

Carter vs. Canada

Federal /Provincial Update

You may have heard something about '**The Carter Decision**' or '**The Carter Case**'. These terms refer to a recent decision by the Supreme Court of Canada (SCC).

The SCC case was **Carter vs Canada** and began in BC as a court challenge, filed by the family of a woman by the name of Kathleen Carter.

Kathleen Carter, 89, had a condition called **spinal stenosis**.

Her daughter Lee took her Mother Kathleen to Switzerland in 2010 for the **specific purpose of purchasing an assisted death for her**.

At a clinic there in Switzerland **Kathleen Carter was given barbiturates and died**.

Upon the family's return to Canada, **they felt it was a violation of their mother's Charter rights** that she could not be killed here in Canada and that she had to go to Switzerland to have it done there.

Her family members launched a lawsuit challenging **section 241b of the criminal code** where it says,

"Everyone who (a) counsels a person to commit suicide, or (b) aids or abets a person to commit suicide, whether suicide ensues or not, is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years."

BTW - There is also another section in the criminal code that states **it is against the law to agree to be murdered**.

The family of Kathleen Carter won the case in the Trial Court of BC - then the decision was overturned at the Court of Appeal - and - then went to the SCC where **the case was decided on Feb 6, 2015**.

The SCC decision found that...

It was unconstitutional to restrict access to state endorsed, medically supervised death.

During the SCC case, it was claimed by supporters of Kathleen Carter and her right to be killed, that section 241 of the criminal code (that's the part that says, *"Everyone who aids or abets a person to commit suicide, is guilty of an indictable offence."*) **was established only to apply and protect a small number of people who were vulnerable** and at risk of being killed.

Therefore...this law, restricting **all persons** from helping someone kill themselves, - was determined by the court to be **'over broad'** and limited the rights of the vast majority of **non-vulnerable citizens** to be killed by the state.

The SCC therefore gave the federal government **ONE YEAR** to amend legislation to leave the legal door open for **physician** assisted death here in Canada.

Now the issue at the center of this court decision was **a section of the Federal criminal code**. The family of Kathleen Carter wanted to see the Federal Criminal Code amended **to allow the state to kill people who wanted to die**.

In Quebec, during the same time the Carter case was going on, that province was also looking at allowing doctors to help people kill themselves as well.

In **2010** – The provincial government in Quebec began consultations by **establishing a special committee on 'dying with dignity'**.

60 percent of the briefs and submissions to the committee on this matter were clearly **against** allowing physician assisted death.

At the end of the consultative process, it was determined by the elected officials that it was necessary to provide a suicide death option, administered (or managed) **by the provincial government**.

Quebec politicians and bureaucrats began work on finding out **how it could be done legally**.

Keep in mind that during this time **and even now after the Carter decision**, it is still **illegal** to kill someone or help someone kill themselves.

However draft legislation was still drawn up.

Meanwhile, a mountain of opposition rose up in the **medical community** and among **palliative care professionals** and a wide range of **citizens' rights groups**.

The legislation, **known as Bill 52**, was still drawn up and passed in the Quebec legislature.

You might be asking yourself **how and why Quebec politicians went ahead and passed legislation regarding physician assisted death while the Supreme Court was in the process of considering the Carter case?**

It was because in Quebec, the provincial government wanted to make it clear that, in their view, physician assisted death fell under the jurisdiction of the province and **not** the federal government.

Quebec's view was that, **what they were now calling 'medical aid in dying'**, was a service that would be administered through their health care system, was a service that would be provided by provincially paid doctors, and was a **'healthcare service'** - which is the responsibility of the province.

Even though, at this moment in time, it is a criminal act in Canada to assist someone in killing themselves - Quebec still passed this legislation allowing them to provide this **'healthcare' service** and did so believing it to be within their constitutional authority as a Provincial Government to do so.

This law in Quebec is scheduled to come into effect on **December 10th, 2015**.

It is my understanding that The Government of BC (**and perhaps others**) also want to get out in front of all of the rest of the provinces in Canada and pass similar legislation to Quebec's.

They want to provide 'healthcare services' that include (not my words) **'medical aid in dying'**.