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Supreme Court Roundup; ASSISTED SUICIDE CLEARS A HURDLE IN HIGHEST COURT

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The Supreme Court removed the last legal obstacle today to Oregon's law allowing physician-assisted suicide, clearing the way for the state to put the country's only such law into effect for the first time since Oregon voters adopted it in a statewide referendum three years ago.

Without comment, the Justices turned down an appeal from a lower court ruling ordering the dismissal of the lawsuit that had kept the law tied up in Federal court since shortly after its adoption.

The Court's action today had been widely anticipated and the focus of the debate in Oregon over giving terminally ill people lawful access to a doctor's help in hastening death had already moved from the courts to the polls.

The Oregon Legislature decided earlier this year to take the question to the voters a second time. In a mail-in ballot procedure that begins on Wednesday and concludes on Nov. 4, Oregon voters will be asked to decide whether to repeal or retain the Death With Dignity Act that passed the first time by a margin of 51 percent to 49 percent.

As a practical matter, the 1994 measure almost certainly cannot take effect until after the balloting on its potential repeal is complete, because it will take several weeks for the required orders to be issued by the various courts involved in the case. So the next word on the issue is likely to be that of the voters, with the Court's action today serving principally to heighten interest in what was already an intensely contested vote.

Under the Oregon measure, a mentally competent adult suffering from a terminal illness -- defined as likely to result in death within six months -- may receive lethal doses of medication after consulting with two doctors and waiting 15 days.

A poll done a month ago by Tim Hibbitts of Hibbitts Research for news agencies in Oregon indicated that the repeal would fail by nearly a 2-to-1 margin, meaning that the 1994 law was expected to be upheld. However, Mr. Hibbitts cautioned that the poll was taken before those who want the law repealed started their advertising campaign -- a $2 million blitz, compared with the $400,000 raised so far by the other side.

Richard E. Coleson, the lawyer representing the opponents of assisted suicide who filed the lawsuit immediately after the initiative passed in 1994, said in an interview that the message today to voters who share the plaintiffs' views was that "the courts may not bail them out, so they'll have to deliver themselves" by voting to repeal the measure.

Eli D. Stutsman, the main counsel for supporters of the law, said the Court's action would "let the voters know that the Court of Appeals was right" to dismiss the lawsuit. "To the extent that the litigation created any ambiguity, the Supreme Court has removed that," he said.

The United States Court of Appeals for the Ninth Circuit, which sits in San Francisco, ruled last February that the lawsuit had to be dismissed because the plaintiffs -- two doctors and a chronically ill woman who oppose assisted suicide -- suffered no injury from the measure's adoption and hence lacked the standing to challenge it. The appeals court postponed the effect of its order until the anticipated Supreme Court appeal had run its course.

While the appeals court limited its ruling to the question of standing and expressed no view on the merits of the lawsuit, its opinion had the effect of overturning an earlier ruling by the Federal District Court in Eugene, Ore., that the law violated the rights of terminally ill people to equal protection.

The Supreme Court's action today was not a judgment on the legal merits of the case, Lee v. Harcleroad, No. 96-1824. It was, however, consistent with the Justices' view, expressed in a major ruling four months ago, that the question of assisted suicide was one for the states to decide and not one for constitutional litigation. Chief Justice William H. Rehnquist, in ruling in Washington v. Glucksberg that the Constitution does not provide a general right to assisted suicide, said the Court's decision would permit the "earnest and profound debate" over the issue to continue in the political forum.

The Oregon law, in addition to requiring a waiting period, includes provisions designed to insure that the patient's decision is voluntary and not the result of depression.

Among the other developments today as the Court began the second week of its new term were these:

Habeas Corpus

The Justices accepted an appeal by the State of Arizona in a case that could potentially lead to the Court's broadest ruling so far on the 1996 Federal law that sharply restricted state prisoners' access to Federal court reviews of their convictions and sentences.

The immediate question in the case, Stewart v. Martinez-Villareal, No. 97-300, is whether death-row inmates who have already gone through one or more rounds of Federal court appeals through petitions for a writ of habeas corpus, may file a subsequent petition on a claim that they cannot be executed because they are insane.

In 1986, the Supreme Court ruled that the Eighth Amendment's prohibition against cruel and unusual punishment "prohibits a state from carrying out a sentence of death upon a prisoner who is insane." Subsequent rulings by the Court have indicated that "incompetency for execution" is an issue that can only be properly raised when execution is imminent.

But under the new Federal law called the Anti-Terrorism and Effective Death Penalty Act of 1996, issues not raised in an inmate's initial habeas corpus petition are essentially forfeited. So an inmate with a potentially valid incompetency claim may not ever be able to raise it.

In a ruling in June ordering a Federal District Court in Arizona to consider a convicted murderer's insanity claim, the Ninth Circuit held that the only way to avoid this "predicament" was to interpret the new law and its bar against multiple petitions as simply not applying to the "unique" legal claim of incompetency for execution. Otherwise, the appeals court said, the new law would pose the difficult question of whether Congress had unconstitutionally "suspended" the writ of habeas corpus by cutting off this avenue of Federal court relief.

In its appeal, Arizona is mounting a broad challenge to the Ninth Circuit's analysis, not only as applied to the incompetency question but to other aspects of the new law and to habeas corpus in general. The state is asking the Court to decide whether the new legal restrictions on multiple petitions limit not only the jurisdiction of the lower Federal courts but the Supreme Court's jurisdiction to hear habeas corpus cases as well.

In Felker v. Turpin, a 1996 decision that rejected an initial constitutional challenge to the new law, the Justices alluded to but did not decide the question of whether the Court itself is bound by the new limits and of the possible constitutional implications of such restrictions.

Passengers' Rights

Rejecting an appeal by the State of Maryland, the Court let stand a ruling by that state's high court that without some suspicion of wrongdoing, the police cannot detain a passenger when they stop a car for a traffic infraction.

In a ruling last term in another case from Maryland, the Supreme Court held that for their own safety, police officers may order a passenger out of the car. But that case, Maryland v. Wilson, did not decide whether the officers could force a passenger to stay in the car or otherwise prevent him from leaving the scene. The case today was Maryland v. Dennis, No. 97-286.