



The Good Death Society Blog

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The Making of a Pro-Right-to-Die Judge

By [Burt Riskedah](#) | December 28, 2020 | [Final Exit Network](#), [Medical Aid in Dying](#), [Right-to-Die Laws](#), [The Right to Die](#)

(Editor's Note: The following post is from Burt Riskedah, whose experience as a social worker influenced his later work as a lawyer and judge. Burt currently resides in Minnesota, where he has been an active supporter of efforts to legalize medical aid in dying. — KTB)

I'm a relative newcomer to Final Exit Network (FEN). Being well into retirement and turning 80 recently makes me grateful for the opportunity to learn more about the right-to-die movement and become involved. I've done informal "due diligence" to explore FEN's work by meeting via Zoom with several volunteers and key decision makers as well as with legal counsel Robert Rivas. Their deep commitment and beliefs regarding the right of all people to be treated with dignity and respect at the end of their lives are impressive. I'm glad to join them in this cause.



My wife and I recently completed the supplemental advance directive for dementia (SADD) developed by Mr. Rivas and Janis Landis, former FEN president, in consultation with other leaders in this field. I intend also to register my SADD with FEN should counsel and legal assistance become necessary to enforce my right to die as I choose.

The personal and professional journey that brought me to this level of involvement has been long and winding. I grew up in a small rural community near Bismarck, North Dakota. Although my family was not highly religious, I was clearly influenced by Sunday School teachers and pastors I respected in the Christian church my family attended. Biblical and creedal teachings emphasized the sanctity of life. As a child, adolescent and young adult, I believed that life and death were sacred matters in God's hands only. By inference, I believed that humans should just faithfully accept that.

My beliefs and values broadened as I got away from home and spent four years at a small liberal arts college where more independent and critical thinking was encouraged. Motivated by the care and concern I associated with religious values, I felt I was destined to be in a helping profession. Strongly influenced by my college advisor, I completed a graduate degree in social work at the University of Denver. My career as a social worker started in adoption and foster care, followed by helping families and children in clinical mental health programs. Some of the adolescents I worked with were struggling to find their identities in a world impacted by the incarceration of a parent.

The evolution of my thinking came to include questions and frustrations regarding laws or the application of laws that often impact children and families in negative ways. This was certainly true with regard to child custody laws causing the removal of children from parents, particularly in cases involving indigenous and minority families. Sometimes laws have been passed with the laudable goal of child protection, but later become subject to legitimate criticism or even vacated because they promoted white supremacy.

My social work became more focused on legal issues, culminating in the decision to attend night law school starting in 1969. My legal career began in family law, followed by 26 years as a trial court judge. As a lawyer and a judge, my priority continued to be the impact of laws on children and families and cases focused on individual rights.

In 1987, I was confronted with a case that significantly influenced my views on the right of people to die with dignity on their own terms. A woman in her early sixties suffered a cardiac arrest and was taken to the hospital. Despite efforts by emergency personnel, she suffered substantial oxygen deprivation and received a diagnosis of "persistent vegetative state." Without her family's knowledge or consent, the hospital staff inserted a feeding tube in preparation for sending her to a nursing home.

When it became obvious that there was no hope for improvement or recovery, the family decided to have the feeding tube removed and allow her to have a natural death. Her husband and several children agreed that continuing to keep her alive by artificial means would be in violation of her wishes. However, the nursing home refused, claiming it would be illegal. Unfortunately, this was before advance directives and medical powers of attorney were common.

A legal proceeding was brought in the probate court to have the husband appointed as her guardian. He then asked the court to allow him to stop the artificial feeding. The court considered the medical evidence that the return of brain activity could not occur in the future and ruled in favor of the family. Counsel for the church-related nursing home argued in opposition of removing the feeding tube.

Following the hearing, the nursing home did withdraw the feeding tube. However, several days later the family discovered that nursing home personnel, in disregard of their instructions, were placing pureed food in her mouth, creating an involuntary response that would cause some food to be swallowed. When the husband asked that this procedure be discontinued, the nursing home's management refused on grounds that it would violate their ethical standards. Rather than return for further legal proceedings he sought court authorization to remove her from the nursing home and arrange her transfer to a residential hospice program in another part of the state. The artificial feeding was discontinued and she died within a few days.

This case obviously had traumatic impact on the family. It also heightened my sense of justice regarding freedom of choice and the right to humane treatment at the end of life. It motivated me to become more knowledgeable and involved in these issues. In the course of my judicial career, I've come to recognize that, to protect their autonomy and dignity, people need laws and the education and support of organizations like FEN. I hope for the opportunity, perhaps in another blog post, to discuss some of the concrete legal issues involved in end-of-life cases and how they are affected by laws, regulations and interpretations of laws. The constitutional rights of individuals for self-determination do not end when they are most vulnerable and dependant on others.