



Episode 1,157: Baby Alfie: A Guide for Libertarians

Guest: Dr. Michel Accad

WOODS: This very disturbing issue has been more or less out of the news now for a week or so at least, maybe two, so there's a part of me that thinks maybe I just missed this issue. But there's too much that's important here to let my lateness get in the way. I think we have to talk about it. And you're a member of my Supporting Listeners Facebook group, and in there, I think it was you who actually linked to a video of you being interviewed on this subject or discussing it with a colleague, and I listened to that, and I thought: all right, yeah, this is an absolute definite. We've got to get to this. And the thing is, the whole issue with Alfie was happening at a time when I just had a lot going on in those couple of days. I had just a bunch of things that kept me from really keeping up with current events, and then we got the news that he had died, and I thought, good grief, I should have been paying attention and I just didn't do it. So anyway, I'm trying to make up for it by raising the issues that are of significance here, particularly for libertarians, not all of whom were really on the ball on this issue.

ACCAD: I agree with you, Tom. This issue will come back. Even if we're a little bit late perhaps in the news cycle on the Alfie case, per se, but similar cases will come back. I have no doubt about it. And I think it's very important for liberty-minded people to understand exactly what's at stake here. There may be a tendency to think about it as a personal matter between a family and a very sick child, and the family may feel entitled to receive care and then they're not getting it and so forth and that's the end of the story, but there's a lot more at stake here than that. Would you like me to summarize in maybe a minute or two what the case is about?

WOODS: Yes, please do, absolutely.

ACCAD: All right, so Alfie Evans was born I think in May 2016. And the birth was unremarkable, he went home with his family, his parents. He was their first child. Within a couple of months, I think it was clear that there was something wrong with him. He had issues with his gaze or some other things that pointed to a neurological problem. So the family took him to the doctor. They couldn't figure out exactly what was going on. But things deteriorated, and in December of 2016, he was admitted to the hospital with a fever and he had an infection, he had a pneumonia. And he was very, very sick, obviously very sick, so he was admitted to the intensive care unit. And he had a pneumonia, which eventually he recovered from. He was able to fight it off and recover from the pneumonia.

But in the midst of that, he had a lot of seizures, a lot of neurological problems, and they did a scan of his head, an MRI of his head, of his brain, and it was clear he had a very severe

brain disorder. The exact diagnosis was unclear. The doctors postulated that it might be some kind of rare genetic condition, but they couldn't pinpoint the diagnosis precisely. Being as it may, it was clear that the child was very sick with a dreadful disease and the kind of disease that typically kids don't recover from. I mean, there wasn't any sign that this was something treatable or that the brain would heal itself. The extent of injury was severe enough that it seemed, as far as the brain function was concerned, that it was fairly hopeless.

So the doctors did what is commonly done and started to nudge the family about withdrawing care by saying, you know, this doesn't look good, we don't have any treatment, it's futile, and we think we should withdraw the care and let the child die. And the parents refused. They didn't like that option, and they sought other opinions. And so it took a few months for an opinion from within the — so this is taking place in London, by the way — actually, not in London. I think in Liverpool. In Britain, anyways.

So they got a second opinion from an authority in England who confirmed that the diagnosis was severe and confirmed the opinion of the hospital staff that the best thing to do would be to withdraw care. And here it's very important to understand that the reason they wanted to withdraw the care, the rationale was that it was in the best interests of the child to have the care withdrawn and that the child should die. And confronted with that kind of argument, the parents really balked and then started very actively looking out for other opinions, because they thought there's something really fishy with an argument that says it's in the best interest of the child that he should be dead.

WOODS: Well, but wait a minute. Did they really say that in so many words?

ACCAD: Yes, yes, it is. It's amazing that they would, but they did. They absolutely did that. And they pointed to a document from the Royal College of Pediatricians that was published a couple of years ago, maybe in 2015, which lists the ethical considerations surrounding withdrawal of care. And the entire document uses the doctrine of "best interests of the child." And this is very important to understand why they do that, because there are alternative arguments to withdraw care.

One that is perfectly acceptable is to say that the treatment causes suffering. The treatment is too burdensome, and therefore it doesn't make sense to continue it; it's just too much. And that's a doctrine that's well-established. It's been developed by the Catholic Church maybe for centuries, really. It's a doctrine of we're not obligated to use extraordinary life-sustaining means to keep people alive. If the treatment is too burdensome, then it's okay to remove it. But they couldn't use that argument here because there was no evidence that the child was suffering. Everybody was clear that the child was in a coma, right, so —

WOODS: Right, but wasn't there a blog post from a guy named Michael Cannon, a libertarian, who argued that: look, sometimes we can say the state has a role, and this would be one of those cases where the state can step in to prevent further treatment when further treatment would only be akin to torture? But as you're saying, if we can't even assess that the child can feel anything, how can you say that it's torture?

ACCAD: Yes, that's right, but that's wrong because if you actually read the judgment issued by the court, the UK court, because eventually the case I think in late 2017 or early 2018 went to court in the UK, and the judge again pointed to this document by the Royal College of Pediatricians and really highlighted — and I'll quote you the sentence here. It says: "Even in

the absence of demonstrable pain or suffering, continuation of life-sustaining therapy may not be in the best interests of children because it cannot provide an overall benefit to them." SO that's a statement by the Royal College of Pediatricians, a rationale to allow doctors to remove life-sustaining treatment, which is completely nonsensical, because by fiat it states that the best interests of the child are to withdraw life-sustaining care without really any justification for it.

And so yes, at times – and it's confusing. If you read the judgment issued by the court, there was a judge, a very thoughtful guy, but it's incoherent. But for the most part, the bottom line, essentially the ultimate rationale is that it's not a matter of suffering; it's a matter of "best interests" that they seem to be able to invoke out of the sky, really, to say that it's in the best interests of the child that the treatment should be withdrawn and that he should die. And that's really bizarre, and it's very dangerous because it can be invoked at any time.

And in fact, it's not the first time that it was invoked. I don't know if you were aware of a case from a year ago, a very, very similar case by another by again in the UK named Charlie Gard, who also had a very severe brain damage condition, and the medical authorities, they didn't want to continue the care against the wishes of the parents, even though the parents had the means, had raised enough funds to find treatment outside of the UK. So this is the part of the story we haven't covered here for Alfie.

So when the medical authorities came up with this resolution that Alfie should have his life-sustaining treatment be withdrawn, the parents sought care outside the UK. They raised money through crowdsourcing, through a Facebook page. There was a lot of public support for them. And then they found two different hospitals, one at the Vatican and one in Munich, who were willing to transport the child to their hospital and then continue the treatment or provide a treatment that would not cure the baby – nobody was under any illusion that the baby could be cured. Even the parents were not under that illusion – but could provide the baby with the ability to survive more chronically, to have feeding tubes so the baby could receive food and then to be on a respirator that could be managed at home. And then the baby would survive for as long as he would survive with such care.

So that's what the parents wanted to do, and the state, the medical authorities said no, we don't think that's in the best interests of the child, and then they asked the court to intervene, and the court intervened in favor of the medical authorities. And then a week ago or three weeks ago or just recently, they pulled the plug on him, and then three days later the baby died.

WOODS: All right, let me try to play devil's advocate the best I can in this situation, and let me ask you at least this: can you conceive of a situation in which parents are engaged in demanding forms of medical treatment that some medical professionals are willing to consent to somewhere in the world but that would indeed not by any objective standard be in the best interests of the child? Would there be any way that you would approve of to override that decision, or should that decision be overridden?

ACCAD: So on a case-by-case basis, I suspect it's possible. I mean, if there's a crazy treatment that really disfigures a child that has no possible rationale for having any benefit that would be obviously abusive, then yes, that's the case. You could intervene in a situation like that and invoke the question of abuse – which is not the case here, because the judge and everybody else kept saying that the parents were absolutely loving and that the parents did

have the best interests of the child at heart. And the treatment that was suggested was really a life-sustaining treatment, just connecting the child to a small, portable ventilator that could be managed at home and having a feeding tube in. That was really the extent of the treatment.

So that by itself cannot be deemed to be unduly burdensome, especially if the child is continuing to survive and to grow. That's another thing that is sort of overlooked in this case but is not in dispute by anybody. If you read the judgment from the court and the medical documents, the child is growing throughout that whole period. So here you have a baby that is manifestly surviving and assimilating food and growing, and therefore in a way manifesting a desire to continue to survive. And all that the treatment consists of really that the parents wanted was to respond to that manifest desire by the child to remain alive and not have that process cut short artificially. And especially if that was not going to cost the taxpayer in England anything, because the Italian and German hospitals had volunteered to offer the care at no cost, and they also could raise money through crowdfunding and so forth.

WOODS: So do you think people were missing the boat when they said things like, "This is an indictment of socialized medicine," when in fact — because what they were arguing was, if you have socialized medicine, then your health becomes the interest of every taxpayer in the country. But there was no taxpayer liability here.

ACCAD: Correct, and that's very interesting, because I think at least another argument that makes sense would be to use the rationing or economic argument, to say: listen, this costs too much. And perhaps that's the intent behind the decision of the medical authorities, that they thought it would be too costly. But they never mentioned that, and they cannot mention it because if they do mention it then it opens Pandora's box in a socialized medical system. You can never talk about rationing overtly in a system like that, because the moment you do it, then you have to define explicitly which lives are valuable or how much money can you spend for each person, and that becomes a nightmare. It cannot be done.

So the language of rationing is never present. It's not present in the judgment by the court; it's not present in the language of the medical authorities. And so they have to come up with another rationale, and they come up with this rationale of best interests, which is a complete perversion of what the doctrine of best interests really is. It's a human rights doctrine that's been around for a long time, the doctrine of best interests, and the United Nations has a treaty about the best interests of the child that the UK has signed. And then the UK has its own laws about child protection and best interests of the child where the best interests of kids is invoked precisely to protect children from abuse from either parents or from state authorities.

And if you look at these statutes from the United Nations, for example, there are always articles that say the child has the right to life and the child has the right to have their ability to survive be protected by the state. But here the medical authorities and especially the Royal College of Pediatricians in their ethics document and guidelines, they completely pervert the doctrine of best interests, and they turn it around to make it completely open-ended and to make it free for the medical authorities to decide on their own for any reason what the best interests of a child are, even if it goes against the wishes of the parents and, again, the wishes of parents who are obviously and manifestly loving and caring.

So it's really remarkable. To me, Tom, this is really — if you wonder whether we live in a dystopia or not, I mean, this is really an instance where you have to think: wow, this is kind of crazy to come up with an argument from medical authorities who otherwise you would trust the medical authorities to really care for individual rights and the rights of people to thrive and so forth. Now the medical authorities come up with these completely crazy ethical arguments that say that it's in the best interests of a human being to be dead. And that's really what they say. There's no other interpretation. Everything else is a distraction. And so it's not an argument from rationing; it's not an argument that the treatment is too burdensome; it's just an argument that you're better off dead.

WOODS: More with Dr. Michel Accad after this important message.

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Can you explain to us what exactly was done to the family such that they were physically unable to bring their child to another place? Were they not allowing the child to be taken from the hospital? What was being done?

ACCAD: Right, well, at that point, since the child was admitted to the hospital when he had the pneumonia in December 2016, at that point he was connected to instruments from which he could not be disconnected without the intervention of a medical team. He was on a breathing machine, a ventilator, and therefore, they couldn't just take him home. They wanted to, but it would have required the cooperation of some medical team to bring the child home. And the family found a medical team willing to do that, the Italian medical team, willing to do that. They also found a German medical team willing to do that, but then the authorities refused. They said no, we won't let you do that, and not only will we not let you do that, but we're going to disconnect the child from the ventilator and allow him to die and essentially cause him to die, because that's what it is. They were wishing for the death of the child.

They don't say that in such terms, but there cannot be any other conclusion. They say it in other ways. In a second judgment, the judge says his life, because he has a brain disease, his life is futile. So if you make that statement, if you say that the life itself is futile, then the next logical step is to say that, well, if the life is futile, then you should be dead. So I think it's very chilling. T

here's another passage, Tom, that I'd like to read, because they quote — what's been in the news has primarily been the effort of the Vatican and the statements made by the pope. The pope issued a couple of tweets in defense of the child and hoping that the medical authorities in the UK would abide by the wishes of the parents. But there was a German doctor from Munich who had taken the side of the family and who was willing to transport the kid to Germany to give him the treatment that would allow him to survive as long as he would. And he made a statement that really ticked off the judge, and he was so ticked off that he actually put that statement by the German doctor in his judgment to dismiss it.

And here's the judge saying, "I found the following paragraph [from the German doctor] to be inflammatory and inappropriate, not least because the views expressed bear no relationship to and do not engage with the facts of this case." And so this is the paragraph from the German doctor, and this is in quotes:

"Because of our history in Germany, we've learned that there are some things that you just don't do with severely handicapped children. A society must be prepared to look after these severely handicapped children and not decide that life support has to be withdrawn against the will of the parents if there is uncertainty of the feelings of the child, as in this case."

And so this is completely sensible to me, and it's an accusation, if you will, a veiled accusation of eugenics against the UK medical community. But I think it's an appropriate accusation. It's an accusation that they denied. The judge was really ticked off. But in my mind, underlying all of this is this more and more common notion that brain handicaps are awful and should be stamped out of existence, if you will. And this to me I think is the main fact that emerges if you digest this, is how horrified all the doctors are and even the judge by the fact that there's a handicapped child with a brain disease in their hospital and they can't do anything about it. And their reaction is to try to will him out of existence.

WOODS: Do you have any feeling for what the opinion — I mean, it's hard to say there is a "medical community." Different physicians are involved in so many different types of health. But still, this is a question that I'm sure is of interest to anybody who's involved in the medical profession. What did you get the sense was the consensus among American physicians as they observed this case?

ACCAD: I think they're divided, and unfortunately, more and more of them are supportive of this notion that in a case like this the kid is better off dead. The medical culture has changed, and what has emerged is — what's very influential, Tom, here not only in the U.S., but in most Western countries, people don't realize to what extent the medical academics, how influential they are in shaping society's opinion about the value of life. And among medical academics, a large many of them are of the notion that if you have brain disease, then your life is worthless, that you're better off dead.

And so the argument here brought about the justify the death of Alfie Evans is also the same argument that informs what is more and more commonly promoted as being a good thing among doctors, is the right to assisted suicide, to voluntary euthanasia, and these things like that, because they all revolve around the question of: well, what would you do if you're not as healthy as possible, especially if your brain is damaged in one form or another, if you're demented and what not? Then you're better off dead.

And so many doctors here have become more and more sympathetic to that kind of argument, even if it goes against the wishes of the family in this case, who have the means, have raised the means to keep the child alive. And so I'm not very hopeful, unfortunately, that a lot of medical doctors would support the parents. But I think they would more so than in the UK, because there's still more of a diversity of opinions in the United States. This is not as socialized. It's very socialized here, but it's not as socialized as it is in the U.S. There's still a number of independently-minded doctors who have not completely lost touch with the realities of what health care is about, what medical care is about. Hippocratic principles are still more present in the U.S. than they are in the UK. In the UK and in Europe, I think for the most part they have been completely abandoned.

WOODS: Well, I guess it's the case that libertarians who are physicians are going to have a particular take on "do no harm" and the role of the physician. Do you care to comment on that?

ACCAD: I do. And I think it's important for people to have clearly in mind what's going on here, because as I said earlier at the beginning of our talk, the same action, which means discontinuing life-sustaining treatment, can on the one hand be okay if the intention is really to remove an undue burden. Or it can be an act of aggression if the intention is really to bring about the death of another person. So I think one has to be very, very careful when we examine those cases and not give to the medical authorities or to state authorities a carte blanche to decide that withdrawal of medical treatment is always good or in the best interests of a person.

I think to me there's a grave violation of the nonaggression principle in this case of withdrawing treatment with the intention of bringing about the death of the child, and I think it's important to understand it in those terms. The medical authorities, as I said, the medical field or the medical academics can influence really the way we view ourselves as human beings, and therefore, it's important to be mindful of that, because when we developed our libertarian doctrines, the doctrine of the nonaggression principle and how we are to relate to one another in society and politically, at the basis of it, there has to be some agreement about the worth of life, and we have to be careful that that understanding is not unduly influenced by medical authorities with their own agendas about what the worth of a life is and what constitutes an aggression and what does not constitute an aggression. So clearly here, in the case of Alfie Evans, the UK doctors have argued that it was not an act of aggression, but I think it was. It was absolutely an act of aggression, and it couldn't be really interpreted any other way.

And so from my standpoint, that's why it's important for libertarians to be aware of this and be familiar with this. It is technical. It requires some thought. It's not something that you can articulate very well. But intuitively, the parents and all of the people who were supporting Alfie were reacting precisely to this kind of perversion of the doctrine of best interests, and we're reacting to what was patently to them an act of aggression against an innocent child. So I think to me that's the link between this case and libertarian theory in general.

WOODS: Dr. Accad, if people would like to follow you, how can they do that?

ACCAD: So right now, I welcome them to come to my blog called Alert and Oriented. The audience for my blog is primarily doctors but not always. A lot of it is of interest to the lay public. So Alert and Oriented, it's a medical phrase that is used commonly. So AlertAndOriented.com, and I have a mailing list they can sign up to and receive my blog posts and so forth.

WOODS: All right, excellent. I'll link to that at TomWoods.com/1157. All right, well, thanks for talking to us about this. I'm glad we covered it. I had a lot of requests for it. And as I say, even though I wasn't very timely with it, better late than never on a topic like this, so thanks again.

ACCAD: My pleasure, Tom. Thank you very much.