

News

Dutch GP found guilty of murder faces no penalty

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A Dutch GP, found guilty of murdering a dying 84 year old patient, has not been penalised for his action. The Amsterdam court that tried him said that Dr Wilfred van Oijen had made an "error of judgment" but had acted "honourably and according to his conscience," showing compassion, in what he considered the interests of his patient.

Van Oijen, who featured in the 1994 euthanasia television documentary, *Death on Request* (BMJ 1994;309:1107), argued that he chose "to let his patient die in the most ethical manner."

The Royal Dutch Medical Association (KNMG) has defended his action as having "complete integrity," claiming a "huge emotional gulf" between it and the offence of murder.

The case turned on whether the injection of 50 mg of the anaesthetic drug alloferine into the patient, soon after which she died, could be considered part of palliative treatment. Expert witnesses said that it could not. Observers suggest that had the GP chosen a different drug this could have been considered normal medical practice.

The condition of Van Oijen's patient, for whom he had been a GP for 17 years, was described in court as "wretched." She was in "the very last stage of dying." She lay in a coma in a bed soaked in urine, her room stinking from bed ulcers and necrosis in her heel.

Both her daughters had urged Van Oijen to end their mother's suffering. She had had heart problems and osteoporosis for a long time, and during the last year was increasingly bedridden. Van Oijen had encouraged her to try to remain mobile while he relieved her pain with increasing doses of morphine.

The court accepted there were "special circumstances," describing the treatment as "death shortening" but that the "criteria of care" required to avoid prosecution in euthanasia cases had not been followed. She had made no request for euthanasia and had said that she did not want to die.

Moreover, there had been no second medical opinion. Van Oijen also incorrectly reported that her death was from natural causes, for which he was also found guilty and given a suspended fine of 5000 guilders (£1430; \$2140). The public prosecution service had called for Van Oijen to be given a nine month suspended prison sentence.

Johan Legemaate, professor of health law at Rotterdam's Erasmus University, commenting on the case, said that the court recognised that the doctor had crossed a border between what is an entirely acceptable medical practice of relieving pain and what is legally defined as murder.

"It wrestled with that and finally decided that from a legal point of view this is murder, although entirely different from the normal criminal intention to kill."