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ACLU Applauds Federal Court Decision Upholding Oregon's Death with Dignity Law

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PORTLAND, OR--The American Civil Liberties Union of Oregon today applauded a federal court decision upholding Oregon's landmark Death with Dignity law.

In upholding the law, the court sharply rebuked Attorney General Ashcroft for challenging the choice of Oregonians to seek a physician's aid in dying when diagnosed with a terminal illness.

"Today's ruling is an important milestone in the effort to safeguard the right of individuals to control end-of-life care," said David Fidanque, Executive Director of the ACLU of Oregon, which filed a friend-of-the-court brief in the case.

In a strongly worded opinion, U.S. District Court Judge Robert E. Jones rejected U.S. Attorney General John Ashcroft's claims that the Department of Justice had the legal authority to determine what constitutes the legitimate practice of medicine when it comes to the utilization of schedule II substances which are regulated under the federal Controlled Substances Act (CSA).

"The CSA was never intended, and the U. S. Department of Justice and Drug Enforcement Administration were never authorized, to establish a national medical practice or act as a national medical board," Judge Jones said in his written opinion. "To allow an attorney general -- an appointed executive whose tenure depends entirely on whatever administration occupies the White House -- to determine the legitimacy of a particular practice without a specific congressional grant of such authority would be unprecedented and extraordinary."

The Oregon Death with Dignity Act is the first and only law in the nation that establishes a legal procedure for people diagnosed with a terminal illness to receive aid-in-dying from a physician. The law was enacted in 1994 through a voter approved ballot measure.

Upon passage, the Death with Dignity Act was immediately challenged in court as unconstitutional. At that time, the ACLU of Oregon represented the interests of a physician and a patient in defense of the Act. Ultimately, the Ninth Circuit Court of Appeals ruled that the Act was constitutional. In 1998, the Oregon Legislature referred the Act to voters and for a second time Oregonians voted overwhelmingly in support of the Act.

"Oregon's experience has shown that having the option of physician aid-in-dying often gives patients tremendous comfort even as they are fighting for their lives," Fidanque said. "While less than a hundred patients have actually exercised their rights under the law, thousands have benefited from knowing that the option was available if they needed it."

The case is *State of Oregon et al v. Ashcroft et al*. The Oregon ACLU's friend-of-the court brief was authored by volunteer attorney Charles Hinkle of the Portland law firm Stoel Rives LLP.