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High court to review Oregon law on suicide

Stephen Henderson
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WASHINGTON - The Supreme Court agreed Tuesday to decide whether the federal government can block a state's right-to-die law, setting the stage for a debate that tangles issues of individual liberty, federal authority and personal privacy.

The justices said they will review a 9th U.S. Circuit Court of Appeals decision that barred the Bush administration from using federal prescription drug laws to override Oregon voters' wishes to allow doctors to help terminally ill patients die more quickly. Oregon is the only state with such a law.

The high court will hear the case in the fall, when the 2005-06 term begins, and issue a ruling by next spring.

"I am disappointed," Oregon Gov. Ted Kulongoski said. "The people of Oregon have approved Oregon's Death with Dignity Act not once, but twice, and the lower courts have upheld Oregon's law not once, but twice."

Groups that oppose assisted suicide said the court's decision gives the justices a chance to re-assert federal supremacy on this issue.

"A state may have power to exempt physicians from liability under state law, but it cannot exempt physicians from federal law," said Denise Burke, senior litigation counsel at Americans United for Life. "Lower court rulings, to the contrary, appear to go out of their way to override traditional federal drug controls. Killing, either by consent or not, is never therapeutic."

The case dates to 2001, when then-Attorney General John Ashcroft reversed a Clinton Justice Department policy that refused to challenge the Oregon law.

Saying there was "no legitimate medical purpose" for prescribing drugs that could end a patient's life, Ashcroft announced that the Bush administration would seek to punish doctors who engaged in assisted suicide.

Oregon officials argued that regulation of medical practice is a state power.

Two lower courts sided with the state. Ashcroft filed an appeal from the 9th Circuit's decision in November.

In a 1997 ruling, the court declared that there was no constitutional right to die. But the justices also left the door open in that ruling for states to decide on the issue.

The Oregon case presents the court with the challenge of defining and separating

several thorny issues.

One is a question of federal authority. Court conservatives have made a hallmark of their work to roll back the federal government's ability to interfere in matters the Constitution leaves to states. Liberal jurists typically have opposed those efforts.

But in this case, siding with the state would also mean accepting assisted suicide, which would not sit well with conservatives. And asserting federal dominance would mean impinging on personal liberty, which would not sit well with liberals.

Cases such as these tend to reveal the extent to which the justices adhere to their views of the Constitution, rather than their political inclinations.

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