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## In Film by Right-to-Die Advocates, Last Wishes Come First

by DANA PARSONS

You probably know someone who's said it. Perhaps you've said it yourself.

I don't want a slow, painful death. When the time comes, I want to die on my own terms.

The question is: Could you end your own life? An even tougher question: Could you help someone you love do it?

A North Carolina freelance journalist will be in Southern California this weekend for the premiere of a 55-minute film he helped make of his father's final months, up to and including his suicide from an overdose of pills.

Making the documentary all the more poignant, Jay Niver says, is that he and his twin, Gretchen, were with their father, Sam Niver, as he ended his own life in June 1998 rather than continue fighting prostate cancer.

Titled *Live and Let Go - An American Death* and shot with longtime family friend and filmmaker Jay Spain, the documentary will premiere at 1 p.m. Sunday at the

DancesWithFilms festival at the Laemmle's theater in Santa Monica.

Sam Niver was a member of the Hemlock Society, a national organization that supports physician-assisted suicides. Jay Niver says his father tried but failed to get a physician to assist him.

While the film deals mostly with reminiscences and moments from Sam Niver's life, it is intended to focus attention on the controversial right-to-die movement. Oregon is the only state that provides for physician-assisted suicides, but U.S. Atty. Gen. John Ashcroft has publicly stated his opposition and the controversy has reheated.

In its broadest terms, the issue is simple: Should a terminally ill person, in concert with a physician, have the right to end his or her life?

Orange County has one of the state's four Hemlock Society chapters, and board member Ralph Wiens of Laguna Niguel says it has about 400 members. Niver's film has been touted within the organization, Wiens says, but he adds wryly: "The Hemlock Society [in Orange County] is loaded with a bunch of old guys. Going 70 miles to Santa Monica for a movie might be too much."

Wiens, 73, says local membership spiked a bit after Ashcroft's denunciation of the Oregon law. The movement's emphasis, Wiens says, "is just to shorten the dying process, to make it a pleasant event ... once it's determined that someone is dying and the only decision is whether to do it the hard way or the easy way.... We want a person to have their own last wishes met."

Jay Niver and Spain recorded 22 hours of interviews with Sam Niver, who was 76 when he died.

"He planned to have a close friend sit with him for moral support," Niver says. "My sister and I said, 'No way. We should be the ones to sit and hold your hand, not a friend.'"

Niver says his father was hoping they'd offer but had been unwilling to ask them. The elder Niver had told his children (he had another son who was not present at his suicide) several months before his death of his plans, Jay Niver says.

"He felt very strongly about physician-assisted suicide," Niver, 49, says. "He wanted to make a statement about it and asked me if I wanted to write a story."

Niver balked but wanted to memorialize his father with the video. "Sixty percent to 65% of it is about him growing up," Niver says. "The other 35% to 40% is about dying with dignity."

Niver contacted me after learning about my own father's long bout with heart and kidney disease. I told Niver I didn't know if I'd have been able to witness my father's suicide, no matter how despairing family members had gotten over his declining health and quality of life.

But what if Dad had asked? What if he'd pressed me to help?

I'm glad he didn't, but even if I'd said no, it wouldn't have been on philosophical grounds. I can't make an argument for continued suffering and the attendant indignity that often comes with a protracted and terminal illness.

"We can take care of the pain, we can empty bed pans, but what can we do to restore dignity to an individual who wants autonomy?" Niver asks. "That's the one thing critics can't answer. They try to define quality of life for the other person."

Dana Parsons' column appears Wednesdays, Fridays and Sundays. Readers may reach Parsons at (714) 966-7821, at The Times' Orange County edition, 1375 Sunflower Ave., Costa Mesa, CA 92626 or [dana.parsons@latimes.com](mailto:dana.parsons@latimes.com).

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# THE SUNDAY NEWS & OBSERVER



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officials, others speak on mental hea  
Q — Page 19A

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investors have other alternatives.  
Money — Page 1E

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## A GOOD DEATH the last days of Sam Niver



Some of Sam Niver's belongings that his son found cleaning out his desk. When Niver, suffering from terminal cancer, decided to end his life, he invited a reporter to meet him and tell his story, to explain why he was doing it.

STAFF PHOTO BY SCOTT SHAW

## He had to die — but he wanted a say in how and when

By MARTHA QUILLIN  
STAFF WRITER

SHARIS FERRY

Sam Niver was not a man to ask for help when he was living, but he needed a hand when he was dying.

Through the last weeks of his life, cancer was spreading through the very marrow of his bones, causing pain that drifted from elbow to hip to jaw. He never knew what was going to hurt the worst each morning when he woke up.

He had been told the cancer would kill him, but Niver knew better. He didn't expect to beat the

disease — he did not believe in miracles. But neither could he see himself collecting get-well cards as the illness took its time with him, leaving him thin as a greyhound with skin like an old paper bag.

Niver believed he had salvation in a cigar box. It was a suicide kit he had built and stashed in the desk in his living room. Besides a pair of rubber bands, a dust mask, an over-the-counter nausea remedy and enough sedatives to kill a man, he thought it held the power to control his own end.

"I don't like to be cared for," Niver said in mid-

See Niver, page 10A

## Clinton freeze bin Laden asset

Hinting at additional military  
the president warns that the  
States should be prepared for  
protected battle against terr

PHOTO BY AP/WIDE WORLD

WASHINGTON — President Clinton said that the United States would use "all options" to fight the terrorist who bin Laden, as the administration sought to squeeze him financially after his missile strikes Thursday in Alabama.

"Our efforts against terrorism can and will not end with this strike," Clinton declared in his weekly radio address. As he vacillated with his boss, Martha's Vineyard, Clinton announced that he had signed an executive order effective a day earlier, that asks the Treasury Department to block financial transactions with U.S. companies by bin Laden, two of his sons what the U.S. says is his principal rival, the Islamic Army.

Nearly 48 hours after the U.S. attacked a pharmaceutical factory, a training camp in Afghanistan, a cruise missile, the administration offered more detail on the damage it is to bin Laden's network.

A day after cloudy weather partly obscured the damage in Afghanistan, Michael M. Sauter, a spokesman, said Saturday that satellite photographs strike hit all six separate sites with training camp, located in a 100,000-acre area about 90 miles south

See Terrorism, page 9

## Presidential eroded, exper

By STEVEN A. HUBER  
THE NEW YORK TIMES

WASHINGTON — President Clinton's private conduct this year has more than his reputation and criminal battles he has fought to avoid that his behavior with Monica Lewinsky was inappropriate. More than his reputation and criminal battles he has fought to avoid that his behavior with Monica Lewinsky was inappropriate may erode presidential power and legitimates for future presidents legal experts, constitutional scholars and political scientists.

The precedents set by court decisions rebuffing Clinton's efforts to halt a civil misconduct suit by Paula Jones prevent close aides and bodyguards before a federal grand jury in Lewinsky matter have profane experts say. Among them are the

Presidents can now be sued  
died while still in office.

# NIVER

CONTINUED FROM PAGE 1A

June, as the illness grew stronger and he grew weaker almost by the day. Niver said he had no particular fear of death, or of dying, or even of pain per se. What he could not bear the thought of, he said, was the lack of dignity and control that come with debilitating illness.

"It's just something I decided years ago," he said. "I don't want to burden somebody with having to help me dress, and lifting me on and off the pot, and sponge-bathing me, and feeding me. No way I want anybody doing that.

"I do not want people to take care of me. If I can't do it myself, I don't want it."

At 76, he said, he had enjoyed a good life. All he wanted now was a good death.

He knew it would not be that easy.

In 1961, North Carolina was the site of the country's last known prosecution of the old English common law against suicide. The state Supreme Court found that, under the law, suicide was still a misdemeanor, and that prosecutors could pursue their case against a person who had tried and failed. Legislators responded by removing the law from the books.

Ann Dellinger, a law professor at UNC-Chapel Hill who has studied legal issues of death and dying in North Carolina, has found that while it is now legal to kill yourself, it may not be legal to help someone else.

No recent cases have tested North Carolina law on the matter. But Dellinger and other experts say it appears that a doctor — or anyone else — who knowingly assists in a suicide could be prosecuted, either for murder or for violating state drug statutes.

Sam Niver never talked to his three doctors about his plan. He believed, however, that he should have had the right to assisted suicide, and he wanted the world to know it. So he invited a newspaper reporter and photographer to chronicle his last days and his effort to achieve a dignified death.

Niver retired to Onslow County from Ohio in 1984 with his wife, Anna, whom everyone called Sweeny. They came from Bedford, a Cleveland suburb, where Niver was the general manager of several community newspapers and

a local hero. He was a former Citizen of the Year. And he personified Uncle Sam in Bedford's annual Independence Day parade.

## Declining health

Moving meant leaving good friends behind, but the Nivers hated those Midwestern winters. They bought a condominium on the beach at Topsail Island and headed south.

They were living there in 1988 when Sweeny suffered a stroke, from which her family said she never fully recovered.

Three years later, Sam was diagnosed with prostate cancer.

For most of his life, Sam was healthy and took it for granted, smoking for more than 50 years, enjoying a good beer and not getting much exercise.

To his son, Jay, of Wilmington, Sam seemed cavalier about his illness, but for four years, he seemed to hold it at bay with medication and a new exercise program. He even switched to ultra-light cigarettes.

In 1995, however, X-rays detected tumors in other parts of his body. Niver came home and told his wife: "The stuff has spread."

With the help of his doctors, Niver would knock the disease back in one place just to have it pop up somewhere else. Every time it did, he underwent a series of 10 radiation treatments. He even tried an experimental drug combination aimed at reducing the cancer cells. It didn't help.

## A turn for the worse

The Nivers moved out of the beach condo and into a small house that Jay owned within sight of the Intracoastal Waterway, near the fishing community of Sneads Ferry. The house, with its wooded lot that backed up to the water, was like an outdoor theater to the Nivers. Sweeny watched the painted and indigo buntings, cowbirds and woodpeckers come and go from her feeders. Sam sat every morning on the "poop deck" with a pan of peanuts on his bony knees to feed the squirrels.

In July 1996, the couple celebrated their 50th wedding anniversary there. Six months later, Sweeny died.

Early this year, doctors found another cloud on Niver's X-ray, this one at the base of his neck, which

they blamed for the headaches he was having. He went in for another round of radiation treatments — that made 60 in all — to try to stop the cancer's spread.

Until then, Niver said, he was the same person he had always been: a lover of classical music, a "Jeopardy!" fan, and a prolific writer who spent hours at his computer generating free-lance newspaper columns and curmudgeonly, funny newsletters and e-mail messages for his friends across the country.

He liked to cook and he liked to eat. He kept the freezer stocked with chili and a one-dish meal called New England boiled dinner, a Northern variant of pot roast.

But after that last round of radiation therapy and with the pain medication he needed to get through the days and nights, everything changed. He lost interest in music, television, food, even writing. He began to lose weight, whittling away the mirthful belly that, with his white goatee, made him look a bit like Burl Ives.

Finally, he began to lose his sense of humor.

"There's nothing to look forward to," he said in June, hammering the living room floor in frustration with the tip of his walking stick. "It's just another damned day. There's nothing fun anymore. I can't write; I can't concentrate on anything long enough to finish it. I can't stand the sight of food, nothing tastes good to me anymore. I don't have the energy to go anywhere. It's just a miserable, dull life.

"Who wants that?"

## Preparations

Believing that the spread of his cancer was accelerating, Niver had begun months earlier to prepare for the end.

Last fall, before he knew what drugs to ask for, he began to stockpile sedatives for when he was ready to end his life. He told his urologist, Dr. Will Russell of Wilmington, that he needed something stronger for pain. When he took the prescription to be filled, he asked for a refill at the same time. The pharmacist called Russell's office to tell him.

"I saw him a couple of times

CONTINUED ON PAGE 11A

after the prescription was filled and it was an odd situation where, you know, you're kind of stuck," Russell said. "If you have knowledge of it, some would argue that you should do something about it. What are you going to do? Lock the guy in an asylum and close off his access to the drugs?"

Niver, Russell said, was the first patient he has had in six years of practice who he suspected was planning to kill himself.

Russell, who describes himself as a religious man, has struggled with the concept of assisted suicide. He does not agree with the strong stance of the Catholic Church, which has campaigned vigorously against assisted suicide in states where the matter has been debated.

"I read the Bible almost daily, and I've tried to find it in there," Russell said. "I'm not sure there's that much Scriptural support for preventing people from taking their own life when they're dying already."

If Niver had told him what he wanted the drugs for, Russell said, "I'd have said, 'Sam, I can't give you any medication that is just [going to be used as] a poison.' But I could have told him how many he would need to take."

Russell called Jay at the time and told him what he thought his father was up to.

"It didn't surprise me," Jay Niver said. "This is just who he is. I tried to talk him out of it, up to a point, but it would be disrespectful to say to him, 'This is a bad idea. you don't know what you're doing.' My father is an intelligent man.

"I was upset, though, when he told me he was going to have a friend with him. I said, 'No, if this is what you're going to do, I want to be with you. It should be family.'"

Niver had obtained the suicide manual "Final Exit," distributed by the Hemlock Society, a national group that advocates for the right to assisted suicide. Following the plan described in the book, he visited two of his doctors (not Russell) and told them each he needed something stronger to help him sleep. He requested a powerful sedative by name. One of the doctors had to look the drug up in a reference manual, Niver said. Then he wrote a prescription.

"Final Exit," a best seller when it was published in 1991, reviews the ways in which people have taken their own lives through history, then endorses one as fail-safe. It involves taking an overdose of fast-acting sedatives along with an anti-nausea drug so the sedatives will stay down. That is followed quickly by the placement of a dust mask over the mouth and then a plastic bag over the head, secured by a rubber band. The dust mask allows the person to breathe without sucking the plastic bag against the mouth and nose.

The plastic bag, considered the most gruesome — and undignified — element of this kind of suicide, is a backup technique. If the drugs fail to bring about death, suffocation eventually will.

### Tough call for doctors

Among those who oppose assisted suicide, a primary argument is that many times, the patient is suffering from treatable depression that, if remedied, might make everything else about a terminal illness more bearable. But it is difficult for physicians and psychiatrists to sort out clinical depression from the sadness and despair that naturally come with being sick and knowing you are about to die.

Niver admitted he was sometimes lonely; his family and most of his friends lived elsewhere, and he missed his wife terribly. But he knew the difference, he said, between curable depression and a terminal illness.

"I don't think you want somebody to be dispatched just because they're having a bad hair day," he said.

Dr. Russell vouched for the rationality of his patient. "The last thing Sam needed was a psychologist," Russell said. "He had no psychological problems.

"At some point, the value of each day is less than the suffering that people have. And usually people make those decisions for themselves. Sam had made a decision that he felt was right for him."

The Hemlock Society, which claims 25,000 members across the country and about 500 in North Carolina, advocates a law like the one that went into effect last fall in Oregon and has provisions designed to prevent people who suffer only from depression from getting a doctor to help them take their own lives. It includes a residency requirement and a 15-day waiting period between a patient's first request for lethal drugs and the time the prescription can be filled. Before a prescription can be written, two doctors must concur that the patient has less than six months to live.

Even if North Carolina had such a law, it isn't clear that would have prevented the predicament Niver found himself in as his illness progressed.

In addition to his son Jay, Niver had discussed the plan with his daughter, Gretchen Niver of Pittsboro, who also asked to be with him when he died. To avoid being implicated in a crime, they all agreed Jay and Gretchen could not participate, but they would hold his hand, tell him goodbye.

Ever the pragmatist, Niver had arranged everything he could: the suicide kit, a budget cremation, a will. He had said goodbye to his two sisters, who knew he was dying, and had written notes to be sent to his friends after he was gone. Still a newsman, he had approved his obituary, written by his son. And he had written a note he would pin to himself so that when the Onslow County Sheriff's deputies came — wrapping yellow crime-scene tape around his house — it would be clear he had taken his own life.

The prickly part about a do-it-yourself death, Niver said, was timing. He didn't want to go too early, and cheat himself or his family of good times, but he did not want to wait until he was too weak to carry out his wishes.

### 'I've had enough'

Originally, he planned it for July 5, a Sunday. But by the third week of June, Niver realized that the cancer had moved faster than he had, and that he was exactly where he did not want to be: sick, hurting and dependent on someone else.

CONTINUED

His legs ached so much, it was all he could do to get out of bed in the morning, and when he did, he feared he would fall. He had to force himself to eat — he practically lived on those canned milkshakes with vitamin supplements — and he had become agonizingly constipated. He could not sleep for more than a couple of hours at a time.

It was time. Otherwise, he worried he would become bedridden or have to be hospitalized and let the cancer run its course. By Russell's accounting, Niver might have been able to hold on five or six months more in a hospital or nursing home, with oxygen and intravenous fluids.

"It's absolutely cruel to make somebody suffer when the quality of their life is gone," Niver said of such a prospect. "It's absolutely cruel."

Raised in the Methodist church, Niver said he did not worry about whether God would forgive him for cutting a few months off his life. He did not worry about the children he would leave behind to cancel his cable TV and AARP accounts, and to answer questions about how he died.

"They're strong people, they can handle it, I'm sure."

He called Jay and Gretchen and told them he was ready. "I've had enough," he said. "I've had enough."

They begged him to push back the date. They compromised on Sunday, June 28.

On Saturday night, he and Gretchen found a plastic bag in the kitchen; the suicide kit was now complete.

On Sunday morning, Niver awoke feeling worse than ever. He struggled out of bed and dressed, with Gretchen's help, in a pair of shorts and a bright Hawaiian shirt. He signed the suicide note.

He went out on the front deck, overcooling the water; to smoke a few cigarettes, one of the few pleasures he still enjoyed. He watched the squirrels and the birds. He made small talk with his children.

A little after noon, Jay said, his father opened the cigar box and found his deliverance.

"Oh my God, it was so fast," Jay said. "You could count the breaths he took."

"I sat down at his feet and held him. We talked to him. It's not like the movies; he didn't say anything. We told him we loved him."

"You just wish he'd say something, but he wasn't even up to that. And one of the beauties of knowing it's coming is, we've been saying the words for weeks now."

"I had this picture," Gretchen said, "a last hug and saying good-bye, but he was — well, it just went so fast that it was like, 'Oh, wow, it's over.' It wasn't as I pictured it."

His obituary in the Wilmington Morning Star two days later said much about Sam Niver's life but very little about his death, which occurred in a matter of minutes in a rocking chair on the deck. It did not say how he opened so many capsules of the drug or what he mixed them with. It made no mention of the rumbling in his chest just before he expired. It did not say whether he had any second thoughts.

It said, "Sam Niver — terrific father; husband, newspaperman and tireless civic leader ... died with dignity at his bay-front home."

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## It's a Wrap

### Sundance Takes a Slap at Slamdance

By Coraelia deBruin

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The following film was not submitted to any of Park City's film festivals by its producers. However, writer Jay Niver and director/photographer Jay Spain entrusted *Live and Let Go – An American Death* to us for review.

This highly personal film is a tribute by Jay Niver to his father, Sam Niver, and chronicles Sam's death. Sam had terminal prostate cancer. Rather than suffer the insult, pain and lack of autonomy that are hallmarks of metastasized cancer, Sam joined the Hemlock Society. Although the Society itself was not involved in the death, Sam learned what to do and how to protect his family from the potential legal consequences of his suicide.

When Sam decided that it was time, he exercised what he felt was his right as a human being to choose to die. Sam invited his son and daughter, and close family friend Spain, to document his final weeks and last moments of life on videotape.

The film is heart-rending, including interviews of the father by his son, comments from Sam's other children, his siblings and friends. It is an amazing tribute to a longtime newspaper editor who was a pillar of his community. *Live and Let Go* also makes a powerful case for the right to die, stating, "People should have the right to control their own body ... their mind."

In a time of Viagra promotion, *Live and Let Go* is a film that deserves distribution. Prostate cancer is not a disease that strikes only older men. Not long ago, Frank Zappa died from prostate cancer. Though it's probably as embarrassing a subject as impotence for men to discuss or seek help, prostate cancer is also fatal.

Look for *Live and Let Go* in upcoming film festivals, as the documentary seeks distribution.