

# Rodriguez v. attorney general of british columbia

[Law](#), [Justice](#)



Sue Rodriguez was a 42 year old woman, married with a young son and living in British Columbia. \* Rodriguez was diagnosed with amyotrophic lateral sclerosis otherwise known as ALS and was given between two and fourteen months left to live. \* Sue Rodriguez knew that because of this disease she would soon lose the use of her muscles, which would prevent her from breathing or eating without medical involvement. Sue wants to end her life when she is no longer able to enjoy it, however when she reaches this point she will no longer be capable of ending her own life without assistance. \* Rodriguez seeks a legal method which would allow a medical practitioner to set up a device which allows her to end her own life, when she chooses. \* Sue Rodriguez appealed to the Supreme Court of British Columbia for an order that s. 241 (b) of the Criminal Code be declared invalid pursuant to s. 24 (1) of the Charter, on grounds that it violates her rights under subsections 7, 12, and 15 (1) of the Charter. Issues:

The dispute between Sue Rodriguez and the Supreme Court of British Columbia Does sections 241(b) of the Criminal Code infringe or deny the rights and freedoms guaranteed by subsection 7, 12, and 15(1) of the Charter? And if it does, can this be justified under section 1 of the Charter and therefore be consistent with the constitution act, 1892? The laws involved include Criminal Code section 241. Everyone who (a) counsels a person to commit suicide, or (b) aids or abets a person to commit suicide, whether suicide ensues or not, is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

As well as violating the Charter of Rights and Freedoms subsections 7. Everyone has the right to life, liberty, and the security of the person and the

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right not to be deprived thereof except in accordance with the principles of fundamental justice. Subsection 12. Everyone had the right not to be subjected to any cruel and unusual treatment or punishment. Sue Rodriguez is arguing that the Criminal Code section 241 (b) violates her guaranteed rights and freedoms under subsections 7, 12, and, 15(1) of the Charter of Rights and Freedom because it prevents her from controlling the method and timing of her death. Sue Rodriguez must also prove that her plea is justifiable under section one of the Charter of Rights and Freedoms. The questions that need to be answered include, whether or not the appellant is in the right state of mind, does the law against aiding or abetting suicide infringe on the rights and freedoms of humans that are assured by the Charter of Rights and Freedoms? Should assisted suicide be legalized, if the victim requests to die? What solution provides the best form of justice?

Murder, Disability, Malpractice, and Cruel and unusual punishment are all legal concepts that are involved in this case. A larger issue in society that would be influenced by this case is whether future cases like these might feel pressure to take part in doctor-assisted suicide in order to 'make room' for healthier people. Decision: In regards to Rodriguez versus Attorney General of British Columbia the court decided against Sue Rodriguez. This decision was made based on the fact that while section 241(b) affects the security interest of the appellant, this denial does not apply to the principles of justice.

The court responded to Rodriguez' claim that for the terminally ill the choice of time and manner is valid because death itself is inevitable, by stating that it is more a matter of choosing death over natural causes. The dissenting

opinion was from Madam Justice McLachlin. McLachlin concluded that denying Sue Rodriguez a choice that is available to those who are physically able because of fear that others may suffer pressure to follow her example would conflict with the fundamental principles involved.

Madam Justice McLachlin believed that Sue Rodriguez was being used as a “fall guy” for those who might be wrongly counseled to commit suicide and so she sided with Rodriguez. I would have sided with Sue Rodriguez. According to section 12 of the Charter of Rights and Freedoms ‘ Everyone has the right not to be subjected to any cruel and unusual treatment or punishment. ‘I believe that any average person would agree that being forced to sit by and watch themselves die little by little is cruel treatment. I believe that while it’s not the courts fault, it is their duty to help those who can’t help themselves because of laws.

If it were my decision I would have sided with Sue Rodriguez because of the reasons described above. Opinions: While thinking about this case I cannot stop contemplating how unfair the entire thing is. Sue Rodriguez was diagnosed with a disease she cannot control, and the one thing she can control (time and manner of her death) is unlawful, therefore she can’t legally control that either. I believe this is a very serious issue, but taking away a person’s right to die how they so choose because of possible social influence on future peoples with similar circumstances is extremely unfair.

This case is very significant, even today. This can be noted because of a ruling made by a lower court in the BC Supreme Court on June 15, 2012 that stated a criminal offence prohibiting physician-assisted suicide was unconstitutional on the grounds that denying disabled people the right to <https://assignbuster.com/rodriguez-v-attorney-general-of-british-columbia/>

assisted suicide was contrary to the Charter of Rights and Freedoms guarantee of equality under Section 15. Although this ruling will most likely be appealed, it still shows the validity of the case at hand because the same issue is still being argued 19 years later.

Opinions on this issue could vary depending on circumstance. People who have been in similar situations or are in similar situations would have a very different perspective than people who don't have any connection to the courts whatsoever. Also religious peoples might have a different perspective because of bias caused by their religious beliefs.

## **Works Cited**

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