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Our File No. 14-183

December 10, 2015

Roger Bilodeau, Q.C.  
Registrar  
Supreme Court of Canada  
301 Wellington Street  
Ottawa, ON K1A 0J1

Dear Mr. Bilodeau:

**Re: *Lee Carter et al. v. Attorney General of Canada et al.*, Court File No. 35591**

We represent the intervener, Dying With Dignity Canada (DWDC).

DWDC opposes the Attorney General of Canada's ("AG Canada") motion to extend the suspension of invalidity for another 6 months.

A further extension will bring undue hardship to those individuals who are suffering unbearably from irremediable conditions and are seeking an assisted death. The harm caused by allowing the extension will not just be to those who are suffering intolerably today, although their hardship will be great. People who do not even have a diagnosis today could be suffering unbearably in four months. If the AG Canada's request is granted, these individuals would be left with the choice of continued, prolonged suffering or an early, and quite possibly violent, death.

Such a result is particularly cruel in light of the fact that the Court has already determined that this choice is contrary to s. 7 of the *Charter*. The very request made by the AG Canada denies affected individuals the relief and peace of mind of knowing that medically assisted death will soon become available to them if needed. If this motion is successful, it will force these individuals to wait for a delayed political process to take place, while they endure additional months of intolerable suffering in violation of their constitutional rights. These individuals played no role in delaying the creation of new legislation, yet the burden and impact of a further extension falls disproportionately and unconscionably to them.

Although DWDC supports the notion of carefully crafted legislation at either the provincial or federal level, it disagrees that a further suspension of invalidity is an appropriate order for this Court to make in the present circumstances.

The Court's ruling determined that either the federal government or the provinces could legislate – or not. It did not require the creation of any particular legislative or regulatory regime. The decision set out clear criteria that will enable medical professionals to assess the circumstances under which medically assisted dying would be constitutionally permissible in the absence of any government regulation on the issue.

The previous government did not take prompt action to implement a physician assisted dying regime. Similarly, the new government has failed to display a sense of urgency. The new government has stated its intention to create an all-party group, but is yet to launch the group or even publicly announce its composition, mandate, and commencement or reporting date. It has supported an injunction to stay the regulatory regime enacted by Quebec and now it petitions for further delay before this court.

Steve Mihorean states in his affidavit for Canada that the political process of creating legislation in other countries has taken years. That may be so if a government is starting from nothing. However, this government has the benefit of the extensive record put before this Court and the courts below which has explored the issue in numerous jurisdictions and from a variety of scientific, ethical, and political perspectives.

Further, the Court's decision has limited the range of issues to be addressed by parliament, by making it clear that assisted dying is a constitutionally protected right (whereas other countries have had to grapple with the notion of whether a regime should be put in place). The Court has set clear parameters on who is eligible to exercise this right, that is, "a competent adult person who (1) clearly consents to the termination of life; and (2) has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition."

While a number of provinces have stated their support for a delay, all provinces and territories have been aware that the implementation of assisted dying may fall to them effective February 6, 2016. Many provinces have crafted guidelines and consulted residents on implementation issues in order to be ready for physician assisted dying implementation.

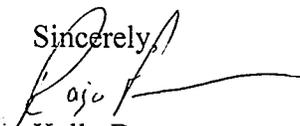
DWDC is concerned that further extensions will be requested as the political process chosen by the government unfolds. A delay will not be appropriate then and it is not appropriate now.

For these reasons noted above, DWDC firmly opposes the AG Canada's motion.

In the alternative, if an extension is granted, DWDC submits that the extension should be no more than two months in duration. Further, if any extension is granted, the Court must leave open the possibility for individuals who are experiencing intolerable suffering to seek a constitutional exemption from the courts in the intervening period.

If the Court does grant an extension of the period of suspension of invalidity, DWDC supports Quebec's request for an exemption, in light of the regulatory regime that has been developed in that province.

Sincerely,

  
for Kelly Doctor  
KD/jmb/cope 343

c.c. Wanda Morris, Dying With Dignity (*Via Email*)  
All Ottawa Agents (*Via Email*)