

WHAT'S IDENTITY GOT TO DO WITH IT? THE UNIMPORTANCE OF PERSONAL IDENTITY FOR BIOETHICS

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There has long been consensus that personal identity and bioethics are importantly intertwined, in particular that certain key bioethical positions depend heavily on the truth of certain metaphysical views of identity. In 2003, David DeGrazia forcefully concluded an essay on the topic in *Philosophy & Public Affairs* by saying, “[W]e cannot ignore personal identity theory in examining the marginal cases [in bioethics]....”¹ I think, to the contrary, that we can for the most part, that identity is far less significant to bioethics than is usually thought. To show this, I’m going to examine arguments on three main bioethical issues where personal identity theory has been thought to be nonderivatively important—abortion, the definition of death, and advance directives—and argue that in each case there is a relation other than identity doing the relevant work. I leave open whether or not there might be other examples of a bioethical argument plausibly depending nonderivatively on identity, but one might think of this paper as both a challenge to present such a case and an expression of skepticism about its prospects. I will focus here solely on considerations of *numerical* identity, setting aside for now the more recently developed and deployed conception of narrative identity.²

Abortion

Generally, there are two ways a theory of personal identity has been thought to be important to the abortion debate. One is that it allegedly supports a theory of moral status. The other is that it allegedly can be used to distinguish abortion from contraception. Those engaged in the first move tend to favor a moderate to liberal pro-choice conclusion, one that actually *likens* early abortion to contraception. Jeff McMahan, for example, ostensibly rests his view of

moral status entirely on his Embodied Mind account of personal identity, according to which you and I, who are *essentially* embodied minds, don't begin to exist until the organisms we inherit develop the capacity for consciousness, and from that point on what preserves our identity "is the continued existence and functioning, in nonbranching form, of enough of the same brain to be capable of generating consciousness or mental activity."³ Now you and I, of course, have significant moral status. An early fetus could never be someone like you or I because an entity that's essentially minded like we are is *always* minded and the early fetus lacks the physical substrate supporting the capacity for being minded. This, McMahan suggests, implies that an early fetus lacks the "special moral status" you and I have "sufficient to make it seriously wrong to kill it."⁴ It is, in his terminology, a *something* rather than a *someone*. As a result:

An early abortion does not kill anyone; it merely prevents someone from coming into existence. In this respect, it is relevantly like contraception and wholly unlike the killing of a person. For there is, again, no one there to be killed.⁵

Nevertheless, the fact that some entity isn't identical with a creature that's one of us doesn't mean that its different moral status *is a function of that non-identity*. We can see this point more clearly in McMahan's treatment of late abortions, the killing of fetuses that *are* one of us, having passed the point at which their organism's capacity for consciousness has been activated. One might think that once one of us has been brought into existence it will have the same moral status as the rest of us, but this isn't the case for McMahan. Rather, you and I have the high moral status we enjoy because we are *persons*—entities with the capacity for self-consciousness—and so deserve respect.⁶ But there are entities that, while one of us in virtue of a common essence, are not yet persons, and so lack our high moral status; they are in fact governed by a different account of the morality of killing.⁷ Any moral status they have—

determining the seriousness of the wrongness of killing them—depends entirely on their *time-relative interest* in continuing to live, itself a function of the value of their future *and* their expected psychological unity with the embodied mind that will undergo that future good. But because they lack the ability to anticipate, contemplate, and form intentions about their future good, their psychological unity with that future self is extremely weak, and so their time-relative interest in continuing to live is itself weak, rendering the wrongness of killing them far less serious than the wrongness of killing persons like you and me.⁸

So what role do the conditions of our essence and personal identity play here? As it turns out, having an embodied mind—being a *someone* who meets the conditions for personal identity across time—isn't what does any of the work to generate moral status in the arena of abortion. For one thing, being an embodied mind isn't what generates *full* moral status; for that, one needs to be a person, an entity deserving of respect. For another, being an embodied mind isn't even what generates *partial* moral status; for that, one merely needs to be an entity with *interests*, something other animals possess. Furthermore, the degree to which one's interests determine one's moral status depends on one's psychological unity with some future beneficiary of value, but psychological *unity* just isn't numerical *identity*.

Now McMahan explicitly assumes that identity should “coincide as closely as possible with our sense of what matters,”⁹ but he also claims that the degree of warranted egoistic concern for one's future (part of what matters) may rationally vary in accordance with the degree to which one will be psychologically unified with that future self. So insofar as the degree of one's prudential concern (partially) determines one's time-relative interests, and insofar as the degree of said concern may diverge widely from one's numerical identity (which admits of no degrees),

what determines one's moral status with respect to abortion—namely, one's time-relative interests—does so independently of one's numerical identity.

David DeGrazia explicitly rejects the idea that what matters—presumably, what grounds egoistic concern—is numerical identity.¹⁰ This is because his essentialist-grounding criterion of numerical identity is biological: X (a person) at one time is one and the same as any Y at another time just in case X's biological life is Y's biological life.¹¹ But one can easily see that a criterion like this will have a poor fit with our practical concerns, which more or less track psychological relations (as he essentially admits¹²). For instance, special self-concern (a present-future relation) and moral responsibility (a present-past relation) are surely grounded in *psychological* relations of some sort, not biological ones, so while biological continuity is perhaps necessary to sustain them, it isn't the sort of thing that can *make sense* of them.¹³ As a result, DeGrazia appeals to the notion of *narrative* identity to ground some bioethical matters, an account of the different sense of "identity" I am setting aside here.

Nevertheless, he does claim to make use of the biological criterion of numerical identity in the abortion case. On his view, unlike on McMahan's, the early fetus is in fact an individual-like-us, for its essence—its biological organism—is in existence and individuated roughly two weeks after conception (once the possibility of twinning is gone). In this respect, he agrees with one of the constituent parts of Don Marquis' famous "future like ours" account of the wrongness of killing, or FLOA.¹⁴ Nevertheless, DeGrazia tries to deny Marquis' conclusion—that if a fetus has a valuable future like ours then it has an equal interest to ours in not being deprived of it—by adopting a version of McMahan's time-relative interests account. He argues that what matters for determining the moral permissibility of depriving someone of his or her future is that entity's time-relative interest in staying alive, itself determined by that entity's psychological unity with

its future, beneficiary self. But “*the complete lack of psychological unity between the early fetus and later minded being requires a very heavy discounting of the value of its future in considering the fetus’s stake in continuing life,*”¹⁵ and so the fetus’s interest in staying alive could be outweighed by virtually any conflicting interest of the mother (or anyone else, I suppose). Assuming no other relevant impersonal considerations, then, early abortion looks to be justified with ease.

The question under consideration is what identity has to do with the argument or verdict here, and the answer is obviously *none*. The only real disagreement between DeGrazia and McMahan is over whether or not the early fetus is an individual like us: DeGrazia says it is; McMahan says it isn’t. But in neither case does this turn out to be relevant for their arguments justifying abortion. Instead, what is relevant is the relation that matters for prudential concern, namely, psychological unity, which is neither a numerical identity relation itself nor a *tracker* of the numerical identity relation for either party.

Nevertheless, DeGrazia insists that “personal identity theory can illuminate the marginal cases and the connections between them,”¹⁶ but it turns out that what he means by this is that “[a] plausible theory of what matters in survival—a *part of personal identity theory, broadly construed*—proves very important.”¹⁷ So while numerical identity itself may not turn out to be important for bioethical concerns, what *matters* in identity may, and if that’s the case, then we can still say that personal identity *theory* is important for bioethics.

This is far too broad a construal of personal identity theory, though. Suppose one were to follow Parfit (and his reasoning) in abandoning identity as what matters in survival.¹⁸ When investigating certain questions of prudential rationality and morality, then, one might focus solely on the psychological relations of connectedness and continuity that hold (or don’t)

intrapersonally as grounding the relevant practical reasons. A Parfitian might take this to be the correct strategy, regardless of the truth of any particular theory of personal identity. Indeed, Parfit himself is agnostic about whether or not a psychological criterion or a version of the physical criterion of personal identity is true.¹⁹ But if the true theory of identity is just irrelevant to our practical concerns, one might think there to be no real *point* to figuring out which one is true. Yet if one takes that attitude into a study of what matters in egoistic concern with respect to bioethical questions, say, how can we say that what one is doing has anything at all to do with the study of *personal identity* theory anymore? Nevertheless, this is essentially what McMahan and DeGrazia are doing: the relation that matters for both—psychological unity—neither is nor tracks their favored numerical identity relations, in which case it becomes very difficult to see how putting all the ethical weight on *that* (non-identity) relation actually fits into an account of personal identity theory at all. One could easily just come to place ethical weight on the relation of psychological unity utterly independently of any investigation at all into the nature of personal identity, in which case one would openly be doing what McMahan and DeGrazia are more obliquely doing, namely straightforward *ethical* theory.²⁰

Turn now to the second general way in which personal identity has been thought to be important to the abortion debate. DeGrazia denies Marquis's anti-abortion conclusion precisely by taking ethical weight off of the biological criterion of personal identity. If we want to see whether or not a moral conclusion about abortion can rest on a theory of personal identity, therefore, we should see what happens if we try to put the weight back on something like a biological criterion by returning to Marquis. In his reply to Earl Conee's argument that "there is no metaphysical support for a moral conclusion about abortion,"²¹ Marquis tries to show precisely where metaphysics, and in particular personal identity theory, supports his famous

verdict that abortion is seriously prima facie immoral.²² He does so by essentially reiterating his originally stated view distinguishing contraception from abortion. In abortion, what's deprived is the fetus's valuable future-like-ours, and that's what makes it wrong. One might then worry that the valuable future of the sperm and/or unfertilized ovum would be deprived in contraception too, making it also prima facie wrong, a result that would, Marquis insists, constitute a *reductio* of his view. But he claims instead that the two cases are quite different, insofar as what makes killing someone (an adult human or a fetus) wrong is the loss to the victim of *her* future life.²³ But a "necessary condition of this being so is that the future life that is lost would have been the *actual* life of the *same* individual who dies prematurely...."²⁴ Killing the sperm or unfertilized ovum that were my precursors, then, could have constituted a loss *to them* only if they would have been numerically identical with me. But neither could have been me insofar as that would have made them (by transitivity) numerically identical with each other, which they obviously were not. As a result, neither could have been deprived of the valuable future that is my life had my parents engaged in contraception at the time I was conceived.²⁵

Here is an argument that seems clearly to get real ethical mileage out of a metaphysical view of personal identity, specifically, any view of identity that renders early fetuses one and the same individuals with the adult human beings into which they grow. Such a view of identity is readily available, either by drawing from the sort of biological criterion DeGrazia defends of course, or by drawing from a soul criterion, according to which what makes the early fetus and later adult one and the same individual is their possession of one and the same soul.

Nevertheless, despite appearances, Marquis' ethical view just isn't nonderivatively dependent on conclusions about numerical identity. To see why, note that what makes killing the fetus wrong is that doing so deprives it of *its own* valuable future. Marquis then takes a

fetus's ownership of a valuable future to entail the numerical identity of the fetus with the individual who would otherwise have lived through that future. But there is no such entailment between ownership and numerical identity.²⁶ For instance, ownership—proper attributability—doesn't necessarily obtain uniquely, as must identity. To say that some X is mine, in other words, doesn't mean that X is mine *exclusively*. Just as one may jointly own property with another, so too one may jointly own a valuable future with another. This may be so in cases of marriage, business partnerships, team sporting ventures, and so on, where one enters into a relationship with other individuals, together creating and constituting a joint entity to which various valuable things accrue, e.g., tax deductions, profits, victories, and so on.

What allows for the ownership relation to obtain independently of the numerical identity relation is the fact that their relata are just different. What Marquis wants is an account of what makes some valuable future mine, but that simply consists in a relation between me-now and some set of future experiences, say, not a relation between me-now and some future *experiencer*. This leaves room for the possibility of some valuable future being mine, where my relation to the future experiencer is non-unique. To take a Parfitian science-fiction case, suppose I were to be fused with you tomorrow.²⁷ Depending on the details of the case (including the psychological make-up of the resultant fused person), the future of the two-days-from-now person might truly be said to be mine, or at least partially mine, pre-fusion, despite the fact that either I am not numerically identical with the fused person or the identity of that person is indeterminate.²⁸

Consequently, if ownership is the relation that matters morally, and ownership doesn't entail numerical identity, then there's no reason in principle why a sperm and an unfertilized ovum couldn't jointly own a valuable future, regardless of their individual lack of numerical identity with that future experiencer, in which case the alleged disanalogy between contraception

and abortion is lost.²⁹ Marquis' moral conclusion directly rests, not on a view of numerical identity, but on a theory of ownership-of-future-experiences, a theory that remains to be worked out. And even if it turns out that ownership of this sort does (contingently) depend on numerical identity, identity would still have only *derivative* importance to Marquis' argument—carrying weight only in virtue of its delivering the ownership relation—not the nonderivative importance he assumes it to have.

Death

Turn now to the other end of life. What might seem to be a purely conceptual matter—determining the definition of death—is actually motivated by some major bioethical concerns. Probably the most pressing is the question of when it is morally permissible to remove organs from someone for transplantation. The answer often given to this question is “only when the patient is *dead*.” What does it mean, though, for a patient to be dead? The fresher organs are, the more viable they are for transplant, so we may have pragmatic reasons to understand death as ending the life of persons, i.e., of psychological creatures. But if that's the case, then what are we to say about the human organisms surviving the persons who had inhabited them? Isn't what ends *their* lives the true “death”? Or are there perhaps multiple concepts of “death” in play?

I am going to focus on three different definitions of “death,” each one alleged to depend squarely on a different theory of personal identity. As we will see, none of them clearly do.

The first is Green and Wikler's famous ontological defense of brain death—irreversible cessation of brain function—as constituting the proper understanding of death.³⁰ They base this view on a psychological criterion of the identity of persons, a criterion they think is favored by our intuitions in body-switching thought experiments. Consequently, in order for Jones, a patient, to be alive, then the patient must be alive and the patient must be Jones, and given that

Jones is essentially a being with psychological properties whose identity over time is preserved by psychological continuity and connectedness, the irreversible loss of this psychological capacity via irreversible loss of brain function signifies the cessation of that person's existence, which "of course" means that Jones is dead.³¹

The second and third accounts of death come from, respectively, DeGrazia and McMahan. Both are alleged to be grounded in their essentialist views about identity. DeGrazia insists that you and I are essentially living human animals, biological organisms, such that our ceasing to exist just consists in the death of our organisms, and he thinks the most plausible account of organismic death is the circulatory-respiratory standard, according to which "human death is *the permanent cessation of circulatory-respiratory function*."³² Now McMahan actually agrees that a human organism dies "when it irreversibly loses the capacity for integrated functioning among its various major organs and subsystems."³³ But this won't be what *my* death consists in, because I'm not an organism; rather, I'm essentially an embodied mind, so I cease to exist—that is, I die³⁴—when I irreversibly lose the capacity for consciousness, and this happens as a result of loss of function in the higher brain, or cerebral death.³⁵ This leaves us with two concepts of death, one for the death of organisms, the other for the death of persons. But given the practical concerns related to our interest in the nature of death—regarding the morality of organ transplants, life-prolonging treatments, and so forth—the concept that *matters* is cerebral death, the death of persons like you and me.³⁶

My worry about each of these three definitions has to do with the relation each theorist assumes holds between numerical identity, ceasing to exist, and death. The general reasoning advanced by each view goes as follows (with each specific variation in brackets):

1. X exists only insofar as X's numerical identity is preserved across time, i.e., X at t1 ceases to exist at or by t2 just in case there is no Y at t2 with whom X is numerically identical.
2. What preserves the identity of some individual across time is preservation of that individual's essence {psychological continuity, mind, biological organism}.
3. If X ceases to exist, X dies.
4. Thus, if X's essence {psychological continuity, mind, biological organism} is not preserved, X dies.

This is the sort of argument many have thought ensures the relevance of personal identity to the concept of death, but this conclusion is unwarranted because premise 3 is far from obvious (and actually strikes me as false). A powerful reason to doubt it comes from consideration of fission cases, of both the non-fiction and science fiction varieties. When one amoeba splits into two, it seems the original ceases to exist without dying.³⁷ This is also true of the embryo that twins and the sci-fi person who enters the fission machine. In such cases, there is no Y at the time of the split, twinning, or fission with whom the original X is identical, precisely because *uniqueness*, an essential constituent of numerical identity, has been lost. Nevertheless, it seems bizarre to say that X died at that point, that fission *killed* him, given that everything else involved in ordinary survival remains completely intact.³⁸

This is an important point, for it makes clear that preservation of one's essence can at most be one necessary condition for the preservation of one's numerical identity. The inclusion of uniqueness as another necessary condition, however, reveals the conceptual gap between ceasing to exist and dying: one may cease to exist where *either* uniqueness or one's essence is lost, whereas dying has nothing to do with the loss of uniqueness at all. If there's such a gap,

then, it's difficult to see what relevance appeals to either our essence or our numerical identity could have in this arena.

One might object here by insisting that, in the *real* world at least, fission (of full-fledged human beings, anyway) just doesn't occur, so we can safely set such considerations aside and assume that cessation of existence in all ordinary cases equals death. But this reply misses the point, for the bioethical debate about death is a *conceptual* debate, an exchange about the proper definition of death, and there's no reason at all to think the relevance or application of our conceptual intuitions must be restricted to the everyday or the likely ("water" and "XYZ," anyone?).

Nevertheless, one might still resist the conclusion by pointing to the obvious fact that, if a living X ceases to exist, then X is clearly no longer *alive*. One might then think it naturally follows that if X is no longer alive, X must be dead.³⁹ But this doesn't necessarily follow. Suppose you magically popped out of existence. It would no longer be true of you that you are alive, certainly enough, but it would also not necessarily be true of you that you are dead: you would more likely be, it seems, *neither*. In any event, it's an open question whether or not you would be dead, and to admit as much where it would also *not* be an open question that you had ceased to exist reveals the conceptual gap at issue. Ceasing to exist doesn't entail dying, and unless that's the case it seems that what's relevant for the definition of death remains independent of considerations of numerical identity.

Advance Directives

The basic methodology should be clear by now, so my treatment of the final issue will be brief. It is the case of advance directives preceding severe dementia. The relevant question is usually thought to be, "Is the pre-demented signer of the directive numerically the same

individual as the later demented patient (someone who is by definition a non-person, let's say)?" This is particularly a problem in the case in which the younger signer (YS) directs treatment (or non-treatment) that the contented demented patient (DP) claims not to want. Our strong intuition is that YS's directive is authoritative over the wishes of DP. Call this the *Intuition*. Identity-based arguments on the topic typically go as follows:

1. YS's preferences are authoritative over DP's if and only if YS is numerically identical to DP.
2. YS [is/is not] numerically identical to DP.
3. Thus, YS's preferences [are/are not] authoritative over DP's.

Start with the negative version of premise 2, something a person-essentialist or psychological continuity theorist would likely maintain.⁴⁰ This view yields what DeGrazia calls the "someone else problem."⁴¹ Here, notice that one can still deny the conclusion that YS's preferences aren't authoritative, and thus rescue the *Intuition*, by denying premise 1's assertion that numerical identity is necessary for authority, and indeed this is what many have done. One way to do this is by appealing to "surviving interests," interests people have regarding certain states of affairs whose (dis)satisfaction depends on what happens after they cease to exist.⁴² Another way is by appeal to "substituted judgment," which depends on close family members or loved ones to determine what treatment the formerly competent patient would have wanted (where the advance directive counts as authoritative evidence for that). But in either case, the loss of identity is irrelevant to the preservation of the *Intuition*.

On the other hand, one might claim to preserve the *Intuition* by embracing the positive version of premise 2, something a mind-essentialist or biological continuity theorist would likely do. This would allegedly render YS's preferences authoritative over DP's. But for those who

adopt this option (e.g., McMahan and DeGrazia), the problem now is to figure out why this one and the same individual's *earlier* preferences are to be respected over her *current* preferences, when this is the opposite of ordinary practice in other arenas. There are various replies here, having to do with how to place precedent autonomy into the hands of YS. McMahan appeals to the time-relative interest account again.⁴³ DeGrazia appeals to considerations of *narrative* identity as a way to show how DP's experiences may or may not be unified into YS's life in terms of what matters.⁴⁴ But neither view depends on numerical identity to preserve the *Intuition*, precisely because doing so depends on a particular account of what makes certain preferences *authoritative* over others, and identity seems to be neither here nor there with respect to that.⁴⁵

This point is made quite clear once we realize that some authors actually counsel abandoning the *Intuition* itself, arguing instead that YS's preferences *aren't* authoritative over DP's, given that DP may still have an important sort of autonomy.⁴⁶ On this view, identity is explicitly irrelevant to a determination of the bindingness of the advance directive.

The debate isn't over identity, then, but rather over the nature of preferential authority directly, over what it is that renders some preferences authoritative when in tension with others. Depending on what that consists in, then, YS's directive may be authoritative for DP regardless of their (non-)identity. And alternatively, her directive may *not* be authoritative for DP, regardless of their (non-)identity. But in either case, numerical identity simply isn't doing the relevant work. Whether numerical identity is in fact relevant for some other issues in bioethics, or whether there's some other sense of "identity" that is relevant to these issues instead, that will have to be a discussion for another day.⁴⁷

¹ David DeGrazia, "Identity, Killing, and the Boundaries of Our Existence," *Philosophy & Public Affairs* 31 (2003): 413-442, p. 442.

2 For sustained development and discussion of the notion of narrative identity, see Marya Schechtman, *The Constitution of Selves* (Ithaca, NY: Cornell University Press, 1996). For an application of narrative identity to bioethical concerns, see David DeGrazia, *Human Identity and Bioethics* (Cambridge: Cambridge University Press, 2005).

3 Jeff McMahan, *The Ethics of Killing* (Oxford: Oxford University Press, 2002), p. 68.

4 Ibid., p. 269.

5 Ibid, p. 267.

6 Ibid., p. 275.

7 Thus McMahan calls his view a *Two-Tiered Account* of the morality of killing. See *ibid.*, pp. 245-265.

8 See, e.g., *ibid.*, pp. 275-276.

9 Ibid., p. 54.

10 DeGrazia, "Identity, Killing, and the Boundaries of Our Existence," e.g., p. 425.

11 Ibid., p. 421.

12 See *ibid.*, p. 425. For a more hedged view, see DeGrazia, *Human Identity and Bioethics*, pp. 60-65. See also Eric Olson, *The Human Animal* (Oxford: Oxford University Press, 1997), pp. 70-72.

13 See my "Personal Identity and Practical Concerns," *Mind* 116 (April 2007): 317-357, p. 322.

14 Don Marquis, "Why Abortion is Immoral," *Journal of Philosophy* 86 (1989): 183-202.

15 DeGrazia, "Identity, Killing, and the Boundaries of Our Existence," p. 433; emphasis in the original.

16 Ibid., p. 416.

17 Ibid.; emphasis mine.

18 Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984), esp. pp. 253-266.

19 Ibid., p. x (note added in 1985), p. 208, and elsewhere.

20 Another way to think about this point: what matters *in survival*, in identity across time, may be very different from what matters *in egoistic concern*. So what matters in preserving what we ordinarily think of as survival might be some biological relation, whereas what matters for purposes of anticipation and self-concern might well be some psychological relation. One might, then, easily adopt the latter view independently of any investigation whatsoever into the nature of identity, and if so it would be clear that one was engaged squarely in ethical theorizing. My point here is that this is essentially what DeGrazia and McMahan are doing.

21 "Metaphysics and the Morality of Abortion," *Mind* 108 (1999): 619-646, p. 644.

22 Don Marquis, "Does Metaphysics Have Implications for the Morality of Abortion?" *Southwest Philosophy Review* 18 (2002): 73-78.

23 Ibid., pp. 77-78.

24 Ibid., p. 78; emphasis in original.

25 Ibid.

26 I've argued for this point in "Responsibility without Identity," unpublished manuscript.

27 Parfit discusses various fusion cases on pp. 298-299.

28 This would be metaphysical indeterminacy, not epistemological indeterminacy: it's not that we just wouldn't know (or have no way of knowing) the identity of the fused person; rather, it's that there would just be *no facts of the matter* regarding whether or not this person would be me, you, or someone else.

29 My own thought is that there's no difference between the early fetus and the sperm/ovum case with respect to ownership of a valuable future, but instead of both having such a future, *neither* do. This is because, for one thing, I suspect a proper account of ownership would require owners to possess some basic sort of psychological capacities, which these entities altogether lack. But I'm not prepared to defend such a view here.

30 Michael B. Green and Daniel Wikler, "Brain Death and Personal Identity," *Philosophy & Public Affairs* 9 (1980): 105-133.

31 Ibid. See p. 118 for the "of course" comment.

32 DeGrazia, *Human Identity and Bioethics*, p. 149; emphasis in original.

33 Jeff McMahan, "An Alternative to Brain Death," *Journal of Law, Medicine & Ethics* (Spring 2006): 44-48, p. 47.

34 Ibid. McMahan explicitly uses the phrases "die" and "cease to exist" interchangeably.

35 Ibid., pp. 47-48. See also McMahan, *The Ethics of Killing*, pp. 423-426.

36 McMahan, "An Alternative to Brain Death," p. 48.

37 Strangely, McMahan admits as much (see *The Ethics of Killing*, pp. 27 and 425), but he doesn't appreciate the force of the admission against his view.

38 Obviously, this argument draws from Parfit, pp. 253-263.

39 An assumption David Hershenov deploys in "The Death of a Person," *Journal of Medicine and Philosophy* 31 (2006): 107-120, p. 113.

40 See, e.g., Rebecca Dresser, "Life, Death, and Incompetent Patients: Conceptual Infirmities and Hidden Values in the Law," *Arizona Law Review* 28 (1986): 379-381; and "Advance Directives, Self-Determination, and Personal Identity," in Chris Hacker, Ray Moseley, and Dorothy Vawter, eds., *Advance Directives in Medicine* (New York: Praeger, 1989).

41 See David DeGrazia, "Advance Directives, Dementia, and 'the Someone Else Problem,'" *Bioethics* 13 (1999): 373-91; "Identity, Killing, and the Boundaries of Our Existence," pp. 440-441; and *Human Identity and Bioethics*, pp. 164-167.

42 See, e.g., Allen Buchanan, "Advance Directives and the Personal Identity Problem," *Philosophy & Public Affairs* 17 (1988): 277-302, p. 287.

43 McMahan, *The Ethics of Killing*, pp. 496-503.

44 DeGrazia, "Identity, Killing, and the Boundaries of Our Existence," pp. 441-442; *Human Identity and Bioethics*, pp. 173-186.

45 Two points are relevant here. First, Steven Wall has suggested a possible account of advance directives in which YS *binds herself* via the directive, such that no matter what she might think or feel when demented, her earlier wishes are to be authoritative. On such an account, it seems as if numerical identity might do some real work: what renders the later self subject to the directive is precisely her numerical identity with the earlier, binding self. I don't want to rule out the possibility of such an account, but I haven't seen one like it developed before, so I'll remain agnostic until I can assess the details. (One initial worry is that we let ourselves off the hook sometimes in such self-binding arrangements, so it would be unclear whether or not (a) there would be legitimate instances of "letting off the hook" in cases of advanced directives, or (b) a hypothetical later competent self might have done so where the actual later self was pleasantly demented.)

Second, Marya Schechtman has pointed out to me that it looks as if considerations of numerical identity actually do at least some minimal work for DeGrazia and McMahan (and perhaps others). After all, they're left with the problem of saying why YS's preferences should be given precedence over DP's only *because* they are the same person. So appeals to identity constitute at least some part of the argument. Fair enough. I don't necessarily want to insist here that identity plays no role whatsoever in these bioethical arguments; rather, I merely want to show that appeals to identity are far less significant to bioethics than have often been thought, and in particular they do little to none of the heavy lifting in these arguments, which is actually done by other relations. In the case of advance directives, what's doing the heavy lifting is the establishment of authoritativeness in preferences. Given that if YS and DP aren't numerically identical, YS's preferences for DP may still be authoritative, and given that if YS and DP *are* identical, YS's preferences may *not* be authoritative over DP's (as I point out in the next paragraph above), identity considerations play very little role in addressing the main issues.

46 See, e.g., Agnieszka Jaworska, "Respecting the Margins of Agency: Alzheimer's Patients and the Capacity to Value," *Philosophy & Public Affairs* 28 (1999): 105-138.

47 My thanks to Douglas Portmore and Steven Wall for insightful remarks on an early draft of this paper, and my thanks to David Hershenov, John Lizza, Marya Schechtman, and Mary Anne Warren for their insightful remarks on a later draft of this paper at a special session on "Persons, Human Organisms, and Bioethics" at the 2008 Pacific APA (organized by John Lizza).