



Report: 16 dolphin deaths linked to red tide off Florida

- The Associated Press (based on The Fort-Meyers News-Press), December 29, 2018

FORT MYERS, Fla. — Federal scientists have linked over a dozen dolphin deaths off Florida to a toxic algae bloom that has persisted in the Gulf of Mexico for over a year. Erin Fougères says researchers at the National Oceanic and Atmospheric Administration have been “fairly overwhelmed” by the number of necropsies needed. The News-Press reports roughly 130 dolphin deaths have been counted in southwest Florida, but only 16 definitive necropsy results. Fougères said all 16 pointed to red tide poisoning as the cause of death. She says the marine mammals can inhale toxins from the algae bloom or consume contaminated creatures. Red tide also can kill off large numbers of fish, leaving the dolphins weak or starving. Fougères said a red tide in 2005 and 2006 killed approximately 190 bottlenose dolphins.

1. Shadal on Makkat Dam (Shemot 7:19-25)

ויהפכו כל המים אשר ביאר לדם – דעת אייכהארן, ואחרים אחריו, כי הדם וכל שאר המכות הם ענינים טבעיים ההווים במצרים בכל שנה ושנה, ושאמנם כוונת משה היתה שיבין פרעה כי ה' אלקי העברים הוא הפועל הענינים ההם וכי הוא המושל בכל הארץ; והנה ידוע כי מימי נילוס אחר שגבהו ורבו על אדמת מצרים בתמוז נראים כאדומים ועֵבִים (אם מאדמימות אדמת כוש שהם באים משם, ואם מרוב השרצים שבהם שמאדמימים המים גם בשאר ארצות וגורמים להמון העם להאמין בירידת דם מן השמים, עיין Encyclopedie ערך Pluie prodigieuse) ויעלה באשם, גם רעים הם לשותיהם, והנה אייכהארן אומר כי משה ואהרן לא השיבו מימי היאור כלם אדומים כרגע בנטיית המטה, אלא האדמו בתחבולה כלי אחד שִׁמְלָאו ממימי היאור, וכוונתם כי הקל אשר לְקַדֵּם להאדים המים אשר בכלי הוא הקל אשר הוא סבה לאדמימות מימי היאור, והוא האומר לפרעה שישלח את עמו. ויפה השיב על זה ראז' {נמילר} כי ענין הלקיחה ממימי היאור ושפיתתם אל היבשה לא היה אלא לעיני ישראל (ד':ט'), אבל עכשו לעיני פרעה לא היה הדבר כן, כי לא לקחו ממימי היאור, אך נטה ידו על היאור ומיד כל המים אשר ביאר נהפכו לדם; מלבד כי לא יתכן שיחשוב משה להטות לב המלך אליו ע"י ענינים טבעיים ההווים בכל שנה, אם לא היה עושה לפניו איזה מופת היוצא מנהג שבעולם. והנה ידוע כי גם במעשה הנפלאות הקל אוהב לשמור דרכי הטבע במקצת, וכן במכות מצרים יתכן לפי דעתי שִׁמְדָרְךְ ארץ מצרים להיות בה כיוצא במכות האלה בצד מה, קצתן בשנה זו וקצתן בשנה אחרת, אפס כי בשנה ההיא נתקבצו ובאו כולן, וגם נתחדש בכל אחת מהן איזה ענין שלא היה מדרך הטבע. וכן כאן במכת הדם אנו רואים שנתחדש באדמימות המים ההם איזה ענין לרוע, עד שמתה הדגה שבהם, מה שלא מצאנו בדברי עובדי ארחות ימים וזו ראיה כי באוש המים והפסדם היה חזק הרבה יותר משאר שנים והיה יוצא מן המנהג הטבעי, וכאלו נהפכו המים לדם ממש... ודעת ראב"ע כי גם בני ישראל הָכּוּ במכה זו וכן במכת הצפרדע והכנים ושלא הפליא ה' בין מצרים ובין ישראל רק במה שבא מפורש בתורה, ור' יעקב בעל הטורים כתב על זה: והפלגתו על דברי חכמים ורדפו אחרי הפשט הביאו לזה הדעת, כי חלילה לקל להכות את ישראל, כי אין מעצור לה להושיע את אשר ירצה, ולהכות לאשר ירצה, עכ"ל. ונ"ל כי ארץ גשן כדעת האחרונים לא היתה מארץ מצרים אלא על גבולה, והיתה סמוכה לארץ ערב, ולפיכך לא היתה שותה ממימי הנילוס, ובכן לא הִקְטָה לא במכת הדם ולא במכת הצפרדעים, והכתוב לא הוצרך להזכיר ענין זה, כי היה ידוע לישראל שהיו יודעים תכונת ארץ מושבם; אמנם אם היו קצת מבני ישראל חוץ לארץ גשן, לא נכחיש כי הָכּוּ גם הם במכות אלה, וגם הם הוצרכו לשתות ממימי הבורות אשר חפרו.

“And all of the water in the Nile turned to blood” – It is the opinion of Eichorn, and others after him, that the blood and all of the rest of the plagues were natural occurrences which happen in Egypt every year, and that however, Moshe’s intention was that Pharaoh should understand that Hashem, the G-d of the Ivrim is causing these things, and he rules over the entire world; and behold, it is well-known that the waters of the Nile, after they are raised and increased on the land of Egypt in Tammuz, they look red and thick (either from the redness of the land of Kush, where [the waters] come from, or due to the large number of creatures in them, which redden the water also in other lands, and cause the nation[s] to believe in blood descending from the heavens, see Encyclopedia entry Pluie prodigieuse [translated as “Miraculous Rain”]) and [the] stench went up, [and] they are also bad to drink. And behold, Eichorn said that Moshe and Aharon didn’t turn the entire Nile red in a moment by stretching out the staff, rather they reddened, with a trick, one vessel that they filled with Nile water,

and their intention was that the G-d who taught them to redden the water which was in the vessel is the [same] G-d who is the reason for the [entire] Nile turning red, and is the [same power] telling Pharaoh to send [Moshe's] nation. And Rosenmuller responded nicely to this [claim], [by noting that] the taking of the waters of the Nile and spilling it on the ground was only done in the eyes of the Israelites (4:9), but now, in front of Pharaoh, it was not so, for they did not take from the waters of the Nile, but rather, he simply stretched out his hand over the waters of the Nile, and immediately, all of the waters of the Nile turned into blood. Besides [for the fact] that it is not realistic for Moshe to assume that he could turn the king's heart to [his cause] through natural occurrences that happen each year, if he would not perform in front of him some wonder that departs from the way of the world. And behold it is known that even in the wonders, G-d loves to guard the ways of nature slightly, and so too in the plagues of Egypt, it is possible, according to my understanding, that it was the [nature] of Egypt to have some elements of these plagues in some fashion, some in one year, some in another year. But [G-d made it that] in that year they all came together, and in each one of them there was a new element that was not in the way of nature. And so too here, with the plague of blood, we see that in the redness of the waters there was a new element of [destruction], to the point that the fish in the waters died, what has not been found in the words of the travelers [and historians], and this is a proof that the stench of the water and the [damage] was much worse than other years, and it went beyond its natural [pattern], and it was as if the water turned to literal blood...

And it is the opinion of Ibn Ezra that even the Israelites were hit with this plague, and also the plague of the frogs, and that G-d didn't differentiate between the Egyptians and Israelites except for [the cases] that are clearly stated in the Torah, and Rabbi Ya'akov Ba'al Haturim wrote on this: "and his arguing on the words of the Sages and his chasing after the simple meaning brought him to this understanding. [G-d forbid to suggest that] G-d would strike the Israelites! Does G-d not have [the power] to save those who He chooses and to hit those who he chooses?" And it seems to me that the land of Goshen (as per the later commentaries) was not in the centre of Egypt, rather, on its border, and it was close to the land of "Arav", and therefore, they did not drink from the waters of the Nile, and therefore it was not hit with the plagues of blood and frogs, and the verse does not need to mention this, because it was [already] known to Israel, who knew the characteristics of the land they dwelled in. However, if some of the Israelites were outside the land of Goshen, we will not deny that they too were hit with these plagues, and they too would need to drink from the water of the pits that they dug.

2. Biblical Plagues Really Happened, Say Scientists, The Telegraph, March 27, 2010, www.telegraph.co.uk/news/science/science-news/7530678/Biblical-plagues-really-happened-say-scientists.html

...The rising temperatures could have caused the river Nile to dry up, turning the fast flowing river that was Egypt's lifeline into a slow moving and muddy watercourse. These conditions would have been perfect for the arrival of the first plague, which in the Bible is described as the Nile turning to blood. Dr Stephan Pflugmacher, a biologist at the Leibniz Institute for Water Ecology and Inland Fisheries in Berlin, believes this description could have been the result of a toxic fresh water algae. He said the bacterium, known as Burgundy Blood algae or *Oscillatoria rubescens*, is known to have existed 3,000 years ago and still causes similar effects today. He said: "It multiplies massively in slow-moving warm waters with high levels of nutrition. And as it dies, it stains the water red." The scientists also claim the arrival of this algae set in motion the events that led to the second, third and forth [sic] plagues – frogs, lice and flies. Frogs development from tadpoles into fully formed adults is governed by hormones that can speed up their development in times of stress. The arrival of the toxic algae would have triggered such a transformation and forced the frogs to leave the water where they lived. But as the frogs died, it would have meant that mosquitoes, flies and other insects would have flourished without the predators to keep their numbers under control. This, according to the scientists, could have led in turn to the fifth and sixth plagues – diseased livestock and boils. Professor Werner Kloas, a biologist at the Leibniz Institute, said: "We know insects often carry diseases like malaria, so the next step in the chain reaction is the outbreak of epidemics, causing the human population to fall ill."...

No Frills freezers lose power, forced to throw out dumpsters full of food - 680 News Staff, December 28, 2018

Several freezers that lost power in the St. Clair West area No Frills forced the grocer to throw out two dumpsters worth of frozen food earlier this week. A picture posted on Facebook captured the dumpster filled with frozen pizza, ice creams and frozen dinners and asked why some [sic] many products could be discarded, “when many are going hungry or can’t afford these items.” CityNews reached out to Loblaw, the parent company of No Frills and were told that on Christmas Day, the majority of the freezer units at the location had lost power. The grocery store, which is east of Oakwood Avenue, was closed on Boxing Day while the freezers are fixed, but the food inside was not safe to eat or sell. “We have very strict food safety protocols in place for these [sic] types of [sic] situations and always put the safety of our customers first,” a statement provided by Loblaw read. “While we understand the concerns raised about food waste, the store owner did the responsible thing by disposing of the food.” While it’s not clear if any members of the public took advantage of the discarded food before the dumpsters were removed, Public Health encourages people not to ingest any food that was not stored at a proper temperature. Even cooking the products would not make them safe to consume. Toronto Public Health Spokesperson Brian Thompson added discarded food could also be contaminated and exposed to rodents and other pests. When asked whether a store has any responsibility in dissuading people from picking up the food, Thompson said they are only required to ensure waste has been removed, but does recommend garbage containers are “lockable or secured in order to prevent illegal dumping and protection from rodents.”

3. Devarim 20:19-20 (Alhatorah.org translation)

כִּי־תָצוּר אֶל־עִיר יָמִים רַבִּים לְהִלָּחֵם עָלֶיהָ לְתַפְשָׁהּ לֹא־תִשְׁחִית אֶת־עֵצֶיהָ לְנֹדֶם עָלֶיהָ גִּרְוֹן בִּי מִמֶּנּוּ תֹאכַל וְאַתָּה לֹא תִכְרֹת בִּי הָאֲדָם עֵץ הַשָּׂדֶה לִבְנֵי מִצְרַיִם בְּמִצְרַיִם רַק עֵץ אֲשֶׁר־תִּלְעַע כִּי־לֹא־עֵץ מֵאֲכָל־הוּא אֹתוֹ תִשְׁחִית וְכִרְתָּ וּבְנֵיתָ מִצְרַיִם עַל־הָעִיר אֲשֶׁר־הוּא עֹשֶׂה עִמָּךְ מִלְחָמָה עַד רִדְתָּהּ
When you shall besiege a city a long time, in making war against it to take it, you shall not destroy its trees by wielding an axe against them; for you may eat of them, and you shall not cut them down; for is the tree of the field man, that it should be besieged of you? Only the trees of which you know that they are not trees for food, you shall destroy and cut them down; and you shall build bulwarks against the city that makes war with you, until it fall.

4. Talmud Bavli Bava Batra 91b (Davidson Edition translation)

"החובל בעצמו אף על פי שאינו רשאי פטור" ... אלא האי תנא הוא דתניא מקרעין על המת ולא מדרכי האמורי אמר רבי אלעזר שמעתי שהמקרע על המת יותר מדאי לוקה משום בל תשחית וכ"ש גופו ודלמא בגדים שאני דפסידא דלא הדר הוא כי הא דרבי יוחנן קרי למאני מכבודותא ורב חסדא כד הוה מסגי ביני היזמי והגא מדלי להו למאניה אמר זה מעלה ארוכה וזה אינו מעלה ארוכה
“One who injures himself, although it is not permitted for him to do so, is nevertheless exempt from any sort of penalty”... The Gemara suggests: Rather, it is the opinion of this tanna, as it is taught in a baraita: One may rend garments in anguish over one who died, and it is not considered of the ways of the Amorites, but a Jewish custom. Rabbi Elazar says: I heard that one who rends his garments excessively over one who died is flogged for having transgressed the prohibition of: Do not destroy (see Deuteronomy 20:19). The Gemara suggests: And all the more so it is the case that according to Rabbi Elazar one who injures his body in anguish transgresses this prohibition. The Gemara rejects this suggestion: But perhaps garments are different, in that tearing them is a loss that is irreversible, like that practice of Rabbi Yoḥanan, who would refer to his garments as: My honor, and like that practice of Rav Ḥisda, who, when he would walk among thorns and shrubs, would raise his clothing despite the fact that his skin would get scratched by the thorns. He said in explanation of his actions: This flesh will heal if scratched, but that garment will not heal if torn. Similarly, perhaps it is prohibited to rend one’s garments, but it is permitted to injure oneself.

5. Talmud Bavli Shabbat 129a (Davidson Edition translation)

שמואל צלחו ליה תכתקא דשאגא רב יהודה צלחו ליה פתורא דיונה לרבה צלחו ליה שרשיפא ואמר ליה אביי לרבה והא קעבר מר משום בל תשחית אמר ליה בל תשחית דגופאי עדיף לי

The Gemara relates that after Shmuel underwent bloodletting, they broke for him a wooden armchair made of teak [shaga] to build a fire. Similarly, for the sake of Rav Yehuda they broke a wooden table made of ebony [yavna], and for Rabba they broke a bench. They needed to build a fire due to the potential danger to Rabba. Since they could not find firewood, they kindled the fire with the furniture. And Abaye said to Rabba: In breaking the bench, didn't the Master violate the prohibition, "Do not destroy" (Deuteronomy 20:19)? It is prohibited to destroy objects of value. Rabba said to him: Do not destroy also with regard to destruction of my body. Preventing illness and danger is preferable to me.

6. Peninei Halacha, Kashrut 1, 13:7 (available online in Hebrew only at <https://ph.yhb.org.il/category/17-13-הצומת-והחי> /[כשרות-א-הצומת-והחי](https://ph.yhb.org.il/category/17-13-הצומת-והחי) for those who wish to do further research)

הטעם לאיסור ברור. אדם צריך להתייחס אל הדברים המועילים בכבוד ולרצות בקיומם. וגם אם לו עצמו אין תועלת ממאכל מסוים, מפני שאינו ערב לחיכו, אין הוא יחיד בעולם, ישנם עוד ברואים, אנשים ובעלי חיים, שיכולים ליהנות ממנו, ועל כן יש להיזהר שלא להשחיתו בחינם.

The reason for this prohibition is clear. A person needs to relate to helpful things in an honourable way, and to want them to exist. And even if he himself has no benefit from a particular food, because [he does not like the way it tastes] – he is not the only person in the world! There are many other healthy people and animals that can benefit from it, and therefore, one must be careful not to destroy it freely.

7. Peninei Halacha, Kashrut 1, 13:9-10

חומרה מיוחדת יש בהשחתת מאכלים, מפני שהמאכלים מקיימים את האדם ואיסור 'בל תשחית' נזכר לגביהם. לפיכך הוסיפו חכמים תקנות ואזהרות כדי שלא יגיע אדם להשחתת אוכל, ובמיוחד לחם, שהוא עיקר מזונו של האדם. הזהירו חכמים שלא להעביר כוס מלאה במשקה מעל לחם, שמא יישפך מן הנוזל שבכוס על הלחם, וימאס אותו מלהיות ראוי לאכילה. וכן אסור לסמוך ללחם כלי שעלול להיות מלוכלך, שמא יפגום את הלחם. וכן הדין לגבי כל שאר המאכלים, שאין לעשות דבר שעלול לפוגמם ולהשחיתם (ברכות מ, ב; שו"ע או"ח קעא, א). קל וחומר שהלוקח מאכל לצלחתו צריך להיזהר שלא להפריז, כדי שלא יגרום במו ידיו לכך שיצטרכו להשליך את שייריו. וכן כאשר מכינים סעודה, יש להיזהר שלא להכין מאכלים מיותרים שקרוב לוודאי שייזרקו. אלא אם כן מדובר במקום שהכבוד מחייב להגיש בשפע, שאז מותר להכין ולהגיש כמויות שחלקן יזרקו... כאשר אדם חש שהוא שבע, אין מצווה ואף לא מידת חסידות שיסיים את האוכל שבצלחתו, למרות שאת כל מה שלא יאכל יזרקו. ואמנם מידתם של חסידים שליבם כואב על זריקת מאכל, ולא יאבדו אפילו גרגר של חרדל בחינם, ואם יוכלו להציל דבר מהשחתה – יצילוהו (ספר החינוך תקכ"ט). אך כיוון שאכילה יתירה אינה בריאה, ו'בל תשחית' של הגוף חמור יותר מ'בל תשחית' של המאכלים שייזרקו, עדיף שיזרקו את האוכל מאשר יאכלו אותו בלא צורך (שבת קמ, ב). כמו כן מותר לאדם לזרוק מבייתו מאכלים שהוא או בני ביתו עלולים להתפתות לאוכלם למרות שאינם בריאים להם. אמנם בתקופות של עוני עדיף היה שאדם יאכל את כל מה שנתנו לו, כדי שיצבור מאגרים לתקופות קשות. כהמשך לכך נהגו להקפיד לסיים את כל האוכל שבצלחת. אולם כאשר גם העניים אינם סובלים מרעב, אלא בדרך כלל מהשמנת יתר, עדיף לזרוק את המאכלים המיותרים. ועיקר הזהירות צריכה להיות כיום, שלא למלא את הצלחת באוכל מיותר, ולא לקנות מאכלים מיותרים. אדם שערך סעודה גדולה, ונשאר לו הרבה אוכל בריא וטעים, אסור לו לזרוק אותה לפח, אלא ישמור אותה במקרה או במקפיא כדי לאוכלו אחר-כך. ואם משפחתו לבדה לא תוכל לאכול את כולו, מן הראוי להשתדל לחלק את הנוותר לקרוביו או לשכניו. ואם יוכל למצוא עניים שיחפצו בו, הרי זה משובח, שבכך יציל את האוכל מהשחתה וגם יקיים מצוות צדקה. וכן מצווה על בעלי אולמות ומסעדות לתת את האוכל הטוב שנותר להם – למוסדות חינוך או למשפחות עניות. ואם שווי הטורח שבחיפוש אנשים שירצו לקחת את הנוותר והבאתו אליהם עולה על מחיר שוויו של האוכל הנוותר, אין מצווה לטרוח על חלוקתו אלא רק מידת חסידות. כאשר קשה למצוא אנשים שיהנו מהנוותר, מנהג חסידות לרחם על בעלי חיים ככלבים וכחתולים, ולתת להם את השאריות, ולא להשחית בחינם את האוכל. אבל אם באותו זמן האדם יכול לעשות דברים יותר חשובים ומועילים, אין מידת חסידות להעדיף לדאוג לשיירי המזון, שכן משקל החסידות לבחור את הדבר המועיל ביותר.

There is a special stringency in destroying foods, because food sustains people, and the prohibition of "Bal Tashchit" is mentioned about them. Therefore, the Rabbis added [stringencies] in order that a person not come to destroying food, and especially bread, which is the main sustenance of a person. [For example,] the Rabbis warned not to pass a cup filled with drink over bread, [as] maybe some of the liquid in the cup will spill on the bread, and will make it too disgusting to be [eaten]. And so too, one is prohibited from [purposely placing a

dirty dish near bread, as] maybe it will ruin the bread. And so is the law about all other foods, that one should not do anything that is likely to ruin or destroy them (Berachot 40b, Shulchan Aruch Orach Chaim 171:1). [Therefore, certainly] one who takes food on their plate must be careful not to [take too much], in order not to cause (through his actions) that [others will end up] throwing out his leftovers. And so too when a meal is being prepared, one should make sure not to make too much food, as it is close to certain that it will be thrown out, unless it is in a situation where honour demands that it must be served in excess, as then it is permitted to prepare and serve amounts that will be partially thrown out...

When a person feels full, there is no mitzvah (and not even a pious trait) to finish the food on their plate, despite that all that they will not eat will be thrown out. [It is,] however, a trait of the pious [that] their hearts pain over the [wasting] of food, and they won't even [dispose of] a mustard seed for no reason, and if they are able to save something from destruction, they will save it (Sefer Hachinuch 529). But, since overeating is unhealthy, and "Bal Tashchit" of the body is [worse] than "Bal Tashchit" of the food which will be thrown out, it is better to throw out the food than to eat it needlessly (Shabbat 140b). Similarly, it is permitted for a person to throw out (from his house) foods that they or their family members may be influenced to eat, despite that they are unhealthy.

However, in times of poverty, it is preferable that a person eat all that is given to him, so he can store it for harsh times. As an [outgrowth] of this, [it became] customary to finish all of the food on the plate. However, when even the poor people are not dealing with hunger [problems], rather [society is getting heavier], it is preferable to throw out extra food. The main care that needs to be taken today [is] not to fill one's plate with extra food, and not to buy too much food.

A person who organized a large meal, and he remained with a lot of [leftover] healthy and tasty food, it is prohibited for him to throw it in the garbage, rather, he should keep it in his fridge or freezer so he can eat it afterwards. And if his family alone will not be able to eat all of it, it is fitting to try to distribute the leftovers to his relatives and neighbours. And if he can find poor people who desire it, that is praiseworthy, because through this he will save the food from destruction, and also fulfill the mitzvah of tzedakah!

So too it is a mitzvah for owners of banquet halls and restaurants to give the good food that remains [at the end of the day] to educational institutions or to poor families. And if the cost of the work to find people that want to take these leftovers, and to deliver it to them costs more than the worth of the leftover food, there is no mitzvah to work to distribute it, just a pious trait. When it is hard to find people who will benefit from the leftovers, it is a pious trait to have mercy on the animals, like dogs and cats, and to give them the leftovers, and not to destroy the food for no reason. But if during that time, a person would be able to do things that are more honourable and helpful, there is no pious trait to prefer to worry about leftover food, because it is the [decision of the pious one] to choose the most helpful action.

Brain-dead woman at centre of court battle over life-support dies of natural causes - Cristina Howorun and The Canadian Press, December 31, 2018

A woman who was clinically brain dead, and whose family took their fight to keep her on life-support to court, has died. Taquisha McKitty was 28 and died on Monday morning. The Brampton woman died of natural causes and had been on life support for more than 15 months. Doctors had declared her "dead by neurological criteria" on Sept. 20, 2017, one week after she was found unconscious on a Brampton sidewalk following a drug overdose. The Brampton mother has spent the better part of the past year-and-a-half in Brampton Civic Hospital's intensive care unit, while her family challenged the legal definition of death and fought to keep her on life support. Her father, Stanley Stewart, says she passed away early this morning. "She fought for a long time," Stewart tells CityNews. "She went out naturally, nobody pulled a plug." The family had appealed a court's decision that would have seen her taken off life support, claiming the judge made several errors in her ruling and that her constitutional rights were being violated. The case was heard in Ontario's highest court earlier this month and a decision was expected in coming months. Her parents launched a legal challenge arguing their daughter's Christian faith defines death as the cessation of the heartbeat, and that doctors should have to take people's beliefs into account before declaring them dead. Ontario Superior Court Justice Lucille Shaw ruled against the

family last summer, but in documents filed in court, McKitty's parents argued their daughter should stay on life support and listed nearly 50 ways in which they believe Shaw's decision was wrong. "The court erred in finding that the determination of death requires no assessment whatsoever of Taquisha's individual wishes, values and beliefs, but only requires the assessment of certain value-laden, limited, arbitrary, and evolving medical considerations," McKitty's parents, Stanley Stewart and Alyson McKitty, argue in their appeal. Shaw's decision raised "many issues of concern" to McKitty's family, their lawyer, Hugh Scher, said in a written statement issued Monday. "There are (also) serious issues of public interest and concern including the interpretation of religious freedom, equality and life itself raised," Scher said. McKitty's family argues the judge "failed to apply the protections" of Canada's Charter of Rights and Freedoms or the Human Rights Code after they had claimed their daughter's charter rights were infringed when doctors declared her dead in contravention of her religious beliefs. Shaw said in her decision that the charter does not apply to McKitty because the document only protects "persons" and McKitty, because she is clinically brain dead, is not legally a "person." The judge also said in her ruling that forcing doctors to keep patients on ventilation until their heart has stopped, as per McKitty's religious beliefs, could have "significant financial impact" on the health-care system, using up staff and resources that could be used to help other patients. The appeal claims that part of Shaw's ruling was not based on hard facts. "The court improperly (relied) upon assumptions of unproven financial and resource allocation factors to justify its acceptance of neurological death and to reject the requirement of reasonable accommodation of religious beliefs that don't accept neurological death as death," the family argues. The Ontario Court of Appeal has yet to render its decision. Upon the day of her death, William Osler Health System released a statement:

We recognize this is a very difficult time for the McKitty family, and we offer our deepest condolences. While we will not comment on specifics, we can say that all cases of this nature are tragic, and our hearts go out to families and loved ones in these situations. We continue to speak directly with the family to provide support.

8. The Brain Death Controversy in Jewish Law, Section II, Rabbi Yitzchok A. Breitowitz, available at <https://www.jlaw.com/Articles/brain.html>

The question breaks down into distinct issues. First, is irreversible dysfunction of the entire brain a valid criterion of death? Second, even if the answer is yes, are the medical test currently utilized in establishing such a condition halachically valid indicators of its presence? One could easily subscribe to "whole brain" death as a concept and yet reject the particular diagnostic tools employed. There are a number of halachic sources that are relevant to the question of "brain death", the most important being the Mishnah in Oholot 1:6, the Talmud in Yoma 85a, passages in Teshuvot Chatam Sofer and Teshuvot Chacham Tzvi, and various pronouncement of R. Moshe Feinstein in his Iggrot Moshe. This is not the forum for a detailed examination of these sources other than to note that a number of them are equivocal and subject to a variety of interpretations. Briefly stated, the Mishnah in Oholot establishes the dual propositions that, first, physical decapitation of an animal is a conclusive indicator of death and second, some degree of subsequent movement is nit [sic] incompatible with a finding of death provided that such movement qualifies as spastic in nature (pirchis be'alma) like the twitching of the "severed tail of a lizard." The Talmud in Yoma 85a, detailing with a person trapped under a building, rules that a determination of respiratory failure establishes death without the need to continue to uncover the debris to check heartbeat. Proponents of "brain death" argue that a dysfunctional brain-stem is equivalent to a decapitated one (physiological decapitation), that destruction of the brain-stem inevitably means inability to spontaneously respire (meeting the criterion in Yoma) and that subsequent "movement," whether the Lazarus Reflex or the heartbeat, falls into category of pirchus since such movement is not coordinated from a "central root and point of origin," ie., the brain. The counter-arguments are: first, physiological dysfunction is not the equivalent of anatomical decapitation. The only phenomenon short of actual decapitation that might similarly qualify is total liquefaction (lysis) of the brain, something that probably does not occur until well after cardiac arrest. Second, according to Rashi in Yoma, cessation of respiration is a conclusive indicator of death only when the person is "comparable to a dead man who does not move his limbs." While certain forms of postmortem movement may be characterized as merely spastic and would not qualify as "movement," the rhythmic coordinated beating of the heart and the maintenance of a circulatory system can hardly be characterized as pirchus since such a heartbeat is life-sustaining and identical to that in a normally functioning individual. Reference is also made to the teshuvot of Chatam Sofer and Chacham Tzvi who both write that it is only the cessation of respiration and pulse (heartbeat) that allows for a determination of death and the Gemara in Yoma merely creates a presumption that upon cessation of respiration and an appropriate waiting time, one is permitted to assume that heartbeat has stopped as well. Since this assumption is obviously not true in the case of "brain dead" patients hooked up to respirators whose heartbeats are monitored, such patients may not be declared as dead.