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Features

Bitter pill - Answers are elusive in the ongoing debate over euthanasia - A battle between morality and law

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It is one of the most heartbreaking things to experience. Witnessing the declining health of a loved one -- be they a parent, a partner or

a friend. Nursing and supporting them through the ravages of a terminal illness, wanting to be able to ease their pain and suffering.

For someone experiencing a prolonged illness, death can be a release. But should the terminally ill have the right to choose to end their life if the pain is too great? Do their family have the right to assist them?

Euthanasia has always been a controversial topic. The public debate around the issue was revived this week by a Supreme Court trial involving a retired Qantas pilot in the grip of Alzheimer's disease, a trip to Mexico to find a deadly drug and a disputed \$2.4million will.

On trial was a pair of unlikely criminals who -- prosecutors argued -- brought "the law of the jungle" to Sydney's genteel North Shore.

Shirley Justins, 59, is a bush regenerator for the National Trust, given to wearing tartan skirts and sensible knitwear.

Caren Jennings, 75, is a silver-haired ex-schoolteacher dying of cancer.

Together they allegedly hatched a secret plan to help a man they loved to die -- and found themselves convicted over his manslaughter.

It was up to a jury to decide if Graeme Wylie took his own life or was killed. The trial ended this week with Justins, his partner of 19 years, being found guilty of manslaughter, while Wylie's close friend Jennings was convicted of being an accessory to the crime.

[Continued next page](#)

[From previous page](#)

Each now faces up to 25 years behind bars. The case opened a window into one man's heartbreaking decline and its impact on his family and friends.

But it also raised broader ethical questions about euthanasia and whether someone whose mind is ravaged by dementia is capable of choosing death.

Wylie, 71, died in his Cammeray home three years after being diagnosed with Alzheimer's disease. Justins told police she returned from a shopping trip on March 22, 2006, to find him dead on the couch.

She claimed she had no idea what had happened to him. But more than two years later -- part-way through her murder trial -- she admitted to assisting his suicide.

On their last night together, they drank beer while Justins reminisced about the good times they had shared. The next morning, she put an open bottle of Nembutal in front of Wylie, saying: "This will relieve your pain. If you drink this, you will die." Wylie called her "a brick", then poured himself a glass of the drug and drank it, she said.

Banned for human use in Australia, Nembutal is a barbiturate used by vets to put down sick animals.

It's also the drug of choice for members of euthanasia advocacy group Exit International. Jennings -- a past NSW representative of Exit, who has terminal cancer -- volunteered to smuggle the drug from Mexico after Wylie twice supposedly tried to take his own life.

Justins told the jury that Wylie was devastated to be "afflicted by a terrible disease that couldn't be cured" and knew things would only go downhill.

In late 2005 she applied on his behalf for a legal assisted suicide with Swiss organisation Dignitas.

But when Dignitas knocked Wylie back because of concerns about his mental capacities, the court heard the women took matters into their own hands. Jennings travelled to Mexico, scouting the back streets of Tijuana for the Nembutal that would kill him. Wylie was "desperate to escape", Jennings told the jury.

"He had walked this track for a long time now and he simply continued walking," she said.

Justins insisted she was only helping her partner fulfil his wish to die with dignity.

"Graeme wanted to be in control of his destiny," she said. "His Alzheimer's was just closing in on him. He knew what he was doing."

Prosecutors, however, pointed to a less altruistic motive. A week before his death, Justins was with Wylie when he changed his will to leave her all but \$200,000 of his \$2.4million estate. There was a second possible motive -- one never put before the jury -- with investigations suggesting Justins was involved in a love affair with a woman in Germany.

The pair allegedly exchanged explicit emails, while a photograph of them holding hands was found on Justins' desk.

Wylie's mental capacity was at the heart of the complicated case, with the Crown arguing he suffered from such severe dementia that he was unable to make an informed, independent choice to die.

Doctors and his daughters, Tania Shakespeare and Nicola Dumbrell, testified about his deteriorating language, memory and concentration skills. Wylie once answered the door in his underwear, brandishing a toilet roll, and served guests pancakes with sprouts and mayonnaise.

He could not hold proper conversations, did not recognise his family and was unable to identify everyday objects such as a watch or a pencil. By the end, Dumbrell said, he was unable to function.

Crown Prosecutor Mark Tedeschi QC argued that Justins and Jennings "put to death a very sick, feeble, confused and dependent old man".

"If we all just did what we thought was moral and totally disregarded the law, then that's the law of the jungle and it becomes survival of the strongest," he said. "This case exemplifies the pitfalls of allowing close relatives or friends, who may have a conflict of interest, to decide whether a sick person should or should not be put to death."

The jury was repeatedly reminded that they were operating in a court of law; morality did not come into it. But there are many who believe that, in a compassionate society, what the women did should not be a crime at all.

A private members bill to legalise euthanasia will be debated in the Victorian parliament next week, while Greens Senator Bob Brown is seeking a conscience vote on a voluntary euthanasia bill he introduced to the Senate.

A Newspan poll last year found that 80per cent of Australians supported the terminally ill's right to voluntary euthanasia.

Among those calling for change is Exit International founder Philip Nitschke, whose controversial support for euthanasia has earned him the grim sobriquet Dr Death.

He assessed Wylie for his failed Dignitas application, and broke down in tears after the verdict.

Nitschke said the trial showed that once someone's mental capacity was questioned, they were effectively beyond help. It would push people into "ending their lives before they wish" to avoid exposing others to prosecution by helping them, he said.

Despite the risk of jail, Nitschke said people would not be deterred from helping their loved ones -- and

knew of one woman who helped her husband die with Nembutal while Justins and Jennings were on trial.

"You'll see a steady stream of these cases. People so often simply say, 'It's the right thing to do'. But the right thing and the lawful thing don't necessarily coincide," he says.

The NSW Right to Life organisation welcomed the jury's decision.

"Euthanasia is illegal in Australia and for very good reasons," CEO Chiang Lim says. "Existing laws are there to protect the vulnerable and the weak. Human value cannot be forsaken regardless of how old or how weak these individuals are ... euthanasia cannot be the Australian solution to difficult human problems."

Associate Professor Jeanette Kennett, from the Centre for Applied Philosophy and Public Ethics, says with advances in medical care extending lives, the euthanasia issue is "a uniquely modern problem".

"As we all know, it's going on without regulation at the moment," she says. "Some people suggest

this is the best way. Where it's between doctors and families and there don't appear to be any nefarious circumstances and it's justified [in terms of the patient's medical condition and consent] then the law looks the other way."

Others in the community think that "to institutionalise euthanasia would be a dangerous thing to do, because it may lead to people being pressured to agree to euthanasia when they don't want to be, to benefit their families," she says.

Shakespeare disagrees with what Justins and Jennings did, disputing their claims that her father wanted to die. She says they kept their plan secret because "they knew what they were doing was wrong".

She is opposed to euthanasia, asking: "If it begins, where does it end? I don't think it's anyone's right to take anyone's life."

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