

Historical Commission, SBC  
Nashville, Tennessee

# Associated Baptist Press

Editor: Greg Warner  
Associate Editor: Bob Allen  
Phone: (904) 262-6626  
Fax: (904) 262-7745

January 9, 1997

(97-3)

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## **Supreme Court hears arguments in two assisted-suicide cases**

WASHINGTON (ABP) -- The U.S. Supreme Court heard oral arguments Jan. 8 in what is expected to be a landmark ruling on whether terminally ill patients who are mentally competent have a right to end their life.

After hearing arguments in two separate appeals, the court could rule that patients have a right to doctor-assisted suicide, that no such right exists or that the decision should be left to the states.

Justices were to vote privately on the question Jan. 10, but a written ruling is not expected for several months.

Many compare the issue with the Supreme Court's 1973 ruling recognizing a woman's right to abortion.

Court observers said during two hours of questioning, however, the justices appeared less likely to establish a constitutional right to die.

Most states have laws banning doctor-assisted suicide. Courts in Washington state and New York, however, have ruled that laws in those states are unconstitutional.

Oregon voters adopted a ballot initiative allowing doctor-assisted suicide in 1994 but it was blocked pending outcome of the two cases heard by the Supreme Court Jan. 8.

Those who advocate a right to physician-assisted suicide say people who are terminally ill should not have to suffer through a painful death. They should have an option, they say, of speeding their death with drugs or other methods prescribed by a doctor.

Harvard law professor Lawrence Tribe, representing doctors who challenged the New York law banning physician-assisted suicide, said the terminally ill have a right to "decide this amount of agony is enough" and to "have a voice" in their own suffering.

Opponents say states have an overriding interest in protecting life and say a suffering person might be manipulated by doctors or greedy relatives to make an irreversible decision.

William Williams, Washington state's senior assistant attorney general, said the state also has a key interest in "maintaining a clear line between physicians as healers and curers and physicians as instruments of death of their patients."

The Clinton administration sided with the states' lawyers seeking to uphold the ban on assisted suicide.

Several Supreme Court justices have had personal experiences with terminal illnesses of loved ones. Ovarian cancer killed Chief Justice William Rehnquist's wife, Natalie, in 1991. Justice Anthony Kennedy's sister, Nancy, died in 1980 of liver cancer.

Justice Sandra Day O'Connor, who personally confronted death in a bout with breast cancer in 1988, said, "This is an issue that every one of us faces."

In their questions to the lawyers, the justices focused more on legal than philosophical concerns. They asked why only the terminally ill should have such a right and how legislatures and other courts would work out the breadth of the right. They predicted legislative turmoil similar to the abortion issue.

"You're going to have those factions fighting it out in every session of the [state] legislature," Rehnquist said. Justice O'Connor added, "It would result in a flow of cases through the court system for heaven knows how long."

Other justices hinted the issue should be settled in state legislatures and not the courts.

"This case raises that very basic question of who decides," said Justice Ruth Bader Ginsburg, whose mother died of cervical cancer at age 47. "Is this ever a proper question for courts as opposed to legislatures to decide?"

"Surely legislators have much more flexibility and a much greater capacity to absorb those kinds of arguments and make those decisions than we do," said Justice Kennedy. "You're asking us in effect to declare unconstitutional the law of 50 states."

"Why shouldn't we conclude that as an institution, we are not in a position to make the judgment you want us to make?" asked Justice David Souter. Souter said determining the consequences of opening the door to doctor-assisted suicide "would just be guesswork."

The court's strongest opponent to doctor-assisted suicide addressed the question more directly.

"Why can't a society simply determine as a matter of public morality that it is wrong to kill yourself just as it is wrong to kill someone else?" asked Justice Antonin Scalia, who has said in the past there is no right to die in the constitution.

In a 1990 decision, "Cruzan vs. Missouri Department of Health," the Supreme Court ruled that people have a right to avoid unwanted medical treatment, including treatment that is keeping them alive.

In striking down New York's law banning doctor-assisted suicide, the 2nd Circuit U.S. Court of Appeals said it violated the 14th Amendment's guarantee of equal protection under the law because it allowed different treatment for terminally ill patients who are on life support and those who are not.

The 9th U.S. Circuit Court of Appeals struck down Washington's law, citing "liberty interests" of terminally ill persons.

Kathryn Tucker, the lawyer for doctors who challenged the Washington law, was asked by Scalia why she limited her constitutional claim to people with terminal illnesses and did not include those with painful illnesses that are incurable but not life-threatening. Tucker replied the dying patient "does not have a choice between living and dying."

"The dying process has begun," she said.

"I have to tell you, the dying process of all of us has begun," Scalia said.

Outside the court, disabled persons opposing assisted suicide pleaded with the court not to declare such a right.

Former surgeon general C. Everett Koop told about 250 protestors, "It's a tragic commentary when we're talking about the right to assisted suicide when we don't even have a right to health care."

## **Pending Supreme Court case touches off right-to-die debate**

By Bob Allen

WASHINGTON (ABP) -- The question of whether there is a constitutional right to die, which the U.S. Supreme Court must now decide, has touched a debate almost as passionate as America's 25-year-old battle over abortion.

As the High Court accepted cases dealing with physician-assisted suicide laws in two states, conservative religious groups lined up to proclaim that only God may decide when a person dies.

Cathy Cleaver of Gary Bauer's Family Research Council said she was pleased with what she heard in oral arguments Jan. 8. "The justices seemed reluctant to seize the power of life and death," she said.

"The high court is clearly weighing the tough questions surrounding granting physicians the power to kill," Cleaver continued. "It is of paramount importance that all Americans can trust that the medical profession is devoted to saving life -- not destroying it."

A friend-of-the-court brief filed by the National Right to Life Committee argued that allowing doctor-assisted suicide "diminishes the constitutional status" of the terminally ill by declaring "that certain persons are not worthy of the full protection of the law and may be treated unequally."

"The 'right' to die will quickly become the duty to die" for the chronically ill and people with physical and mental disabilities, warned Wanda Franz, president of National Right to Life.

The Southern Baptist Christian Life Commission signed on to another friend-of-the-court brief filed by the United States Catholic Conference that argues there "can be no constitutional guarantee to choose to be dead."

"Indeed life is more fundamental than any other right, for it is the 'right to have rights,'" the brief continued.

In June, the Southern Baptist Convention passed a resolution denouncing physician-assisted suicide and urging prosecution of doctors who perform them.

A Christian Life Commission spokesman told Baptist Press in June that decisions of courts in Washington state and New York to "somehow find a right to kill yourself and have someone help you do it should be patently offensive to anyone who believes in our constitutional form of government."

"Not to mention the fact that it's clearly wrong according to the standards of God's word," added Will Dodson, the CLC's director of government relations.

In April, the commission's consultant on biomedical and life issues warned that allowing doctor-assisted suicide for the terminally ill could open the door for euthanasia -- also called mercy killing -- by a person other than the patient.

After the appeals court struck down the New York law banning assisted suicide, Ben Mitchell, a former CLC employee now on the faculty at Southern Baptist Theological Seminary in Louisville, Ky., warned: "Now the state may become an accomplice in medicalized self-murder. Ultimately, active non-voluntary euthanasia is certain to follow."

Since earlier decisions upheld the right of surrogate decision-makers to act on behalf of the patient, "there is no legal reason why even patients in a coma or patients who are mentally incompetent may not have a 'right' to lethal medications," Mitchell said.

Other religious leaders, meanwhile, hope the Supreme Court can clear up muddy legal issues surrounding death and dying.

Paul Simmons, a former professor at Southern Baptist Theological Seminary who now teaches at the University of Louisville, said doctors and the terminally ill need "some guidance and insight" that he hopes the court will provide.

Simmons said it can be more ethical to allow patients to die than to "leave them in limbo between life and death" through overreliance on medical technology.

Suffering prolonged by medicine is "a horrible state that I think totally contradicts the will of God," Simmons said. "God's will is, at the proper time, we die."

"Actively and knowingly assisting a patient's death can be far more loving, humane and merciful than refusing to assist them," Simmons said. "I think it's much easier to justify morally the active assistance."

Simmons, however, advocates guidelines for assisted suicide. The patient should be in the dying process and should be competent, he said. Physicians "must be known to act out of mercy," he added, and "there needs to be an openness in the process" so a doctor does not act in isolation from other physicians.

Asked how he would respond to those who would use the "sanctity" of human life as an argument against doctor-assisted suicide, Simmons responded, "I think the whole notion of sanctity of life is badly abused," particularly when the definition of life is reduced to "vital signs."

"That is idolatrous," Simmons said. "Human life is a value, but it is not a second god."

Asked if doctors should be allowed to "play God" in making decisions about ending a life, Simmons said: "All of medical science is playing God. There's no way out of that. The only question is whether we use medical technology for humane or moral ends or technology becomes an end in itself."

"The court is going to have to say whether there is something like a right to die, which I think the state of Washington means assisting a person to die is not a criminal act," Simmons said.

Simmons said while comparisons exist to the court's landmark 1973 Roe vs. Wade ruling that abortion is a constitutional right, there are important differences in deciding whether there is a right to die.

"Here you are talking about a patient that is competent -- who knows he is dying -- that requests assistance to die in a less ugly way," he said.

"Only the most radical opponent to any action on the part of moral agents, whether patient or physician, would oppose the court's giving some latitude," he said.

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## **Supreme Court rejects prison's bid to reinstate AA-based program**

WASHINGTON (ABP) -- The U.S. Supreme Court has refused to disturb a ruling that a New York prisoner could not be forced to participate in a religious-based substance-abuse program in order to earn visitation privileges.

Without comment Jan. 6, the Supreme Court refused to review a ruling by a lower court that a New York prison's visitation policy violates the First Amendment's requirement of church-state separation.

David Griffin, an inmate at Shawangunk Correctional Facility in Ulster County and an atheist, challenged the visitation policy, claiming the prison's treatment program for alcohol and substance abuse was based on the religious principles embodied in Alcoholics Anonymous programs.

Two lower courts sided with prison officials. But New York's Supreme Court ruled last summer that requiring prisoners to participate in a religion-based program to earn expanded visitation rights violates the Constitution's ban on governmental establishment of religion.

New York's high court ruled that the dominant theme of Alcoholics Anonymous' 12-Step program is religious. Five of the 12 steps refer to God. The AA program also includes confessing wrongs to God and "a decision to turn our will and our lives over to the care of God as we understand him," justices noted.

By denying expanded visitation privileges to inmates who refused to participate in its religion-based program, prison officials unconstitutionally advanced religion, the court concluded.

The court also noted that prison officials failed to offer a secular drug and alcohol program as a substitute for prisoners who objected to the religion-based program.

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-- By Larry Chesser

## **Abortion rate drops to lowest in 20 years**

ATLANTA (ABP) -- The nation's abortion rate in 1994 dropped to its lowest level in nearly 20 years, the Centers for Disease Control and Prevention reported Jan. 3.

About 1.2 million abortions were performed in 1994, down nearly 5 percent from 1993 and the fourth straight annual decline.

The nation's abortion rate -- the ratio of abortions to the number of women of child-bearing age -- also dropped for the third straight year. The ratio -- 21 abortions for every 1,000 women ages 15 to 44 -- is the lowest level since 1976.

The Atlanta-based CDC speculated that possible causes for the decline could be reduced access to abortion clinics, changes in attitude about abortion and the possibility that the number of unintended pregnancies had decreased.

Abortion-rights proponents agreed that one reason abortions have declined may be that they are becoming less available. Because of intimidation by anti-abortion protestors, many abortion clinics have closed down or women have been more reluctant to seek services.

But Laura Echevarria, a spokeswoman for the National Right to Life Committee, said the abortion rate is probably dropping because of education by pro-life groups.

"We point them in the direction of a church or pregnancy crisis center, and tell them that there are other alternatives besides abortion," she told Associated Press. "You have to make sure women can know where they can turn."

Another possible factor suggested in the CDC study is that large numbers of women are aging beyond normal child-bearing years. While the number of women of reproductive age has increased by 12 percent since 1980, the age distribution has shifted toward the later, less-fertile years, the study reported.

In 1980, 58 percent of women in their child-bearing years were under 30. In 1994, that percentage dropped to 46 percent, according to the Census Bureau. Women 35-44 accounted for 25 percent of reproductive-aged women in 1980 and 35 percent in 1994.

About 88 percent of abortions were performed during the first 12 weeks of pregnancy, the CDC reported, and about 1.3 percent were performed after week 20. Eighty percent of women receiving abortions were unmarried. Eighty percent were 20 or older. With regards to race, 60 percent were white and 35 percent black. In terms of ethnic heritage, 15 percent were Hispanic and 85 percent non-Hispanic.

In another study, researchers in Denmark reported there appears to be no link between abortion and an increased risk of breast cancer.

Earlier studies had conflicting results, but some suggested that women who have abortions increase their risk of breast cancer by as much as 50 percent.

The Danish study, which examined medical records of 1.5 million, suggested earlier reports claiming a link were skewed by "reporting bias." Women who have had abortions have been shown to be reluctant to talk about it, but researchers believe women with breast cancer are more likely than others to be forthcoming about embarrassing behavior that might have contributed to their medical problems.

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-- By ABP staff

## **Martin Luther King III carries on his father's legacy**

By Tricia Patterson

ATLANTA (ABP) -- At 39, Martin Luther King III is the same age his father was when he was assassinated. Among the slain civil-rights leader's four children, he is the one to inherit his father's name. A popular motivational speaker who dreams of being Georgia's first black U.S. Senator, many people also are looking to Martin III to succeed his father as standard bearer for America's civil-rights movement.

January 20 marks the celebration of Martin Luther King Jr.'s birthday, first observed as a national legal holiday in 1986. About two weeks later, many Southern Baptists will ponder the legacy of King and others again when Race Relations Sunday is observed in the Southern Baptist Convention Feb. 9.

Martin Luther King III was 10 when his father was shot down April 4, 1968, in Memphis, Tenn. Because of that experience, the younger King has a palpable sense of urgency to carry on the many tasks inherent in his father's legacy.

"We should live every day as if it were our last day," he said in a recent interview.

In speeches and training sessions across the country, the younger King is spreading his own message of equality and non-violence.

"My father's objective was to create a world that was free of hatred, free of violence, free of racial strife," King said. "He wanted to create an environment where freedom, justice and equality would become real for all humankind."

King has already lived out one of his father's dreams by serving in public office. He served on the board of commissioners in Fulton County, Ga., 1987-1993. That accomplishment, he said, is what would have made his father most proud. "It was a direct result of him and others opening doors so that blacks and others who had not been a part of the system could be included."

King said he may eventually re-enter politics, specifically to run for the Senate, but not immediately. "The timing is just not right today. In 10 years or less, maybe. I'm saying, don't rule me out."

He also doesn't rule out following in his father's footsteps by becoming a preacher. He is a member of Ebenezer Baptist Church in Atlanta, where his father and grandfather were pastors. His sister, Bernice, is pastor of another Baptist church.

King admits he is disappointed with the lack of progress made in integrating churches. "My father said that the worship hour on Sunday morning was the most segregated hour in America. That has changed a little. We have made some strides. But there is still segregation in the worship hour," he said.

King's greatest challenge, however, may be in yet another arena. He has been asked to lead a national organization to preserve affirmative action.

California recently passed Proposition 209, which bans preferential treatment based on race or gender. Six other states will have similar initiatives on the ballot within the next two years and 24 other states are considering the issue, he said.

"The day we have a level playing field, there will no longer be a need for affirmative action," he said.

While deciding about his future, King has plenty to do for now. He leads Leadership 2000, an organization he started to train people for elected office but recently retooled to teach leadership and diversity skills in government and corporate sectors. He travels internationally giving speeches and is working on two books.

One book details memorable experiences as an adult, including his many trips to Africa. On one trip, he observed the first election in South Africa in which blacks were allowed to vote. The experience, he said, deepened his appreciation for his father's fight to guarantee the right of African-Americans to vote.

King recalled a poignant meeting with an elderly South African man who had just cast his first vote. "The man said, 'I stayed up all night, first because I was so excited about being able to vote. Secondly, I was afraid that if I went to sleep I might die and miss the opportunity to cast my first vote.'"

A children's book is also in the works. King plans to chronicle important lessons he learned from his father. "There are a number of experiences with my father that I think young people can gain insight from," he said.

One incident he recalled from his childhood was when he and his brother were given toy guns by a family friend. Though his father must have objected, he didn't say anything, he recalled.

After playing with the guns for a day, the next afternoon the boys burned them in a small backyard incinerator, he said, because they realized that playing with guns went against everything their father had taught them.

To this day, King said he has never carried a gun. "I believe if you claim you believe in God, if you have to carry guns you are canceling out God's ability to work."

However, he doesn't condemn others for carrying weapons. Because of occasional threats, armed security guards are usually present when he speaks.

King remembers his father as warm and fun-loving. "I remember sometimes Daddy seemed dead tired, but he'd see us and get a renewed sense of energy." His father loved to laugh and joke, he said, even about the serious events he and the other civil-rights leaders were facing. "When you live under severe pressure, you have to find an outlet for release. At any moment any of them could have been killed."

Other memories are less pleasant. King said he was the first African-American to enter the Spring Street school in Atlanta. He remembers some of his classmates taunting him, saying, "Your father is a jailbird." Once, when some schoolyard bullies approached him and asked his name, he said he was so afraid he responded, "I don't know my name."

King said his most vivid childhood memory is also his most painful one. It is the day his father was assassinated. "We were all watching television and heard the news flashed over the television screen that he had been shot -- not that he had died." His mother was preparing to fly to Memphis when she got word that her husband had not survived the attack.

He recalled his mother gathering the children together. "She explained to us that Daddy had gone home to live with God and that when one serves God well, he rewards them and brings them home to live with him. We would not be able to be with him physically anymore. We would get the opportunity to see him, but he would not be able to embrace us. He would look as if he were asleep, but in a permanent sleep. And one day, we would reunite with him again."

Vice-president Hubert Humphrey represented President Lyndon Johnson at the funeral. King said he believes Johnson -- who was instrumental in passing the Civil Rights Act and the Voting Rights Act -- would have attended personally but felt betrayed when King criticized the war in Vietnam. "My father's position was 'I'm not going to attack the president, but I'm going to attack the policy because I think this [war] is morally wrong,'" King said.

King said his mother and grandfather had a tremendous influence on how he dealt with his father's death. "I thank God for the example my mother and grandfather set. They helped me develop a foundation so that I would not end up adopting hatred. It would have been very easy to hate. Instead, the spirit I try to emanate is that of love."

"Daddy was to have led a march on April 8," King said. "He was killed on April 4 and the funeral was on April 9. Mother led that demonstration in Memphis and took the three older [children], which set a tone and an example."

"My grandfather had a manifestation of love and truly adopted the love ethic. He said, 'I'm not going to let anyone reduce me to hatred. I love everyone. I'm every man's brother. I don't have time to embrace hatred.' For a 10-year-old to see that, that can change your life."

Incredibly, King said he never hated the man who killed his father. He was angry that he didn't have a father, but that anger never developed into a hatred of James Earl Ray.

When King was 16, after his paternal grandmother was shot dead while playing the organ at Ebenezer Baptist Church, where his grandfather was pastor, he recalled another poignant scene.

"Once again, Granddaddy stood up and said, 'I'm not going to let anyone reduce me to hatred,'" he said.

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CLARIFICATION: In the Jan. 7 ABP story "Disaster relief to retain high profile in restructuring," please replace the fourth-from-final paragraph with the following:

The Brotherhood Commission coordinates nationally the work of 168 disaster-relief "units" -- which include mobile kitchens, disaster recovery and child care -- owned by Baptist state conventions, associations and local churches. The commission is being phased out next summer in a merger with two other SBC agencies. Williams said, however, that the role of disaster relief will not be diminished in the new North American Mission Board.

CORRECTION: In the Jan. 2 ABP story "Marion Hayes dead at 100," please correct the spelling to "Hays" throughout. ABP regrets the error.

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