

AP Essay: Remote Learning

At its core, *The Immortal Life of Henrietta Lacks* is essentially about the debate of freedom vs. safety. It is undeniable that Henrietta's cells were taken from her, but it is equally true that those same cells positively impacted public health and safety in the years after her death. Currently, billions of people are staying home in isolation in order to stop the spread of COVID-19. The situation has caused substantial debate on how world governments should act in such times, especially in regard to Constitutional Rights vs. the well-being of the public. The following two articles describe different events from within this spectrum of debate. Read them and use them for the following question.

In your essay, describe first whether Cassandra C's situation is ultimately similar or dissimilar to the situation currently faced by citizens in the United States. Then, take a position on what should have happened in Cassandra's case. Was her treatment fair or unfair? Write your essay on a different Google Doc, physical paper that you can take a screenshot of, or in an email to Mr. Cordle. Do not forget to include a thesis statement and reliable textual evidence.

Article 1: <https://www.cnn.com/2015/01/07/justice/connecticut-teen-chemo/index.html>

Teen's forced chemo may continue, Connecticut court rules

By Debra Goldschmidt, CNN

The Connecticut Supreme Court ruled Thursday that the state may continue to force a teenager to undergo chemotherapy treatments that could save her life.

The court said that attorneys for the girl -- who is 17 and therefore still a minor -- failed to prove that she is mature enough to make her own medical decisions.

The teen, identified in court documents as "Cassandra C," was diagnosed with Hodgkin's lymphoma in September. Medical experts have testified that Cassandra has an 85% chance of survival if treated with chemotherapy. Without it, doctors say, she likely will die within two years. Cassandra's attorney Josh Michtom visited her in the hospital after the hearing today.

"She's disappointed and she's frustrated that she's in this one room...and she can't leave," Michtom said after the visit.

In November, the teen had said under oath that she would get treatment, but she ran away and failed to appear at chemotherapy appointments. This, the court ruled, was an indication of Cassandra's lack of maturity.

She has been undergoing chemotherapy against her wishes for three weeks. After she missed follow-up appointments, the hospital contacted the Connecticut Department of Children and Families (DCF) out of concern that this was a situation of medical neglect.

After an investigation, DCF requested temporary custody of Cassandra. She was removed from her mother's home and placed with a relative.

At that November hearing, she was described as "very bright" and having a clear understanding of her medical situation.

Cassandra was allowed to return to her mother's home, under the supervision of DCF and on the condition that she agree to complete the recommended treatment. She underwent two days of chemo beginning November 17 but then ran away for a week, according to court documents, and after returning home said she wanted to discontinue the treatment.

Citing client confidentiality, assistant public defender Josh Michtom, who represents Cassandra, would not elaborate on why his client is refusing treatment. Her mother, Jackie Fortin, said that it is because she does not want to put the "poison" in her body.

On Thursday, Fortin conceded that she is not in favor of chemotherapy herself, but she insists she has not influenced her daughter's choice.

On December 9, after hearing testimony from Cassandra's oncologist, a judge decided to return her to custody of DCF.

The following day she was admitted to Connecticut Children's Medical Center in Hartford. A week later, doctors surgically implanted a port in Cassandra's chest to administer chemotherapy medications. The next day, December 18, doctors started her daily chemo treatments, which are still ongoing in spite of legal maneuvers to end them.

After the court's ruling Thursday, Fortin told reporters "she should be home with me, her family, her friends, going through a horrible thing with all this and she's not, she's been taken away." Fortin who was in court alongside her attorney Michael Taylor, also said "this is (my daughter's) decision, not mine and she's not making a decision to die."

Fortin added, "I'm still behind her."

The hospital confirmed in a written statement Wednesday that they are working with DCF and awaited guidance from the state Supreme Court. They would not comment further, citing patient privacy.

DCF has a legal and moral responsibility in this case, the agency told CNN in a statement

Tuesday.

"Under this circumstance -- when there is medical consensus that action must be taken or the child will die -- the Department has a clear and urgent responsibility to save the life of this child," DCF said.

The statement also said physicians "tell us with certainty that this child will die if we stand by and allow the parent to do nothing to save this child." The agency denied CNN's request to speak with Cassandra or her physicians.

In court Thursday, an attorney for the state said that Cassandra is now in midtreatment, and that to interrupt the treatment would be "devastating." The treatment is to continue for six months, the attorney said.

Taylor and Michtom argued that Cassandra has the right to refuse treatment, even as a minor. They wanted the state to determine Cassandra is a "mature minor" and able to make such a decision.

Michtom concedes that maturity doesn't happen overnight. But in Connecticut, and many other states, 17 is old enough for a person to get contraception, undergo an abortion, seek psychiatric care or donate blood, all without parental consent.

Hodgkin's lymphoma is one of the most curable forms of cancer, according to the Leukemia & Lymphoma Society. Chemotherapy is the common first-line treatment, the group says, and doctors usually combine four or more drugs that are delivered through a surgically placed catheter.

It is most common among young adults ages 15 to 40 and older adults over age 55, according to the American Cancer Society. Slightly more than 9,000 new cases are diagnosed per year in the United States.

Symptoms can include, but are not limited to, lumps under the skin, fatigue and enlarged lymph nodes.

Article 2:

<https://www.usatoday.com/story/news/politics/2020/04/19/protesters-say-governors-violating-their-constitutional-rights-stay-home-orders/5162938002/>

Protesters accuse governors of overreach, constitutional experts say states are acting legally

Matt Mencarini, Billy Kobin
Louisville Courier Journal

Protests in cities and state capitals exploded around the country last week, with sign-toting and horn-blowing activists urging governors to ease stay-at-home restrictions put in place to combat the coronavirus.

Governors are getting pushback from those who say their constitutional rights are being denied, to the point that threats have been made against the life of Kentucky's governor.

A Facebook post on Saturday in the "Boone County Neighborhood Group" contained what Kentucky lawmakers described as threats against Gov. Andy Beshear. The post started by saying Beshear's actions denied Kentuckians of constitutional rights.

"By these ... unconstitutional acts on the part of Andy Beshear the Constitution protects us and gives us the authority to eliminate him by any means necessary via the Second Amendment," the user wrote.

But the person who made the comments told The Courier Journal in a message Sunday that his post was "NOT threatening anyone."

During his COVID-19 briefing on Sunday, Beshear provided a brief response when asked about the threats, calling Kentucky State Police "an incredible organization filled with great people."

"They provide security for me on a daily basis," Beshear said. "I trust them them. They know what they're doing, and I couldn't be in better hands."

Protesters gathered outside the Capitol over Gov. Andy Beshear's handling of COVID-19. Executive orders by governors to close non-essential businesses, prohibit in-person religious services, force people to stay home or limit travel between states have been called unfair or unconstitutional by those protesting.

Governors insist they are simply trying to save lives, but experts say ensuring safety must be balanced against the liberties spelled out in the Bill of Rights.

State officials are still largely acting legally, constitutional law experts say.

"Pandemic is not a magic word that instantly negates all individual constitutional rights," said Jonathan Turley, a law professor at George Washington University.

"A pandemic gives states a compelling state purpose in the imposition of restrictions. But when the state denies or restricts constitutional rights, it must satisfy a balancing test."

The orders can be challenged on the basis that they're overly broad, he said, or that they don't properly weigh the individual restrictions against public health threats.

President Donald Trump dismissed reports that some protesters have threatened governors during a news conference Sunday. Trump said the people who are protesting are "great people" who have "cabin fever."

"They want their life back," Trump said. "Their life was taken away from them."

Trump said he had "never seen so many American flags" at the protests. When asked about reports of Nazi flags appearing, Trump said he hadn't seen those.

"I totally would say, no way," Trump said. "I'm sure the news plays that up. I've seen American flags, all over the place."

Turley pointed to Michigan, a state he thinks has an order broad enough that it could be challenged.

On Wednesday, protesters gathered outside the Michigan capital in Lansing and intentionally used vehicles to block traffic on the surrounding streets.

"The important thing to realize is that particularly in the initial phase of a pandemic, the courts will be highly deferential to the states," Turley said. "But that will wane over time."

One restriction that has drawn both protest and push back has been the prohibition of in-person religious gatherings.

Both Turley and Samuel Marcossan, a University of Louisville professor, say that on the surface these restrictions are constitutional, but the details and other orders are the real test.

"If religion is treated the same as and subject to the same rules and restrictions as secular businesses or entities or individuals, that doesn't violate the First Amendment," Marcossan said.

States can even impose restrictions on protests, Marcossan said, as long as the restrictions fall in line with the approach needed for religious ones, particularly that they aren't aimed solely at protests against the orders.

"The government has to show that it has a really overriding interest, a compelling interest, that justifies action," he said. "And that it show a means of achieving that interest, that is truly necessary to do so."

"I don't think there should be any question that dealing with a pandemic that is killing tens of thousands so far in this country alone is a compelling interest — trying to prevent its spread, prevent more people from dying."

On Sunday, Kentucky lawmakers, state officials and others condemned the Facebook threat against Beshear.

Kentucky Attorney General Daniel Cameron tweeted on Sunday that, "Dissent and disagreement are necessary for any healthy government. Threats of violence are not and are unacceptable."

Secretary of State Michael Adams tweeted, "This comment is reprehensible. Our Second Amendment protects fundamental rights; murder is not among them. In a civilized society, we settle our differences with ballots, not bullets."

Statewide stay-at-home orders cover more than 310 million Americans, a vast majority of the country's population. But eight states, all led by Republican governors, have held out.

Governors in Iowa, Nebraska, North Dakota, South Dakota, Utah, Wyoming, Oklahoma and Arkansas have given various reasons for not issuing statewide orders during the pandemic.

Some of the leaders say the specific circumstances of their state do not merit such a mandate, others have advocated for individual responsibility and a few have said they are following the advice of their own state health officials.

Legal experts have said Trump doesn't have the authority to impose a national lockdown as the heads of countries such as Italy, Spain, France and Britain have done.

While appearing to egg on some states to loosen up restrictions at times — even tweeting things like "LIBERATE MINNESOTA" and "LIBERATE MICHIGAN" — Trump has otherwise signaled support for leaving decisions up to the states, as of now.

"We have a thing called the Constitution, which I cherish," the president said earlier this month when talking about the possibility of a nationwide lockdown.

On the issue of state vs. federal power in terms of loosening virus-related rules/restrictions, James Hodge, a law professor at Arizona State University and director of the university's Center for Public Health Law and Policy, said most of that power rests firmly with states.

The country's system of government was set up that way, to give states the predominant central power to protect their populations from public health threats. The federal government, though, does have something states don't: deep pockets.

The federal government could get into a situation where it tells states to open up or resources and money will be withheld, Hodge said, adding that he believes this is something to watch for as this continues.

Another area where the federal government could get involved and potentially overturn what some states have done is the area of interstate travel, Marcossou said, if the U.S. Congress deems the restrictions being an unnecessary interference with interstate commerce.

Some governors ordered bans on non-essential travel across state lines or implemented mandatory 14-day quarantines for anyone coming to their state from certain areas. Congress could pass a law establishing one, uniform national rule regarding interstate travel during the pandemic.

"But Congress hasn't done that," Marcossou said. "And until and unless Congress does that, which seems unlikely, then the states have the authority to deal with this issue."

New issues could arise once bordering states begin to lift restrictions, which might lead to more quarantines or travel restrictions.

"You can lawfully implement quarantine and isolation measures," Hodge said.

Turley, the George Washington University expert, said he's not aware of any orders that have been overturned by courts, but said several related to religious gatherings have been challenged. He added that over time, courts will give less deference to states as the restrictions continue, but that in and of itself doesn't mean courts will start overturning them.

Marcossou said the continued restrictions, lifted restrictions and trends in infections and deaths will be important evidence as courts see challenges to restrictions in the weeks or months to come.

"My view would be it's not a matter of the amount of time that passes, but that when time passes, it may give us more information that could either support one side or the other in making the case that these restrictions are no longer justified under the government's police powers."

The various versions of statewide shelter-in-place orders have resulted in protests outside Capitol buildings in states like California, Michigan, Utah, Ohio and Kentucky. Numerous conservative groups have emerged at the forefront of the demonstrations in the states, which are led by both Republican and Democratic governors.

Amber Duke, a spokeswoman for the ACLU of Kentucky, said in a statement that Beshear's orders are in line with the government's role to protect the public.

"Nevertheless, while these orders may be constitutional today, these restrictions should not be in place indefinitely, and Governor Beshear and his advisors should regularly reevaluate the use of this emergency power," she said.

Outside of the Statehouse in Columbus, Ohio, for example, one protester questioned whether Gov. Mike DeWine was truly a Republican, asking, "Don't (they) believe in less government? Small government?"

In Wisconsin, meanwhile, nearly a thousand people packed along a road Saturday in the Republican stronghold of Brookfield to protest a decision by Democratic Gov. Tony Evers to extend the state's "safer-at-home" order until May 26.