

# Right-to-die trio take fight to the Supreme Court

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BRITAIN'S MOST senior judges are preparing to make a landmark ruling over attempts to introduce a "right to die" under human rights legislation.

A full panel of nine Supreme Court Justices, headed by Lord Neuberger, the court's President, is to be convened next week to hear the culmination of three separate legal challenges to the current ban on assisted suicide.

The three cases, which were all rejected by lower courts, have been put into one "super case" to allow a sweeping judgment on the current state of the law in England and Wales.

Jane Nicklinson, the widow of Tony Nicklinson, a "locked-in syndrome" sufferer who died last year, is joining two severely disabled men in an attempt to use human rights laws to sweep away the 50-year-old ban on assisted suicide.

Their lawyers plan to draw on legal arguments developed by Lord Falconer of Thoroton, the former Labour lord chancellor who chaired an unofficial commission on assisted suicide last year.

Legal papers set out how they plan to argue that the Suicide Act 1961, which makes it a criminal offence to assist someone in taking their own life, imposes "extraordinary and cruel" limits on individual freedom.

They will argue that the ban has already been partially unravelled by official guidelines issued by the Director of Public Prosecutions four years ago, amounting to a "de facto decriminalisation" of assisted suicide for those who take loved ones to Switzerland to end their lives.

Their lawyers will argue that the current arrangements discriminate against people who are unable to travel abroad or take other steps to end their lives because of the severity of their condition.

Crucially, they will argue that a series of past cases establishes a qualified "right" for people to choose how they die, but one which those with severe disabilities are unable to use. This, they say, amounts to a breach of their human rights and renders the ban on assisted suicide "unjustified state interference".

Mr Nicklinson, a 58-year-old father-of-two who enjoyed skydiving and rugby until being left almost completely paralysed after a stroke, fought a long and public campaign for a doctor to be allowed to help him end his life. He died in

August last year after refusing food following the rejection of his case at the High Court. But Mrs Nicklinson was granted a special dispensation to continue the case because of the significance of the legal issues it contains.

She has been joined by Paul Lamb, 57, a former lorry driver who was left quadriplegic by a car accident 23 years ago. They want the court to create a new defence of "necessity" that could be used against murder charges by doctors who provide fatal doses of drugs on request.

Meanwhile, a man known only as "Martin" is fighting to open up the DPP's guidelines further, to allow strangers to step in when family members are unwilling or unable to help with arrangements.

He wants to go to the Dignitas suicide clinic in Switzerland, but his wife has made it clear that she feels morally unable to help him die.

"I am hopeful," Mrs Nicklinson said. "We would not be doing this if we didn't think we had some prospect of success. I

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## *'The law imposes cruel limits on individual freedom'*

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know it is a huge thing we are asking for, but the fact that we are sitting in front of nine judges shows that they are taking it seriously. It is what Tony always wanted and wasn't able to make use of, but it would be his legacy."

Legal papers submitted on behalf of Mrs Nicklinson and Mr Lamb say: "This appeal marks what the appellants hope is the final stage of their long, high-profile effort to obtain a remedy in respect of the extraordinary and cruel consequences for them of the current law prohibiting assisted suicide in England and Wales under [the] Suicide Act 1961."

Papers from Martin's legal team put his case to end his life in stark terms.

"He can move his eyes, and communicates, painfully slowly, by spelling out words on the screen of a special computer that can detect where on the screen his eyes are pointing," they say.

"Martin finds his circumstances undignified, distressing and intolerable. He is not going to recover. He wants to end his life. That decision is settled, consistent, and reached with capacity."