

Egan: Death and the excruciating act of letting go

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Idan Azrad *HANDOUT PHOTO*

Dying is easy. We do it every day. Letting go is the hard part.

A family is taking the extraordinary step of having their son flown to Israel because they won't accept a diagnosis of "brain death" and the prospect that he'll never improve or live without a breathing machine — that, in effect, he is no longer alive.

Idan Azrad, 27, was critically injured while cycling along Renaud Road in Orléans on Aug. 7, suffering severe trauma to his head. Within about 48 hours, according to the family, doctors at The Ottawa Hospital reported he had no brain activity.

The immediate family, with members in Ottawa and Israel, crossed continents to gather at his side, only to discover there was virtually nothing, medically, that could be done to help a young man in the prime of his life.

But they weren't ready to entertain discussion of "pulling the plug" on the respirator. And a funny thing happened in the intervening week. His skin colour improved, his cuts and bruises began to heal. He looks, said sister-in-law Brittany Lepp, like he's sleeping peacefully.

"He looks amazing for having just been in such a horrible accident."

Lepp said the family has quickly raised more than \$50,000 and arranged to have Idan transported to Israel, where he will be cared for in a 320-bed medical centre where his sister, Keren, is a physician.

"It's very risky but the family feels there is no other choice because Canada has not given them one," said Lepp.

She said doctors told the family they have the legal right to declare a patient dead and withdraw treatment, though there is no indication The Ottawa Hospital would do this unilaterally and without family consultation.



Idan Azrad's family, from left, younger brother Roe Azrad, sister Keren Hamisha, mother Tina and father Robert, older brother David Azrad and his fiancée, Brittany Lepp, with their three-month-old daughter, Jade. Julie Oliver/Postmedia *JULIE OLIVER / POSTMEDIA*

“Your family member is already in danger, you are devastated at what happened. Why should you have the extra stress of having to worry about losing any type of control over trying to help your loved one because of this law?”

“This law” is a reference to an Ontario Superior Court judgment in 2018 in a case similar to this one. Taquisha McKitty, also 27, was declared brain dead after being found unconscious on a Brampton sidewalk. Her family wanted her kept alive, partly because of their Christian faith’s view on the sanctity of life and partly because withdrawing care would violate her rights under the Charter of Rights and Freedoms.

(Idan is from an Orthodox Jewish family and the family says one of the faith’s tenets is that death only occurs when the heart stops beating, and his has not.)

In the McKitty case, Justice Lucille Shaw provided a ruling that was a comprehensive review of the issue in jurisdictions across Canada and internationally.

There is, surprisingly, no legislative definition of death in Ontario. Instead, death is determined by physicians “in accordance with accepted medical practice.”

It is a long, complicated history with a lot of case law, but “brain dead” — which is carefully defined by the Canadian Medical Association — is considered “legally dead” in Ontario, even though a person’s heart and organs may continue to function and limb twitching might occur.

In her summary of the jurisprudence, Shaw made two key observations, which seem to touch the heart of this case:

“There is no decision where the court has found that an individual’s views, wishes and beliefs must be considered as part of the determination of death;

“There is no decision where the court has found that a body that may be physiologically and biologically functioning, in the presence of brain death, is alive.”

She also speaks to the idea — without naming him — that Idan is “healing” himself.

“The issue is whether or not this biological and physiological function of the body, including circulation, digestion, excretion of waste products, temperature control, wound healing and fighting infections, constitutes life even when there is an absence of brain stem function, consciousness and ability to breathe.”

(On the side issue, the judge ruled McKitty’s charter rights to life and religious freedom were not violated because, being brain dead, she did not qualify as a person entitled to protection.)

The hospital declined to comment. Ottawa police, meanwhile, say they’re still investigating the crash.

So, Idan is off to Israel, where he was born, one of four children in a family that has a foot in both countries. One can hardly blame his mother Tina and father Robert, his siblings, for trying. Is it not what a protective family does to save a child? Pray, fight — design miracles — until every hope is extinguished against the advancing gloom?

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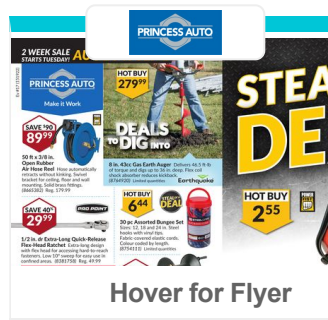
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