

July 2/2005

To the Supreme Court of Canada

If there is “a more effective pain medication” as this court so frequently claims in it’s January 18/2001 decision against me, this Court should now be able to identify it.

If there is no “more effective pain medication” as this court wrote on lines 73, 325, and 661, on pages 146, 152, and 160 this Court should now have the integrity to admit it was misled.

Surely this Court can understand how continuing to endorse a decision based on fraudulently fabricated arguments is wrong.

To ignore this error in judgement is to perpetuate fraud.

The lack of adequate pain medication for Tracy was not a “side issue” for us. Nor was it a “side issue” in this Court’s January 18/2001 decision as Justice Binnie claims in his sparsely reported comments to a group of University of Toronto law students. I have featured a copy of a report on his talk on page 206 of my material.

Justice minister Irwin Cotler writes on page 210 that he “cannot speak for the Supreme Court by explaining the reasons for a decision it has rendered.”

Prime Minister Paul Martin has shown no interest in answering my April 24th letter on page 219 to this date.

So I am sending another book of my material in hopes that some of you might read it, as well as some copies of pages I am referring to:

“no Air of reality to any of the 3 requirements for necessity” Page 147 line 123.

“more effective pain medication” line 73 page 146.

“better pain management was available” line 128 page 148.

“more effective pain medication” line 325, page 152.

“better pain management was available” line 652, page 160.

“more effective pain medication” line 661, page 160.

“a medically manageable physical or mental condition” line 135, page 148.

“a medically manageable physical or mental condition” line 697, page 161.

As recently as April 16/2002 the Saskatchewan Justice Department Prosecutors continue to promote their fraudulently fabricated medical claims before this Court, as shown on page 84 part 5:

“The respondent disagreed that Tracy’s pain could not be managed. The Respondent recognized that there were risks in administering more powerful pain medication, but the Respondent argued that those risks could be mitigated by the use of a feeding tube. Problems with swallowing and aspiration could be controlled and Tracy’s overall health would be improved because she could assimilate better nutrition.”

Dr Dzus was concerned that stronger drugs would slow or impede Tracy’s ability to breath as she attempted to explain on page 136, line 683:

“If you depress, by using strong drugs, some of these very primitive reflexes then you put her at risk for aspirating, getting the contents of stomach food into her lungs and ending up aspirating pneumonia, ending up very sick, depressing the respiratory function that, already -- “

This like some other medical descriptions of Dr. Dzus’s testimony are not exceptionally clear. But regardless of how the stronger pain medication is administered to Tracy it is Tracy’s involuntary or “very primitive reflexes” such as breathing “respiratory function” that Dr. Dzus is concerned about being impeded or “depressed” when Tracy’s seizure control medication is combined with “stronger drugs”.

So when the prosecutors continue with the last 2 words on page 87 and the next 2 lines on page 88:

“Moreover a feeding tube decreased the risks associated with administering more powerful pain killers such as difficulties with swallowing and aspirating stomach contents into her lungs.”

The prosecutors are defeating their own argument of stomach food getting into her lungs regardless of how it is delivered to the stomach, and they are avoiding the main concern of “depressing the respiratory function that, already” (page 136 line 688) is slowed by her seizure control medication.

Dr. Stewart like so many other Canadians as well as many people in other countries has tried to help us out. He has offered this Court an explanation of the concerns associated with administering strong pain medications to someone who is already on seizure control medication on pages 19, 20, and 21.

This Court’s May 19/2005 decision granting Jody James Gunning a new trial leaves me wondering if the same reasons why he got a new trial may apply to my situation?

- Page 3 “the judge is entitled to give an opinion on a question of fact but not a direction.”

- Page 4 “the trial judge encroached on the exclusive domain of the jury.”
- Page 4 “any defences that arose on the evidence, and to leave for the jury the application of the law to the facts.”
- Page 4 “The trial judge effectively determined the merits of the defence, a matter that was for the jury to resolve.”
- Page 7 “It is a basic principle of law that, on a trial by judge and jury, it is for the judge to direct the jury on the law and to assist the jury in their consideration of the facts, but it is for the jury, and the jury alone, to decide whether, on the facts, the offence has been proven. It is of fundamental importance to keep these functions separate.”
- Page 7 “the trial judge effectively determined the merits of the defence. In doing so, he again exceeded his proper function.”
- Page 16 “It is perhaps trite but nonetheless fundamental law that on a jury trial, it is for the judge to decide all questions of law and to direct the jury accordingly; but the jury, who must take its direction on the law from the judge, is the sole arbiter on the facts.”
- Page 16 “It is the conscience of the jury and not the power of the judge that provides the constitutional safeguard against perverse acquittal.”
- Page 17 “The imposition of any additional hurdle would run counter to both the presumption of innocence and the burden of proof on the Crown.”

The Courts have been far too aggressive in promoting the fraudulent fabrications of the Saskatchewan Justice Department prosecutors as they distort descriptions of Tracy’s medical condition, and the true circumstances we found ourselves in, in late 1993.

This Court should order a new trial of me, and not in Saskatchewan for that province has already proven itself unable to deal honestly with this end of life decision. It is clear to most Canadians that the Courts have been corrupted by what has been done to us.