

The Right to Die  
People v. Kevorkian, Hobbins v. Attorney General (1994)  
447 Mich. 436

*People v. Kevorkian* is a grouping of three cases involving Dr. Jack Kevorkian. In the Wayne and Oakland Circuit Courts, Kevorkian was charged under a new (1992) assisted suicide statute for assisting in the suicides of three people. He was also charged with open murder in the Oakland Circuit Court for assisting the suicides of two other people before the statute was enacted. The Wayne Court found the assisted suicide statute to be unconstitutional as a burden on due process, while the Oakland Court found it unconstitutional under the Title-Object clause of the Michigan Constitution, because it had more than one object and because its purpose was changed during passage. The Oakland Court also found that assisting a suicide was not murder.

In *Hobbins v. Attorney General*, Teresa Hobbins and others sought a declaration in the Wayne Circuit Court to the effect that the assisted suicide statute was unconstitutional. That court found that the statute was unconstitutional, for the due process and Title-Object reasons above. Each of the cases was appealed to the Michigan Court of Appeals, where judges ruled that the assisted suicide statute was unconstitutional because it had more than one object. The court rejected the due process argument, however, finding that the U.S. Constitution does not protect the right to suicide. They further found that murder charges could be applied against Kevorkian, overruling the Oakland County murder case decision.

All of the cases were then appealed to the Michigan Supreme Court, and the result was a split Court, 3-2-2, with no majority opinion. In the plurality opinion, Chief Justice Cavanagh was joined by Justices Brickley and Griffin in finding that the assisted suicide statute was not unconstitutional for any reason, that it had only one object, and that the changes made to it during its passage did not change its overall purpose. They ruled against the Court of Appeals judgment in the murder case, finding that assisted suicide does not constitute murder under the common law (a ruling that overturned the decision made in *People v. Roberts*, 211 Mich. 187 in 1920), but they did find a common-law offense for assisted in a suicide, meaning that someone could be charged with the crime absent the existence of an assisted suicide statute.

Justice Boyle, joined by Justice Riley, disagreed as to the ruling on the murder charges. They believed that the Michigan Supreme Court was stepping beyond its authority by changing the definition of murder to not include assisted suicide, and then by creating a new “common-law” crime of assisted suicide on other grounds. Justice Levin and Justice Mallett also dissented, but to different aspects of the judgment. They found that the assisted suicide statute, “insofar as it bars a competent, terminally ill person facing imminent, agonizing death from obtaining medical assistance to commit suicide,” does violate the Due Process Clause of the 14<sup>th</sup> amendment to the U.S. Constitution.

*People v. Kevorkian* may have had no majority opinion, but there were a number of majority holdings on which five of the justices agreed. A majority of the court found that the assisted suicide statute did not violate either the Michigan or the U.S. Constitution, and that those assisting in a suicide cannot be charged with murder. They also found that there is a common law offense for assisting in a suicide, but two of the five Justices that agree on this point believe that it may not be applied against competent, terminally ill individuals suffering agonizing and unending pain.