Blood Transfusion – Jehovah's Witnesses: Court Upholds Right To Refuse Treatment.

The patient was thirty-four years-old, married, the mother of two teenagers, a devout Jehovah's Witness and in need of a liver transplant.

She traveled from her home in New York to Pennsylvania to be evaluated at a medical center in Pennsylvania that performed liver transplants on Jehovah's Witnesses without blood transfusions. They told her to move near the medical center and they put her on the waiting list.

Durable Power of Attorney

For the transplant procedure the patient signed a durable power of attorney specially drawn up to express her wish not to receive a blood transfusion because of her religious beliefs as a Jehovah's Witness.

Her durable power of attorney appointed an individual as her agent for healthcare decisions whose relationship to her was not specified in the court record.

After the transplant was rejected her husband went to court seeking authority to consent to a blood transfusion even though his wife's last conscious expression was that she did not want it.

After she died her husband and her agent continued the case on appeal. The Superior Court of Pennsylvania declared the issues were not moot. The court said it was important to make a ruling for the future to guide others in this situation.

Clear Statement of Patient's Intent Is A Necessity

Before caregivers can hold back life-saving or life-sustaining treatment there must be a clear expression of the patient's intent that is what the patient wants.

The court said this patient could not have made her wishes more clear. Her durable power of attorney was not a standard form document from a lawyer's office. Instead, it was drafted specially for her. The document said in no uncertain terms she was a Jehovah's Witness, she did not want even her own stored autologous blood and it did not matter to her what her doctors, nurses, family or friends thought was best for her.

When the patient's intent has been clearly stated, it cannot be overruled.

The right to refuse medical treatment is deeply rooted in our law. The US Supreme Court said more than a century ago that no right is more sacred or more carefully guarded than the right of every individual to the possession and control of his or her own person.

The right to control the integrity of one's own body led to the doctrine of informed consent. If the patient is mentally and physically able to communicate about his or her condition, the patient's informed consent is an absolute prerequisite to medical treatment.

There is room to argue in some cases that the patient's life needs to be preserved for the benefit of others, such as an unborn fetus or young children.

The state also has the right to prevent suicide, but a patient declining life-sustaining treatment is not the same as suicide, as there is no self-inflicted injury. A patient can make the personal choice to decline unwanted medical technology and let a natural death take its course.

SUPERIOR COURT OF PENNSYLVANIA, 2001.

If the patient's wishes are not clear, the court said caregivers should err on the side of caution. The court mentioned a case where a friend testified the patient had a medic alert card saying he was a Jehovah's Witness and did not want a transfusion, but the card was never found.

That was not clear enough and the transfusion was ruled proper in that case. There was no clear expression of intent from the patient himself that he still adhered to the Jehovah's Witness faith and still wished to decline treatment.

Rights of Others

The court acknowledged that in some cases other persons have rights of their own which the court has to recognize. Recognizing those rights could mean overriding the patient's own wishes.

The best example would be a pregnant woman wanting to decline life-saving or life-sustaining treatment. In those cases the courts routinely order the patient to be treated whether the patient wants it or not.

Here, however, the court ruled the interests of the patient's husband and teenage children were not paramount over the patient's own legal right to medical personal autonomy.

Assisted Suicide / Natural Death

In almost every US jurisdiction it is a serious criminal offense for a healthcare provider to assist a patient to commit suicide. However, according to the court, going along with a patient's clearly expressed desire to refuse life-saving or life-sustaining treatment is not the same as assisting suicide.

The law draws the line by looking for an act which inflicts mortal injury, done either by the patient's own hand with another's substantial assistance or done by the other's hand.

A patient allowing a disease or disability to take its course without artificial medical intervention is not suicide, the court pointed out. Holding back when the patient has so instructed his or her caregivers is not homicide, as the law sees it. **In re Duran, 769 A. 2d 497 (Pa. Super., 2001).**