Wednesday, groups in favor of and opposing the Oregon law offered comment in front of the court building.

Eli D. Stutsman, a lawyer in Portland who was the chief strategist in passing the law, said he was pleased that much of the discussion had focused on whether the federal law, the Controlled Substances Act, should govern the use of suicide drugs. The intent of the drug law was "to prevent drug trafficking, drug diversion and illicit drug use," he said.

Other proponents of the Oregon law said it does what Justice Sandra Day O'Connor urged in a 1997 case, *Washington v. Glucksberg*. While Justice O'Connor agreed with the majority that states could constitutionally prohibit assisted suicide, she also said thorny end-of-life issues were best worked out in the "laboratory" of the states. (If Harriet E. Miers, President Bush's choice to be Justice O'Connor's successor, is confirmed before a decision in the current case is handed down, neither she nor Justice O'Connor will participate in the decision.)

Kathryn Tucker, who argued the *Glucksberg* case and is director of legal affairs for the group Compassion and Choices, a national organization that favors the Oregon law, said the Justice Department was trying "to shut down the laboratory of the states."

One of the most vocal opponents of the Oregon law did not come to Washington. Reached by telephone at his home, Dr. Kenneth Stevens, of Physicians for Compassionate Care, said that if anyone had crossed a line, it was not Mr. Ashcroft but the State of Oregon, which had come up with new uses for potent drugs. "Oregon is saying that Oregon should control Oregon's portion of the Controlled Substances Act," Dr. Stevens said.

On the plaza in front of the court, activists from the group Not Dead Yet showed their opposition to the law. Carrie Ann Lucas, an advocate for people with disabilities who lives in Denver, said she came to Washington because she believed that the medical system would abuse such laws. "People with disabilities are devalued by doctors, by nurses, by hospitals and by H.M.O.'s," she said.

In a narrow sense the debate was over states' rights, Ms. Lucas said. But because the civil rights of people with disabilities were at stake, she went on, that should tip the balance against the Oregon measure.

It may not be the ideal case for discussing such issues, she said, but "it's the case we have."