

On January, 18 1992, Eluana Englaro was involved in an automobile accident in Italy that eventually left her in a persistent vegetative state requiring medically supplied nutrition and hydration and prompting comparisons to a nearly concurrent American case involving another young woman, Theresa Marie Schiavo. (For resources on the *Schiavo* case, see the [Schiavo Case Resources](#) online.) In 1996, four years after the accident, the *Tribunale Lecco* (the Trial Court) declared Ms. Englaro incompetent and appointed her father Beppino Englaro (Mr. Englaro) as her guardian. For the next seventeen years, Mr. Englaro would litigate to enforce what he considered to be his daughter's wish to discontinue life-prolonging treatment. Indeed, the length and path of Eluana Englaro's litigation bear a striking resemblance to the length and path of litigation surrounding Terri Schiavo. This webpage contains links to important resources about the *Englaro* case, in both Italian and English. For more about the cases, see [this article](#) in the *Marquette Elder's Advisor*.

The Twists and Turns of The Case

In January of 1999, the Trial Court rejected Mr. Englaro's request to discontinue Ms. Englaro's medically supplied hydration and nutrition. Mr. Englaro appealed the Trial Court's decision to the *Corte d'Appello di Milano* (Court of Appeal). In December of that year, the Court of Appeal issued a decree indicating that it would not hear the appeal.

In February 2002, Mr. Englaro filed a new petition with the Trial Court, again requesting permission to discontinue medically supplied nutrition and hydration. Again, the Trial Court rejected Mr. Englaro's request, and again Mr. Englaro unsuccessfully sought appellate review of the Trial Court's decree. In response to this appellate rejection of his appeal, Mr. Englaro, with the help of a new lawyer who was also a professor of constitutional law, filed an extraordinary recourse to *Corte di cassazione* (*Cassazione*) to review whether the Court of Appeal had correctly interpreted and applied the law.

The *Cassazione* issued its decision in April of 2005 dismissing the case for lack of a judicially appointed guardian (guardian *ad litem*). In response, Mr. Englaro requested appointment of a guardian *ad litem* in September of 2005. The court-appointed guardian *ad litem* agreed with Mr. Englaro that Ms. Englaro's medically supplied nutrition and hydration should be discontinued, but, once again, the Trial Court rejected Mr. Englaro's request for discontinuance. Near the end of 2006, the Court of Appeal, although ruling for the first time in this litigation that a guardian could make such a decision, again dismissed Mr. Englaro's petition to withdraw life-sustaining treatment, holding that the evidence was insufficient to clearly indicate that Ms. Englaro would have wanted to terminate her medically supplied nutrition and hydration. Mr. Englaro again went to *Cassazione*.

On October 16, 2007, the *Cassazione* issued a decision that would transform end-of-life decisionmaking law in Italy. The court held that judges can authorize removal of medically supplied life-sustaining treatment for patients who have been declared incompetent when two conditions are met: (1) it is clear that the patient is in a permanent vegetative state (PVS), judged by scientific standards recognized at the international level, and (2) it can be determined by clear and convincing evidence that the patient would not wish to be kept alive

through artificial means, based on the patient's personality, lifestyle, and conviction, through the representative of the patient. (See the *Cassazione's* decision, appearing in both Italian and English below.)

The *Cassazione* remanded the case to the Court of Appeal to determine whether the evidence presented would clearly indicate that Ms. Englaro would wish to discontinue medically supplied hydration and nutrition. On remand, the Court of Appeal, after consideration of all the facts and evidence presented in the case, granted Mr. Englaro's request to discontinue Ms. Englaro's medically supplied hydration and nutrition. (See the Court of Appeal's decision, appearing in both Italian and English below.)

Similar to *Schiavo*, the *Englaro* decisions created a political furor in Italy, prompting the Italian Parliament to act. The Chamber of Deputies and the Senate of the Republic filed an appeal to the *Corte costituzionale della Repubblica Italiana* (Constitutional Court) alleging that the *Cassazione's* October 16, 2007, decision and the Court of Appeal's July 2008 decision violated the Italian Constitution. The Constitutional Court disagreed with the Parliament, thus clearing the way for withdrawal of Ms. Englaro's medically supplied nutrition and hydration. (See the Constitutional Court's decision, appearing in both Italian and English below.) Ms. Englaro passed away on February 9, 2009.

[Cassazione October 2007 \(English\)](#)

[Constitutional Court October 2008 \(English\)](#)

[Milan Court of Appeals July 2008 \(English\)](#)

[Cassazione October 2007 \(Italian\)](#)

[Constitutional Court October 2008 \(Italian\)](#)

[Milan Court of Appeals July 2008 \(Italian\)](#)