IN THE SUPREME COURT OF IOWA
No. 15-1375

DONNA JEAN HOLMAN

Appellant

vs.

STATE OF IOWA

Appellee

Johnson County No. SMSM067310
Appeal from the ruling of Judge Stephen C. Gerard, II

APPENDIX

Donna Holman, pro se
776 Eicher
Keokuk IA 52632
Truthvan@yahoo.com
319-524-5587

Assistant Attorney General of Iowa Benjamin Parrott
Hoover State Office Building
1305 E. Walnut Street
Des Moines IA 50319

Contents

Additional relevant docket entries

"State's" Appendix

IN TH DISTRICT COURT OF IOWA IN AND FOR JOHNSON COUNTY INC NO: 260605606 2

COMPLAINT

STATE OF IOWA (or)

CITY OF IOWA CITY, IOWA

PI INC NO:

SMSMO 67310-CT

vs.

Holman, Donna Jean

CLERK'S NO

☒ SM - Simple
☐ AG - Aggr Mis
☐ SR - Seri Mis
☐ FE - Felony
☐ OW - OWI

NAME

5/25/35

DATE OF BIRTH

774 Eicher ST

ADDRESS

484365269

SOCIAL SECURITY NO.

Keokuk, IA 52632

CITY/STATE/ZIP

W	F	5'7	156	Gry
RACE	SEX	HGT.	WGT.	HAIR

Donna Jean Holman is accused of the crime of

Harassment 3rd Degree - Personal Contact UCR 13C

in violation of Section 708.7(1)(b) of the Iowa Criminal Code or Ordinance No.

of the City of Iowa City in that (he) (she) did, on or about the 1 day of November (yr) 2006, at

(Time:) 0800 (Location:) 850 Orchard ST in Johnson County, State of Iowa

engage in personal and physical contact with another with the intent to alarm and annoy the other.

☒ O - Custody - On View
☐ S - Cited & Released
☐ T - Custody - Warrant/Prior

☐ His. ☐ Non-His.
☐ Res. ☐ Non-Res.
Armed: ☐ Yes ☐ No
☐ Handcuff DL

D. Brotherton #2 / Sammons #47

COMPLAINANT

NAME OF JAIL INTAKE OFFICER

I, the undersigned complainant, being first duly sworn on oath, do hereby depose and state I believe the above named Defendant committed the above named public offense based on the following facts: The victims were attempting to enter 850 Orchard St. The Def approached the victims and began following them as the walked to the door. As she followed she yelled at them and shoved pamplets at them. They told her multiple times to leave them alone and she continued to yell and push the pamplets at them. The victims advised they were alarmed and annoyed by the Def's actions.

D. Brotherton #2

COMPLAINANT

Subscribed and sworn to before me on this 1st day of November, (yr) 2006

(Deputy) Clerk of ~~Court or Judicial Magistrate~~ or Notary Public

I hereby promise to appear in said court at 417 S. Clinton Street, Johnson County Courthouse

on ____/____/____ (MO./DAY/YR) AT _____ ☐ AM ☐ PM. Anyone who willfully fails to appear in court as specified shall be guilty of a misdemeanor. The court may then issue a warrant of arrest for the defendant as specified in Section 805.5 of the Code of Iowa.

SIGNATURE OF DEFENDANT

IOWA CITY POLICE

ORIGINAL - COURT

IN THE DISTRICT COURT OF IOWA IN AND FOR JOHNSON COUNTY

STATE OF IOWA
vs

Holman, Donna Jean
Name
776 Eicher ST
Address
Keokuk, IA 52632
City & State
05 25 35 DOB
484-36-5269 SS#

VIOLATION OF HARRASSMENT OR STALKING PROTECTIVE ORDER

CAUSE No. SMSM067310

FILED
2006 NOV 16 AM 9:01
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

Donna Jean Holman is accused of a violation of Section 708.12 of the Code of Iowa. Said violation having occurred on or about the 15 day of November, 2006 at 850 Orchard ST, Iowa City in Johnson County, Iowa.

I, the undersigned complainant, being first duly sworn on oath, do hereby depose and state I believe the above named defendant committed a violation of Section 708.12 of the Code of Iowa based on the following facts:

Officers were called to 850 orchard st on a report of female that was in violation of a protective order. Upon arrival, I observed the defendant on the sidewalk that runs along the west edge of the planned Parenthood parking lot. The female then walked south to the entrance of the parkinglot. The female was later identified as the defendand. Upon looking at the order, item #5 states the defendant must stay more than 25 feet away from the driveway or parking area of planned parenthood. The sidewalk is less than 10' from the parking area.

#46
Complainant

Subscribed and sworn to before me on this 15 day of November, 2006

Lori L Carrillo 5/25/08
Notary Public

4 copies required - check routing

X Original-Court ____ Defendant ____ Jail File ____ Officer

January 26, 2007
SMSM067310 Ct I: Harassment third degree and Ct II: Disorderly conduct
State of Iowa v. Donna Holman
Defendant appears in person with Attorney Allan Richards
State appears by Intern Shalla Kasal and Attorney Iris Frost

(Witnesses sequestered)

Plaintiff case:

Witness Tracy Goetz sworn:

Clinic Assistant at the Planned Parenthood Clinic in Iowa City, 850 Orchard Street. On November 1, 2006, at approx. 7:30 A.M., witness arrived at work. She was in the front office helping prepare charts when she heard and observed two female subjects at the front door, banging on the door. It was about ten minutes til 8:00 A.M. The door was still locked. Witness went to the front door. Describes the front door to the clinic as two doors: one exterior and one interior with an area between the two where the security guard sits, a type of waiting area.

Witness heard the banging at the front door and she went to get another assistant to go see what was happening. Could hear loud yelling-horrible things- at the two girls. Opened the doors and let the girls come inside. Justine Stanfa was with her. When she went outside to let the girls in, could see Donna on the other side of the wall. Witness IDs D. Donna Holman. Could hear Donna yelling while the girls were banging on the door. Hear her yelling, "You're a Mom! Don't kill your baby! You're murdering your baby!" The yelling was loud and continuous. Witness has Justine take the two girls in the clinic. Then went back to make sure the girls were OK. Generally the security guard would be there, but he was ill that day.

While checking on the girls with Justine, could still hear the yelling outside. Witness has the clinic manager call the police. While outside letting the girls inside, Donna was within two-three feet of the witness, yelling. Observed that Donna was even closer to the two girls, approx. an arms length away.

State's EXHIBIT #1 photo of clinic entrance-no objections-admitted. Area is outside of the clinic near the alley.

After the clinic manager went to call the police, witness went back again to check on the girls. Observed that both girls were very upset. They both appeared very nervous, very scared, shaking. The patient was crying and her friend for support state, "Why are they doing this to us?!"

While outside, the witness noticed that the Defendant was wearing a big, heavy coat and a billboard on top of herself. The billboard had a gruesome picture. The witness had Shirley Morris, office manager, go back out front to secure the area and watch for other patients coming in-wanted them to be safe. Walked people out to their cars and escorted them in. Could still hear the Defendant yelling, "Thou shall not murder!" Could hear from inside the building. Patients were still coming in that morning, possibly 10-15 people. Observed the Defendant walking up and down the alley. Patients would park in front of the building. The witness could hear the Defendant yelling that "mothers were killing their babies." The Defendant's tone was very serious and it would make your skin crawl. Very upsetting to hear it-horrifying-very loud-very direct-very uncomfortable.

Witness loves her job. Loves what she does. It was very scary inside the clinic. Could still hear the Defendant yelling through the two doors, beyond the waiting room could even still hear her yelling. From inside the building, could look through the glass front doors and see the Defendant standing there-could see her continuing to yell-showing her A-frame billboard sign with the horrific pictures. Defendant would look at people directly in their eyes-yelling directly at them-approaching them in a direct manner but maintaining a slight distance. The two girls were very frightened by the Defendant's behavior as was the witness.

Police arrived at the business. Police spoke to the two girls who were very upset. The police made sure that everyone was OK-safe and would handle the situation. Other people were coming in for medical attention.

CROSS: Worked at clinic a little over a year. "Donna" is there most Wednesdays-have not observed her handing out brochures. Not sure what time the call went out for the police. Police just approaching. Possibly fifteen patients came in during that time. Defendant requests names of the patients-argues right to confront witnesses. State objects. Objection sustained. (standing objection for names of patients from clinic)

Cannot testify to what patients did or did not feel. Can only testify as to what she observed. Witness did not like what Donna was saying. Did not like the message she was communicating. Had heard her message in the past and did not like it. Even with a security guard there, they still have problems. Did not see Donna physically touching people. Believes she had on her billboard that day. Was standing in the alley yelling at people. No sidewalk there. Just the alley. Cars would come down the alley and had to go around her. Was to the side of the door. Could hear Don's voice- could see and hear Donna yelling at the side of the door, at the alley. Yelling, "Thou shall not murder!" "You are a mom. You are killing your baby!" Witness does not agree with that statement.

Planned Parenthood is a business and anyone can come in. Donna was perfectly able to be there. When security there in the past-has been allowed to talk to patients. That day she was yelling at patients. Never spoke to patients-only yelled at patients. Witness never spoke to Donna.

REDIRECT:

Heard Defendant talking to the girls. It was very direct-very loud-very mean. They appeared to be absolutely threatened. Witness felt threatened. It disrupted the clinic and disrupted the business.

Witness Justine Stanfa sworn:

Works at Planned Parenthood, Iowa City-clinic assistant. Was working November 1, 2006. Arrived about 7:30 A.M. Heard a knock at the door. Thought patients were arriving early. Heard pounding at the door. Witness was located behind the preparation counter. Tow glass front doors. In between is waiting area where the security guard sits. Two woman were outside and were pressed up against the door. Heard people yelling outside. Tracy and the witness went to the door and could hear people yelling. Focused on the people-concerned for their safety. Witness ID's D. Donna Holman. Immediately let the two girls into the waiting room. Both were very, very upset. The patient was crying, "Why are they doing this?!" Both appeared very shaken up-very worried-very lost

Defendant OBJECTS-right to confront witnesses. Objects to hearsay-wants to confront the patients. State RESPONDS: excited utterance-present sense impression.

COURT: overruled-Excited utterance-States case is what it is. Defendant requests to voir dire the witness-granted

VOIR DIRE: all four in the waiting room-away from the front doors. Patient sitting down-trying to collect their thoughts-some time had passed. Defendant OBJECTS-time has lapsed-no longer excited utterance. OVERRULED.

Witness continues: They were scared. After they had calmed down a bit-other patients were coming arriving. Tracy went up front to do security for other patients. Witness's job was back in the lab. From back in the building-could not hear anything in the lab portion of the building.

CROSS: Defendant questions witness on whether the nature of the business can be traumatic for patients. Witness comes into contact with patients. Talks to patients. Some people can be stressed. There are times when witness will console patients. Felt she had to go to the door to let the patients in. Her job is to watch what is going on with patients. Not sure who called the police-police got there right away. Cannot tell how many patients came in at that time. Defendant was between the patients and the brick wall-within an arms length. Believed that the event occurred on November 1, 2006. Earlier may have said a different day. Everyone makes mistakes.

Witness Shirley Morris:

Planned Parenthood manager-850 Orchard Street, Iowa City. Working November 1, 2006-7:30 A.M. gets to work. As it was getting closer to the time when they open- heard a lot of loud noise. Witness's office is located near the front doors. Was getting up to see what was going on-loud ruckus-people were upset. Defendant OBJECTS: OVERRULED

Went to the hallway-observed two females very visually shaking-very upset. Went back to her office to monitor the situation-called the police. Began escorting people into the building. Tried to offer support for the two women who were so frightened. Assisted another staff person-tried to shut the door quickly. Noise carried into the waiting room and into the business office. Witness tried to be a barrier between the shouting and the patients-tried to protect them. At one point, the shouting was directed toward the witness. Witness felt that it was very intimidating to her. Witness ID's D. Donna Holman. Defendant shouting personally at her, "Shirley Morris, you are going to hell!" Made the hair on the back of her neck stand up. Very intimidating to have someone call her by her name. It rattled her, even at her age and her experiences. Cannot imagine what it must have been like for those two girls. Defendant was probably three feet from her.

Defendant's actions were disrupting the business. Shouting was so loud, had trouble using the phone-trouble talking to people. So loud it was effecting their business.

CROSS: Occurred on a Wed. believed it was Nov. 1st. On other days had observed Defendant that the business. Generally the same rhetoric. That day the volume and tone was difference. Witness did not write it down. Gave a statement to the police and an incident report to the security agency. Called police right at 8:00 A.M. or so. Believed police arrived about 8:15 A.M. Six to eight more people came in. Did not escort the two patients who were scared to death. Did not see brochures being handed out to people. Does not know what she hands out. Cannot talk about why people come to the clinic. Purpose of the clinic is for health services. The two young women were being harassed. Witness is a professionally trained mental health care practitioner. Specific information about these two young women cannot be provided. Can only report what she

saw that day. Cannot testify about how they were feeling. However, when she sees someone physically shaking-crying- and asking them to call the police- does not know hoe that could possibly be part of their medical condition. It was clear they were being harassed. Did not like her patients coming in and being shouted out and belittled. Does not mind if protestors are there. Mrs. Holman there on many occasions. Normally patients will just ignore her. These two patients wanted them to call the police. (Defendant asked for patients names again). OBJECTION by State. SUSTAINED.

These patients were locked outside on the front porch area. Patients were being shouted out and physically scared. Witness could only hear it. Entrance was changed-remodeled but it occurred quite a while back-spring/summer.

REDIRECT: Witness herself was scared-very intimidated. Defendant called her by her name. Those words had never been said to her before. But it was not really what she said-it was her tone of voice. A lot of anger and hatred. Felt very intimidating.

RECROSS: Police report-said she was harassed in the police report. Harassed-in fear. Talked to police and described what was going on. Spoke to the call person-told then there was a disturbance.

Witness Officer Becky Sammon sworn:
Fifteen years with ICPD. Has experience responding to disturbances. November 1, 2006, working day shift. Dispatched 8:00 A.M. to Planned Parenthood-located back side of auto parts place in Iowa City. Dispatched for disturbance. First arrived-female causing a disturbance. First got there-saw woman walking away- another woman was present-not being vocal-just praying silently. Went around to the front door of the building and talked to people. Defendant was pointed out as the person causing the disturbance. Knows her from prior contact. Took witness statements. Conferred with Officer Brotherton. Arrest Donna Holman. Could hear people screaming and yelling. Identified Defendant as the person screaming and yelling. Could see that it was her screaming before she was arrested. Witness IDs D Donna Holman. Sometimes the Defendant was right outside the door, in the alley on the other side of the door. On occasions, sometimes on the sidewalk. Could hear her yelling into the lobby of the business. Arrested her. She asked "Why? What for?" Explained why. Charged with Disorderly Conduct for the disruption of the business-shouting/screaming and Harassment-from information from witnesses. Ms. Holman followed-refused to leave them alone-persisted with her conversation when asked to be left alone.

CROSS: Does not recall when dispatch call came out-day shift. Did not witness the physical contact. Firs talked to the lady with the rosary beads. Saw Donna outside-three people outside-lady with the rosary beads. Disturbing to people inside the building-interfering with their duties to do their work. Everyone safe inside after she arrived. Did not see people being threatened inside-people may have felt threatened.

Witness Denise Brotherton: ICPD. Education/training. Experience investigating disturbances. November 1, 2006. Working day shift-7:30 – 3:30 P.M. Responded to disturbance 859 Orchard St. Planned Parenthood. Initial call subjects harassing patients-loud disruption. Arrived after Officer Sammons. Could hear subjects yelling. Spoke with employee inside. Explained what was going on. Could hear a female yelling though the entry door. Both entry doors closed. Could hear female yelling from inside reception

area. Witness IDs D. Donna Holman. Charged her. Defendant admitted that she made contact with the two patients inside. She was there protesting. Transported her to the jail-minimal conversation en route. Had a recorder in the car-audio/visual-activated recorder in the are. Did not look at the video.

CROSS: Believe that the business has a surveillance video in the alley-did not view the video. Heard the disruptive behavior. Spoke to the three people at the door-two to three people behind the desk-several clients in the waiting room. Did not view the video-never part of the investigation. Spoke to the director-could not see the video there at the business-no ability to view it. Witness was confident with the facts she had-especially the Disorderly Conduct because she was witnessing it. Inquired about the video but confident in the evidence she had. Witness typed up and signed complaints. Both officers charged the Defendant. Witness had wrote both charges. Saw no physical contact between Ms. Holman and others. Disorderly conduct charged before and after they arrived. Harassment incident occurred before she arrived. Surveillance in the alley did not help. Understood that the video is pointed only at the alley. Victims statements-confident that it supported the charge. Three witnesses and employee victims.

Defendant again requests names of patients present and alleged victims. State OBJECTS. SUSTAINED. Immediately upon leaving scene-wrote reports. Ms. Holman had pamphlets-not sure if "handing" out to patients. Five or six people in waiting room-spoke with few employees still sitting behind the desk. Five employee statements. Own observations. Some people crying and upset by Defendant's behavior-crying. Did not want to give their names, Ms. Holman was lawfully there-perfect right to be there. Unknown if she had a right to go in.

REDIRECT: Discussion of procedure to write charges.

RECROSS: Wrote charge. Says pushing pamphlets at people. Who told you? Discussion of pamphlets "shoved at people." Questions about written statements-hand pamphlets-verbally told "shoved?" "Pushed?" Witness will not identify names of statements that say "shoved." Defendant argues they have no statements that say "shoved." (Parties to bench. Review copies of statements held by officer and Defendant and compare copies and language as each having the same copies.) Witness identifies a specific statement that says "pushed" does not sat "shoved."

STATE RESTS.

Defendant moves for Motion for Directed Verdict on the harassment charge. Discussion of pamphlets being pushed/shoved. Unable to controvert without confronting witnesses. State argues-evidence in case-light most favorable to the State. Motion OVERRULED.

Defendant case:

Witness Randall P. Crawford sworn:

Lives in Coralville. Recovering from a poisoning a few years ago. Lived in Coralville since 1984. November 1, 2006, began the day down at Planned Parenthood. When the whole thing began, he had to be up in this room (courtroom) for a "bogus" trespass warning. Witness begins to discuss personal positions. State OBJECTS. No personal knowledge of the incident. Requests to voir dire the witness.

VOIR DIRE: Was there initially. Had to leave for the bogus trespassing case. Had to be there at 8:00 A.M. Got back before 9:00A.M. Left between 7:45 A.M. and got back around 9:00 A.M. Not present at Planned Parenthood-not present for everything that happened but there before and after. OBJECTION OVERRULED-testimony limited to the narrow issues in the case and not the Witness's theories/personal opinions.

While at Planned Parenthood-got there 7:30 or 7:35 A.M. Was there with Donna Holman, husband Dan Holman. Only ones there he noticed. Mary Soloski came later-7:30 A.M. Got there, walked around the building. Alley runs in front of the door-no sidewalk on front of door. Can drive close to the door. Main parking lot adjacent-parking lot to west. Another parking lot to ? (north). Observed people coming and going as early as 7:30 A.M. Did not see any people go into the clinic. Usual traffic of customers coming and going. Typically enter the building. That day saw patients go into the facility before 7:4 A.M. Does not take a census day to day but believes they come before 7:30 A.M.

Remembers Donna walking around on the west side of the building-most of the time out on the sidewalk walking back and forth. She appeared calm-walking with her sign. Had her black purse with her pamphlets. Talking to her on the sidewalk. Traffic going into the door at that time. Donna would try to talk to people. Had been with Donna for his "bogus" trespassing." Today on west side of the building across from the parking lot. Mary Soloski for there at 7:30 A.M.. Standing there doing her silent rosary. Has never observed the Defendant yelling or screaming at people.

Witness DEFENDANT sworn:

Donna Homan. Has five children. In July will have eleven grandchildren. Lives in Keokuk, Iowa. Missionary for the pre-born. Open their mouths regarding children being destroyed. Husband and Donna got married four years ago. Go to abortion facilities for last 25 years.

Arrived at 7:30 A.M. wears a sandwich board poster with an aborted baby pictured on the back and an 8 week aborted baby in the front. Mary Soloski was there praying her rosary. Randy Crawford there. Arrived 7:30 A.M.

7:30 -7:45 A.M.-speak up for babies. Try to save them from abortion and death. Prays for babies. Testify that deaths are not just murder but premeditated murder. If right beside her-speaking in same tone she is speaking in courtroom. Not sure if the people were the first appointment or second appointment. They tried to get in the door about 7:30 A.M. Door was locked. Preached to them like she usually preached. Tried to give them literature. Kept preaching at them as long as they were outside.

Defendant EXHIBIT A-literature/pamphlets-admitted no objection.

Two girls would not take the literature. Kept trying to talk to those folks. Another couple followed. Both doors opened at that time. Testifies she typically calls, "Thou shall not kill." Sometimes loud but not too loud." (Defendant offers to scream-declined) Believes her husband is louder than her. Randy Crawford louder. Husband always videotapes. Discussion of labeled videotape. DVD tape from November 1, 2006-in formatted DVD-shows exactly what occurred. Not sure if it shows exact time because there was a time change. Shows the officers arriving at the scene. Shows what occurred. Did not operate the videocamera. Husband's videotape. Did not take the videotape-does not know if the time is right. Saw the videotape and it is accurate. State OBJECTS. OVERRULED-admitted.

[VIDEOTAPE played (Officers allowed to enter to watch the videotape): See people entering the building. Hear Dan Holman yelling. Can hear a woman yelling in the background. See squad car arriving almost immediately. Officer Sammons approaching. People walking around-person with sandwich board sign. Officer Brotheron arrives. Can still hear woman's voice in background. Officer walking toward building. Still hear woman's voice yelling in distance. Woman with rosary-discussion of permission to park. Discussion of no problems. Discussion between woman with rosary and Dan Holmn of Randy being arrested last week. See woman in large coat with sandwich board walk past. Hear Dan Holman yell her name. Tape stopped]

Defendant believes the videotape shows the incident in its entirety.

Defendant's testimony continues: Believes that the two woman seen in the tape approaching the building from the parking lot are the two girls who charged her. Sometimes she gets loud but not too loud. Trying to save babies' lives. Her intent is to speak up for babies. Wants babies to be safe and not aborted. Not trying to disturb the business. Purpose is to get literature out to people and hope babies lives can be saved. Her only purpose.

CROSS: no cross by State.

Witness Mary Soloski sworn:

Mary Catherine Soloski. Lives in Iowa City. Left Iowa. Works for Pro Tech Medical supplies. Arrived at the clinic November 1, 2006. All Saints Day. Belongs to St. Wens. Church. Went to Planned Parenthood. There almost until 9:00 A.M. then went to Mass. Patients arrived around 7:45 A.M. Within the hour-might have arrived. Officers arrived rather quickly thereafter. Around 8:00 A.M. Witness was praying the rosary-being quiet. Standing at the sidewalk- door in front of her. Usually patients go to the rear door for clinic. Can see them while she is praying the rosary. Observed Mrs. Holman-wears a sign-sandwich board. Usually walks along the sidewalk. Tries to talk to people so they won't go in. Tries to plead with them. Does not want to destroy unborn child. Does not believe that she was screaming-sometimes witness hears loud voices on both sides.

On that day, does not believe that anyone was yelling at her. On sidewalk. Not near the door. Does not recall seeing Donna being arrested because of the fence. Did not know she was being arrested. Did not see anything illegal going on. Did not even know Donna was gone. Police officer asked her for her ID. It was in her car. Had permission to park her car there. Went by the alley. Stood in the corner til 9:00 A.M.

CROSS: Witness was focused on what she was doing. Nothing out of the ordinary occurred. Sometimes Donna uses a loud voice but does not recall screaming. Did not know there was an arrest.

DEFENDANT RESTS.

NO REBUTTAL BY STATE

[Court views videotape again. Noted many stops and starts to the tape. Does not appear to be a continuance taping of the events that morning.]

COURT: Defendant found guilty of both offenses by overwhelming evidence. State recommends maximum fines due to second conviction for harassment. Defendant requests fine and for fines to be paid from bond. Four days already served in jail when arrested. Defendant provided opportunity to personally address Court.

SENTENCED.

Typed 1/31/07

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY
MAGISTRATE DIVISION

STATE OF IOWA,
Plaintiff,

vs

~~EDMOND MILES~~, DONNA Holman
Defendant,

NO: SMSMO67310

COURT'S RECEIPT

FILED
2007 JUN -1 PM 2:05
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

NOW on this 1st day of JUNE, 2007, the Court is presented with the court file and verification of the Defendant's completion of a psychological evaluation dated "May 28, 2000" by Heather H. Freyone Mechanic, Ed.D. of the Daystar Family Counseling Clinic in Poway, California. The Court has contacted Heather Mechanic, who verified that the date on her letter was a typographical error and that the date should have been set forth as "May 28, 2007" and that as a family friend, she completed the evaluation when the Defendant and her husband were in the San Diego area on May 6, 2007.

The Court notes that the evaluation conducted was a "psychological" evaluation performed by a therapist and not a "psychiatric" evaluation performed by a physician, as ordered by the court. THEREFORE, hearing in this matter is continued for a period of 90 days to allow the Defendant to complete the required psychiatric evaluation conducted by a psychiatrist licensed in the State of Iowa.

Hearing in this matter is RESCHEDULED for October 23rd, 2007 at 8:30 A.M.

Clerk to notify.

KAREN D. EGERTON
Magistrate, Sixth Judicial District

cc: CA
Def
Richards
6-1-07
MS

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

STATE OF IOWA	)	
	)	**SMSM067310**
Plaintiff,	)	
	)	
	)	MOTION NUNC PRO TUNC FOR
	)	RECONSIDERATION OF SENTENCE
Vs.	)	
	)	
	)	
DONNA HOLMAN,	)	
	)	
Defendant.	)	

NOW COMES THE DEFENDANT, DONNA JEAN HOLMAN, pro se; being of sound mind, and of a sound body, pursuant to Iowa Code section 902.4, to move this court to reconsider its sentence in the above titled case.

I find it strange and disingenuous for a woman, especially for a mother, not to recognize the humanity and worth of a child in the womb. I find it especially strange and abhorrent that a female judge would somehow think it is normal for Planned Parenthood to systematically kill babies in the womb, but abnormal for me to oppose these serial killers.

Is it not hypocritical for this court to acknowledge a woman's purported right in seeking medical help for destroying her child, while denying me the basic right to refuse "medical help?" I believe psychiatry to be a psuedoscience on par with astrology, fortune telling, and palm reading. Must I be punished for my refusal to recognize psychiatry as a

have excited compassion on behalf of these children. I have also distributed literature on these very court house steps with shocking statistics of abortions in Iowa. One out of every 3 children In Iowa is killed by aborticide. The Iowa Department of Public Health reports that 7,564 Iowa children were "terminated" in 2006.
It is a great evil which permits this holocaust under color of law.

It is unjust for this court to find me guilty of harassment, to forbid me from performing my ministry to the pre-born at Planned Parenthood, to sentence me to a year's probation, ordering me to get a psychiatric examination, and obey psychiatric advice.
Since I have been enjoined from being at Planned Parenthood there is nobody there to advise desperate women against aborticide!

In consideration of the 4 days I have been incarcerated for this unjust conviction, I respectively request that this court prayerfully reconsider my sentence.

Donna Jean Holman

Donna Jean Holman, pro se
776 Eicher Street
Keokuk, Iowa 52632
(319) 524-5587

On the 15 day of November, 2011, this matter is before the court regarding the No
ntact Order entered on January 26, 2007.

The court ORDERS as follows (check the appropriate option(s) below):

____ (1) The order is hereby **canceled**.

____ (2) The order is **modified** as follows:_____

The modification is effective ( ) immediately. ( ) upon service. To the extent not inconsistent herewith, the prior protective order shall also remain in force.

__X__ (3) The court finds the defendant continues to pose a threat to the safety of the protected party (ies). THEREFORE the order entered pursuant to Iowa Code Chapter 708 or 709 is hereby **extended.** for a period of 5 years

(4) The clerk of court shall reflect this change in status on the domestic abuse registry and shall notify law enforcement regarding this order.

JUDGE, 6th JUDICIAL DISTRICT

[ ] Defendant was personally served with a copy of this order by the court.
[ ] The clerk of court shall provide copies of this order to the protected party, county attorney, defendant, counsel of record (if any) and the _____ County Sheriff as required by Iowa Code sections 236.5(5) and 664A.4.
[X] The Johnson County Sheriff shall serve and return service of this order upon defendant.
NOTICE: If you have a disability and need assistance to participate in court proceedings, please call the ADA Coordinator at ( ) _____. If you are hearing-impaired, call Relay Iowa TTY at 1-800-735-2942.

CC: PP
CA
JCSD w/return
11-16-11
JL

FILED
11 NOV 16 AM 8:21
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

Registry updated
11-16-11
JL

Effective Date January 30, 2007

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

State of Iowa, Plaintiff, vs. Donna Jean Holman, Defendant.	No. SMSM067310 **Motion to Correct (Vacate) Illegal Order**

COMES NOW, Donna Jean Holman by and thru her Attorney William (Bill) Monroe and respectfully Moves to Vacate the Illegal No Contact Order issued herein 11/16/2011 and respectfully States:

1. On January 26, 2007, Defendant was found guilty of Harassment 3rd Degree and Disorderly Conduct, both Simple Misdemeanors by the Honorable Karen Egerton. Among other parts of the Court's dispositional Order, the Court Ordered Defendant to have No Contact with "any employees of Planned Parenthood". Also handwritten on the bottom of page one of this Order was language to the effect that this No Contact was extended for "5 yrs [sic] from the date of this order." A copy of this Order is attached hereto marked Exhibit A. The Docket entries viewable at Iowa Courts online make clear that this 5 year No Contact Order was part of the sentence for the charge of Harassment. See attached docket entry excerpt marked Exhibit B.

2. On November 16, 2011, the Johnson County Attorney Office filed a Motion to Extend this No Contact Order. Also on November 16, 2007, the Honorable Stephen Gerard II granted this Motion. A copy of this Order is attached hereto marked Exhibit C.

3. The granting of this Motion without giving the Defendant the fundamental rights of Notice and the Opportunity to be Heard when there was no need for such expediency was also in error in that this was an unauthorized and unnecessary ex parte contact with the Court. See Iowa Court Rules 32:3 5(b) and 51.29. Expediency was not required because the No Contact Order at

issue was not set to expire until January 26, 2012, which means the Court had at least 71 days to contemplate the County Attorney's Motion. Under such circumstances, the Defendant's fundamental right to Notice and the Opportunity to be heard demanded respect.

4. Additionally, it was also improper for the Court to extend the No Contact Order by an additional 5 years without considering that Defendant had been fully rehabilitated by serving her 30 day jail sentence. The acts of the legislature are presumed correct. The Iowa legislature decreed that a 30 day jail sentence was the maximum punishment. Serving this 30 day jail sentence should therefore logically be presumed to have rehabilitated the Defendant

Wherefore, Defendant Donna Jean Holman for all of the reasons set out above, respectfully prays that this Court Vacate the illegal Order of November 16, 2011. Defendant respectfully prays for all such other and further relief as Justice Requires.

Respectfully Submitted,

Donna Jean Holman

By:_____
William (Bill) Monroe AT0005513
218 North 3rd St., Suite 300, P.O. Box 711
Burlington, Iowa 52601-5215
Phone: (319) 754-1402
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Bill.Monroe@AttorneyMonroe.com

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Courtesy Copies to:

The Honorable Judge Karen Egerton
Care of Clerk of Court Johnson County
417 S. Clinton St., PO Box 2510
Iowa City, IA 52244-2510

The Honorable Judge Stephen Gerard II
Care of Clerk of Court Johnson County
417 S. Clinton St., PO Box 2510
Iowa City, IA 52244-2510

PROOF OF SERVICE

The Undersigned certifies that the foregoing Instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on _____.

By: US Mail — Fax / Email
Hand Delivered — Overnight Courier
Certified Mail — Courthouse Box / Other_____

Signature_____

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

2014 AUG 22 PM 12:46

CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

STATE OF IOWA,	)	
	)	No. **SMSM067310**
Plaintiff,	)	
	)	
vs.	)	**RULING ON MOTION TO VACATE**
	)	**NO CONTACT ORDER**
DONNA JEAN HOLMAN,	)	
	)	
Defendant.	)	Date: **August 22, 2014**

This matter comes before the Court upon Defendant's **Motion to Correct (Vacate) Illegal Order**. The Court having reviewed the motion and reviewed the file herein, FINDS that on **January 26, 2007**, the Defendant was convicted of the crime of **Harassment 3rd Degree** in violation of Iowa Code Section **708.7(1)(b)**. The No Contact Order initially entered on November 2, 2006 was extended for a period of five years to January 26, 2012.

On **November 16, 2011**, the State filed a **Motion to Extend** the No Contact Order for an additional five years. Attached to the State's Motion were the Affidavits of Rebecca Bruce and Patrick Wheeler. Based upon the information provided in the Affidavits that the Defendant was continuing to protest at Planned Parenthood facilities and to be arrested and charged for her conduct, the Court found that the Defendant continued to pose a threat to the safety of the Protected Party and extended the No Contact Order for an additional five year to **January 26, 2017**.

The procedure for extending a no contact order is set forth in Iowa Code Section **664A.8**. No requirement for notice and hearing prior to the court considering a motion to extend is included in the statute.

The Defendant's assertion that the extended No Contact Order entered on November 16, 2011 is an illegal order is without merit. Furthermore, the Defendant was personally served with a copy of the November 16, 2011 Order on November 16, 2011, and only now, nearly three years later, complains about the Order. Accordingly, Defendant's Motion should be denied.

IT IS THEREFORE HEREBY ORDERED that Defendant's **Motion to Correct (Vacate) Illegal Order** is *denied*. The Extended No Contact Order entered herein on November 16, 2011 shall remain in full force and effect until January 26, 2017, and thereafter in the event the Order should be further extended as provided by law.

Clerk to notify.

cc Monroe CA 8-22-14 jc

STEPHEN C. GERARD II
District Associate Judge

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

State of Iowa Plaintiff, vs. Donna Jean Holman, Defendant.	)))))))	SMSM067310 **1.904 Motion**

COMES NOW, Defendant Donna Jean Holman by and thru her Attorney William Monroe and states:

1. On August 22, 2014, this Court issued a "Ruling on Motion to Vacate No Contact Order." A copy of this Ruling is attached hereto marked Exhibit A.

2. Defendant respectfully states to this Honorable Court that the Court erred by concluding that no notice or hearing is necessary in the context of a No Contact Order issued per Iowa Code section 664A.8. See, *State v Olney*, No. 13-1063, filed on June 24, 2014 (Iowa Court of Appeals 2014) (copy attached marked Exhibit B).

3. Respondent respectfully requests that this Court enlarge and amend the findings of fact in the Ruling issued on August 22, 2014 to include that the Court erred by extending the No Contact Order in question on November 16, 2011 as no facts were pled by the State of Iowa that would have excused the ex parte application. See, *State v Olney*, No. 13-1063, filed on June 24, 2014 (Iowa Court of Appeals 2014) (copy attached marked Exhibit B, holding that "no-contact order is analogous to an injunction (page 6-7) and citing to Iowa R. Civ. P. 1.1507 provisions for notice and waiver of notice

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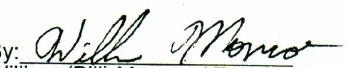
by the Court (page 7)).

4. Respondent also respectfully requests that this Court then Amend the Judgment to conform to the enlarged facts such that the Court sets a hearing on the merits of whether or not Defendant poses a real threat to Planned Parenthood.

Wherefore, Respondent respectfully requests that this Court enlarge and amend the "Ruling" filed on August 22, 2014 as outlined above. Defendant Donna Jean Holman respectfully requests all such other and further relief as Justice requires.

Respectfully Submitted,

Holman, Donna J.

By: 

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Courtesy Copy to:

The Honorable Stephen C. Gerard II
care of Clerk of Court Johnson County
417 S. Clinton St., PO Box 2510
Iowa City, IA 52244-2510

RULE 1.442 PROOF OF SERVICE

The Undersigned certifies that the foregoing/attached document was served on the persons and at the addresses listed above on September 3, 2014.

By: (US Mail) Fax
Hand Delivered Overnight Courier
Certified Mail Other/Courthouse Box

Signature Melissa McKassen

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

FILED
2014 SEP 23 PM 2:25
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

STATE OF IOWA, Plaintiff, vs. **DONNA JEAN HOLMAN,** Defendant.	)	No. **SMSM067310** **RULING ON 1.94 MOTION RE: NO CONTACT ORDER** Date: **September 23, 2014**

This matter comes before the Court upon Defendant's **1.904 Motion Re No-Contact Order**. The Court having reviewed the motion and reviewed the file herein, FINDS that the Defendant previously filed a document captioned "**Motion to Correct (Vacate) Illegal Order**." The Defendant asserted that the Order Extending No-Contact Order entered herein on November 16, 2011 was an "illegal order" and for relief asked that the Court vacate the Order. This Court ruled on that Motion and denied the requested relief.

Defendant now asks the Court to enlarge and amend its ruling dated August 22, 2014 and find that the Court erred in extending the No-Contact Order based upon an absence of facts which would have excused an ex parte application. The Defendant cites *State v. Olney*, No. 13-1063, filed June 24, 2014 (Iowa App. 2014) in support of her Motion.

The Court respectfully suggests that Defendant misinterprets *Olney*, Id. The facts in *Olney* are somewhat similar to the facts in this case. In *Olney* the State's motion to extend the no-contact order was set for hearing and notice was mailed to the defendant's last known address. The defendant did not appear at the hearing and the no-contact order was extended as requested. The parties agreed that the defendant did not receive notice of the date and time of the hearing.

The lower court ruled that Iowa Code Section 664A.8 did not extend a right to the defendant to be heard before deciding to extend a no contact order. The lower court further determined that "there is no statutory authority for the court to vacate, reconsider, and terminate the no contact order." Id. at page 4.

On appeal, the Court of Appeals likened a no-contact order to an injunction and applied Iowa Rule of Civil Procedure **1.1509** which provides that "(a) party against whom a temporary injunction is issued *without notice* may, at any time, move the court where the action is pending to dissolve, vacate, or modify it." (emphasis added).

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3.

The Court of Appeals reversed the district court order denying Olney's motion on the basis it lacked authority to vacate, reconsider, or terminate the no-contact order and remanded the case for a consideration by the district court on the merits. Id. page 8.

The Court of Appeals *did not find* that the order extending the no-contact order was illegal or that Section 664A.5 or .8 required a hearing. The Court only decided that Olney could move the court to dissolve, vacate or modify the no-contact order and that, if supported by evidence on the merits, the district court had the authority to vacate, reconsider or terminate the no-contact order pursuant to Rule 1.1509.

In this case, the relief requested by the Defendant was a finding that the Order entered on November 16, 2011 was illegal and should be vacated. This Court denied that motion and request and now declines to amend any part of the Ruling filed on August 22, 2014.

This Court will, however, treat the Defendant's Motion as a request for a hearing on the merits as to whether the Defendant continues to pose a threat to the safety of the Protected Party.

IT IS THEREFORE HEREBY ORDERED that Defendant's **1.904 Motion** is *denied*. Defendant's implied motion to dissolve, vacate or modify the No-Contact Order is set for evidentiary hearing on the 31 day of October, 2014, at 11:00 A.M. One hour is set aside for this hearing.

Clerk to notify.

STEPHEN C. GERARD II
District Associate Judge

cc: CA
W. Monroe
A. Richards
9/23/14
VR

FILED
2014 SEP 23 PM 2:25
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

IN THE DISTRICT COURT OF IOWA
IN AND FOR JOHNSON COUNTY

STATE OF IOWA,

Plaintiff,

vs.

DONNA JEAN HOLMAN,
Defendant

SMSM067310

MOTION TO CHALLENGE STANDING OF PROTECTED PARTY TO PARTICIPATE IN HEARING OR TO RECEIVE LEGAL PROTECTION

COMES NOW the defendant, Donna Holman, writing for myself but in cooperation with my attorney, to explain why Planned Parenthood is not entitled to legal protection from me, and therefore has no standing to participate in the hearing set by Judge Gerard's September 23 order.

My argument is made possible by what happened in 2004 that made what Planned Parenthood does to babies legally recognizable as murder, which I will explain presently. This makes possible my defense against the alleged "threat to the safety" of Planned Parenthood by me, whether the action against me is in civil or criminal court. I want to raise both defenses, since this issue partakes of some features of civil and some of criminal court. The caption on the September 23 order says Iowa is the Plaintiff, indicating I am in criminal court. But the original action nearly 8 years ago was brought by Planned Parenthood in civil court. If I am charged with violating the no contact order, apparently I can wind up in either civil or criminal court: Iowa 664A.7 authorizes "contempt or simple misdemeanor penalties".

So my defense, to whatever extent I am or will be in criminal court, is that the change in law in 2004 that makes abortion legally recognizable as murder makes my actions to save those lives not "a public offense" according to Iowa Code 704.10.

My defense, to whatever extent I am or will be in civil court, is that the legal change in 2004 makes Planned Parenthood legally recognizable as having "dirty hands" and therefore

without standing to initiate any lawsuit against me, or to pursue any equitable relief from me, or even to participate in the coming hearing over whether I pose some sort of "threat to their safety". The safety of entities engaged in what is now legally recognizable as murder are not legally protectable.

Here is a short summary of my argument:

In 2004, Congress established the fact that all unborn babies are humans "at all stages of gestation". This made them legally recognizable as persons according to Roe v. Wade, which also, according to Roe, triggered the "collapse" of legal aborticide [the dictionary term for an induced abortion, as distinct from the more ambiguous word "abortion" which can also mean a natural miscarriage].

Congress was not the only fact finder to establish the fact that unborn babies are humans/persons, which Roe said would "of course" trigger its own "collapse". Juries had unanimously established that fact until courts stopped allowing them to know about the fact question. Expert witnesses in thousands of prolife trials established the fact but courts dismissed it as irrelevant. A majority of state legislatures have established that fact and courts have unanimously affirmed their power to do so.

Now that Congress, the last remaining fact finder, has made it unanimous, Roe orders state courts to protect the lives of unborn babies as the 14th Amendment now requires, and to stop protecting the business of their killers.

Under Iowa Code 704.10, I can't even be prosecuted for violating the letter of criminal laws, by actions which prevent mere serious injury. Much less can I be prosecuted for actions which were never alleged to violate any statute, and which have in fact prevented many deaths. Iowa Code 704.10 says that what I did, by preventing "serious injury", or at the least by proceeding from my reasonable belief "that such injury is imminent and can be averted only" by

doing what I did, is not "a public offense".

> 704.10 Compulsion. No act, other than an act by which one intentionally or recklessly causes physical injury to another, is a public offense if the person so acting is compelled to do so by another's threat or menace of serious injury, provided that the person reasonably believes that such injury is imminent and can be averted only by the person doing such act.

Meanwhile Planned Parenthood's "dirty hands" - their own responsibility for my actions which they have blown up into a "threat to their safety", precludes maintenance of protection for them from me, or of petitioning for it in the first place, or of initiating any new lawsuit against me.

CONTENTS BELOW:

1. 18 USC §1841(d) establishes as a legally recognizable fact that all unborn babies, "at all stages of gestation", are "members of the species homo sapiens". This is exactly what Roe's "collapse" clause said must be said, for legal aborticide to end.

The 2004 law defines all unborn babies as human beings:

> 18 USC§1841(d) ...the term "unborn child" means a child in utero, and the term "child in utero" or "child, who is in utero" means a member of the species homo sapiens, at any stage of development, who is carried in the womb. (See Appendix 1 for full text)

Roe itself authorizes legal aborticide's "collapse":

> "If this suggestion of personhood [of unborn babies] is established, the...case [for legalizing aborticide], of course, collapses, for the fetus' right to life is then guaranteed specifically by the [14th] Amendment." Roe v. Wade, 410 US 113, 156

By identifying the unborn as human, §1841(d) "establishes" Roe's "suggestion of personhood" because Roe, along with much case law, equated "personhood" with "recognizably human":

> These disciplines variously approached the question [of when life begins] in terms of the point at which the embryo or fetus became "formed" or recognizably human, or in terms of when a 'person' came into being, that is, infused with a 'soul'... Roe v. Wade 410 U.S. 113, 133 (1973)

By "recognizably human", Blackmun (Roe's author) may have been thinking of old science textbooks with doctored charts showing the "evolution" of a "fetus" from a fish to a human being. He says elsewhere:

> She carries an embryo and, later, a fetus, if one accepts the medical definitions of the developing young in the human uterus. See Dorland's Illustrated Medical Dictionary 478-479, 547 (24th ed. 1965). *Roe v. Wade,* 410 US 113, 159 (1973)

But *Roe* does not leave the determination of the humanity of the unborn to Harry Blackmun's ability to "recognize" it from Dorland's pictures. Blackmun specifically admitted that others are so much more qualified than the Court to "establish" that recognition, that the Court must defer to their judgment. *Roe* said that is one area where *even preachers* know more than Supreme Court justices*:*

> We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's

> knowledge, is not in a position to speculate as to the answer. *Roe v. Wade* 410 US 113, 159

Roe's "collapse" clause is not true because *Roe* said so. *Roe* said so – whether enthusiastically or reluctantly – because it is true, and obviously so. *Roe's* "Of course" testifies to its undeniability. Legalizing aborticide was only made possible by alleging uncertainty whether it is the killing of innocent human beings. In the absence of that uncertainty, states are "of course" required by the 14th Amendment to criminalize aborticide, and courts must acquit prolifers charged with saving the unborn by the least violent means necessary.

So when federal law 18 U.S.C. §1841(d) legally recognized all unborn babies as human – as "members of the species homo sapiens", federal law "established" the "personhood" of unborn babies. Federal law said what Roe said must be said for legal aborticide to end. SCOTUS has not ruled otherwise. In fact, is this any less than an invocation of future legislation, in Roe: "[T]he unborn have never been recognized in the law as persons in the whole sense." Roe v. Wade, 410 US 113, 162 (1973)

Roe's "collapse" Clause is limited neither in time nor jurisdiction. Roe hinged on this stance. Those who clamored for the nullification of §1841(d) certainly know this. Congressional debates on passage of §1841 are replete with frantic pro-aborticide lawmakers insisting that it meant the end of Roe. See also Wilmering, R.R., Note, *Federalism, The Commerce* Clause 80 Tns . L_J. 1989 (2005); Speizer, E., *Recent Developments in Reproduction Health Law.*...41 Cal. W.L. Rev. 507 (2005); Kole, T. and Kadetsky, L., *Recent Developments,* 39 Harvard Journal Legislation 215 (2002))

Others know it too. In *Clash of Competing Interests: Can the Unborn Victims of Violence Act and Over Thirty Years of Settled Abortion Law Co-Exist Peacefully?*, 55 Syracuse L. Rev. 133 (2004) Amanda Bruchs states of §1841:

> "....unborn children whether viable or not, will be considered as human beings, and therefore, whole as persons as victims of crime.... [Laci's Law] extension of legal personhood to a[n] [unborn child] is entirely unprecedented in the history of federal law... .[The Supreme Court] could be forced to do what it has avoided for over thirty years: determine the ultimate value of the life interest and decide when that life begins."

The Supreme Court can determine no such thing. Congress has done it. The Court need only do its job and step out of the way of the law, by its own order.

> "[Texas argues] that the 'fetus' is a person. **If this suggestion of personhood is established, the [pro-abortion] case, of course, collapses, for the right to life would then be guaranteed specifically by the [Constitution]**... [but] the unborn have never been recognized in the law as persons in the whole sense." Roe. * 156-157,162 (emphasis added)

> §1841(d) **"unborn child" means** a child in utero, and the term "child in utero" or "child, who is in utero" means **a member of the species Homo Sapiens, at any stage of development, who is carried in the womb.**

No formula of words could be more explicit than §1841(d) in satisfying Roe's "Collapse" Clause.

"Child," "Homo sapiens", "who," (not "what" or "which") "carried in the womb" are all words which apply solely to human beings. Moreover, §1841 (a)(2)(C) expressly provides that their intentional slaying be punished as intentional murder of a "human being".

You cannot "murder" a turnip. The explicit codification of the sanction for §1841(d) child murder clearly identifies the §1841(d) child as a human being, a legal person whole and entire, upon whom devolves equal protection of the XIV Amendment. After §1841 it is impossible to treat ex-utero and intra-utero life differently without violating the XIV Amendment rights of one or the other.

§1841 (a) and (b) require (d), and Paragraph (d) requires (a) and (b). Together they constitute an organic whole. The "Collapse" Clause and §1841 are unqualified.

The "Collapse" Clause is a doe in estrus, and §1841 is a 30 point buck.

The “Collapse” Clause sent out a mating call in 1973. It took 31 years for an answering call to come from the same species of law, other than being unmurky and unpenumbral, but it came.

The power of the Supreme Court to limit its own rulings ought to be acknowledged as equal to its power to make rulings. The “collapse” clause explicitly put a leash on Roe. Not even Blackmun, Roe’s author, could stomach the thought of knowingly legalizing genocide.

In other words, the Roe Court made its own allegedly unreviewable powers reviewable under the legal personhood establishment clause that Roe itself defined.

2. Several states had already “established” the same fact, in the contexts both of aborticide and of “fetal homicide”. It is unresolved whether that alone is sufficient authority to trigger Roe’s “collapse” clause. *Webster* said it might be, but that issue was not yet ripe.

Several states had previously established, as a legally recognized fact, that all unborn babies are human persons. But only Rhode Island explicitly claimed that its affirmation triggered Roe’s “collapse” clause, and only Rhode Island empowered its personhood affirmation with enabling legislation restricting elective aborticide.

> "73-S 287 Substitute 'A', R.I.G.L. § 11-3-1 March 7, 1973
> PREAMBLE
> Whereas, The supreme court of the United States on January 22, 1973, recognized and acknowledged that state regulation is appropriate in any decisions to terminate pregnancy; and
> Whereas, Said court found that a state may properly assert its interests in safeguarding life, in maintaining medical standards, and in protecting life in the proper exercise of its governmental functions; and
> Whereas, Any right of privacy regarding decisions to terminate pregnancy is not an absolute right and must be considered in the light of important state interests in the regulation of such decisions; and
> Whereas, The state of Rhode Island has a legitimate and important interest in preserving and protecting the life of pregnant women and in protecting all human life; and
> Whereas, The state of Rhode Island, in its fulfillment of its legitimate function

of protecting the well-being of all persons within its borders, hereby declares that in the furtherance of the public policy of said state, human life and, in fact, ***a person within the language and meaning of the fourteenth amendment to the constitution of the United States, commences to exist at the instant of conception;*** now, therefore, It is enacted by the General Assembly as follows:

....'11-3-1. PROCURING, COUNSELING OR ATTEMPTING MISCARRIAGE. -- Every person who, with the intent to procure the miscarriage of any pregnant woman or woman supposed by such person to be pregnant, unless the same be necessary to preserve her life, *shall administer to her or cause to be taken by her any poison or other noxious thing, or shall use any instrument or other means whatsoever or shall aid, assist or counsel any person so intending to procure a miscarriage,* shall if the woman die in consequence thereof, be imprisoned not exceeding twenty (20) years nor less than five (5) years, and if she does not die in consequence thereof, shall be imprisoned not exceeding seven (7) years nor less than one (1) year; provided that the woman whose miscarriage shall have been caused or attempted shall not be liable to the penalties prescribed by this section.

'11-3-2. MURDER CHARGED IN SAME INDICTMENT. -- Any person who shall be indicted for the murder of any infant child, or of any pregnant woman, or of any woman supposed by such person to be or to have been pregnant, may also be charged in the same indictment with any or all the offenses mentioned in section 11-3-1, and if the jury shall acquit such person on the charge of murder and find him guilty of the other offenses or either of them, judgment and sentence may be awarded against him accordingly.

'11-3-3. DYING DECLARATIONS ADMISSIBLE. -- In prosecutions for any of the offenses described in section 11-3-1, in which the death of a woman is alleged to have resulted from the means therein described, dying declarations of the deceased woman shall be admissible as evidence, as in homicide cases.

'11-3-4. CONSTRUCTION AND APPLICATION OF SECTION 11-3-1. -- It shall be conclusively presumed in any action concerning the construction, application or validity of section 11-3-1, ***that human life commences at the instant of conception and that said human life at said instant of conception is a person within the language and meaning of the fourteenth amendment of the constitution of the United States,*** and that miscarriage at any time after the instant of conception *caused by the administration of any poison or other noxious thing or the use of any instrument or other means* shall be a violation of said section 11-3-1, unless the same be necessary to preserve the life of a woman who is pregnant.

'11-3-5. CONSTITUTIONALITY. -- If any part, clause or section of this act shall be declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remaining provisions, parts or sections shall not be affected.'

A suspiciously likely measure of the power of Rhode Island's affirmation to topple Roe is that SCOTUS declined to review it.

When SCOTUS finally picked its only review of a state personhood law 15 years later, it picked Missouri, which had carefully promised to keep its law from restricting aborticide.

> ...the life of each human being begins at conception...unborn children have protectable interests in life, health, and well-being [and that all state laws] shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state, *to the extent permitted by the Constitution and U.S. Supreme Court rulings.*

This last phrase, combined with the absence of any enabling legislation, allowed SCOTUS to say that the issue which was the whole *purpose* of the personhood law – to trigger Roe's "collapse" clause with a fact affirmation – must be ignored because it was not properly before the Court. The issue was not ripe. SCOTUS, recalling that even *Roe* accepted recognition of unborn personhood so long as it was relegated to probate, said

> (This is taken from the syllabus, not the ruling itself) This Court need not pass on the constitutionality of the Missouri statute's preamble. In invalidating the preamble, the Court of Appeals misconceived the meaning of the dictum in *Akron v. Akron Center for Reproductive Health, Inc.,* **462 U.S. 416**, 444, that "a State may not adopt one theory of when life begins to justify its regulation of abortions." **[p491]** That statement means only that a State could not "justify" any abortion regulation otherwise invalid under *Roe v. Wade* on the ground that it embodied the State's view about when life begins. The preamble does not, by its terms, regulate abortions or any other aspect of appellees' medical practice, and § 1.205.2 *can be interpreted to do no more than offer protections to unborn children in tort and probate law,* [ie. the right of a child to inherit property left by a father who died before the child was born] *which is permissible under Roe v. Wade, supra,* at 161-162. This Court has emphasized that *Roe* implies no limitation on a State's authority to make a value judgment favoring childbirth over abortion, *Maher v. Roe,* **432 U.S. 464**, 474, and the preamble can be read simply to express that sort of value judgment. The extent to which the preamble's language might be used to interpret other state statutes or regulations is something that only the state courts can definitively decide, and, ***until those courts have applied the preamble to restrict appellees' [abortionists] activities in some concrete way, it is inappropriate for federal courts to address its meaning.*** *Alabama State Federation of Labor v. McAdory,* **325 U.S. 450**, 460. Pp. 504-507. [*Webster v. Reproductive Health Services,* 492 US 490 (1989).]

Sandra Day O'Conner added in a concurrence,

> "...the plurality [of the Court of Appeals] should therefore not have proceeded to reconsider *Roe v. Wade.* This Court refrains from deciding constitutional questions where there is no need to do so, and generally does not formulate a constitutional rule broader than the precise facts to which it is to be applied. *Ashwander v. TVA,* **297 U.S. 288**, 346, 347. ***When the constitutional invalidity of a State's abortion statute actually turns upon the constitutional validity of Roe, there will be time enough to***

reexamine Roe, and to do so carefully."

Missouri's personhood statement (Mo. Rev. Stat. 1.205.1) certainly seemed strong enough to trigger *Roe's* "collapse" clause, if any statement could. But its disclaimer promised not to save a single baby, so SCOTUS regarded the affirmation as irrelevant, ruling that Missouri should be allowed to keep it if that's all it took to pacify them.

Can you imagine that? Personhood language with an aborticide exception!

Can you imagine? Attorney General Ashcroft, the nationally famous beloved prolife hero, going out of his way to assure the Court that the personhood language would not be applied to restricting aborticide, and the personhood language itself had an aborticide exception!

Actually there is a logical way around that exception.

The aborticide exception may make the personhood language subject to *Roe,* But *Roe* makes itself subject to future personhood language. Therefore Missouri could have, and still can, criminalize aborticide, and argue in court that its law criminalizing aborticide fulfills its promise to conform to Supreme Court rulings: that, specifically, it obeys *Roe's* "collapse" clause which requires states to protect the unborn in obedience to the 14th Amendment upon "establishing" that the unborn are human.

Louisiana is another state with powerful personhood language that saves no babies:

> Louisiana LSA-R.S. 40:1299,35.0 "...The Legislature does solemnly declare and find in reaffirmation of the longstanding policy of this State, that the unborn child is a human being from the time of conception and is, therefore, a legal person for purposes of the unborn child's right to life and is entitled to the right to life from conception under the laws and Constitution of this state. Further, the Legislature finds and declares that the longstanding policy of this State Is to protect the right to life of the unborn child from the time of conception by prohibiting abortion....
>
> LSA-R.S. 14:2(7) defines "person" as "...a human being from the moment of fertilization and implantation."

The trouble is, the rest of the first paragraph promises to keep reality out of the road of *Roe*:

> "It is the intention of the Legislature of the State of Louisiana to regulate abortion to the extent permitted by the decisions of the United States Supreme Court...."

Completing this surrender is the lack of any enabling legislation restricting any aborticide.

Nebraska also establishes unborn personhood, coming as close to cussing out SCOTUS as any law I have seen, but it stops short of claiming its fact finding triggers *Roe's* "collapse", and it lacks any enabling legislation:

> Nebraska 28-325. R.R.S. 1943 (1) That the following provisions were motivated by the *legislative intrusion* of the United States Supreme Court by virtue of its decision removing the protection afforded the unborn. Sections 28-325 to 28-345 are in no way to be construed as legislatively encouraging abortions at any stage of unborn human development, but it is rather an expression of the will of the people of the State of Nebraska and the members of the Legislature to *provide protection for the life of the unborn child whenever possible;* (2) That the members of the Legislature expressly *deplore* the destruction of the ***unborn human lives*** which has and will occur in Nebraska as a consequence of the United States Supreme Court's decision on abortion of January 22, 1973.

Only 13 states *don't* have Fetal Homicide laws with personhood language – though all of their enabling legislation spares elective aborticides. See Appendix 2 for a summary.

3. Roe's "collapse" clause proves that SCOTUS believes *some* fact finder has sufficient authority – greater than its own – to "establish" "when life begins". Congress qualifies.

> If this suggestion of personhood [of unborn babies] is established, the...case [for legalizing aborticide], of course, collapses, for the fetus' right to life is then guaranteed specifically by the [14th] Amendment.... Roe v. Wade, 410 US 113, 156
>
> Texas urges that, apart from the Fourteenth Amendment, life begins at conception and is present throughout pregnancy, and that, therefore, the State has a compelling interest in protecting that [human] life from and after conception. We need not resolve the difficult question of when life begins. *When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer.* 410 US 113, 159

The first remarkable lesson from these two excerpts is that SCOTUS regards doctors, and even preachers, as having more expertise or authority than SCOTUS itself with regard to "when life begins". This would be impossible if SCOTUS regarded "when life begins" as a question of law: SCOTUS regards itself as the world's experts on questions of law.

That proves the second remarkable lesson from these excerpts: SCOTUS regards "when life begins" as a *fact* question.

The third remarkable lesson is that SCOTUS describes, as a definite possibility, such a compelling "establishment" of "this suggestion of personhood" that it will become obvious to SCOTUS and everyone else (viz. "of course") that aborticide's legality has "collapsed" and the unborn must be protected by the 14th Amendment – that is, states are required to criminalize aborticide.

Blackmun (author of Roe) never specified how much authority it would take, but his "of course" acknowledges that enough of such authority exists *somewhere*.

For any lower Court to rule that no such authority exists, or that Roe determined that the unborn are *not* humans/persons, or that whether they are is irrelevant, is for that Court to place itself above SCOTUS, overturning key holdings of Roe on its own authority.

If sufficient fact-finding authority to trigger Roe's "collapse" exists somewhere, we need but go down the list of American fact-finding authorities and consider which has the greatest authority or expertise, in order to identify which authority SCOTUS will accept. Of course if we find that *all* of them have established that life begins at conception, its "establishment" is firm, unanimous, and complete.

Juries? It may be that juries, whom every judge addresses as "finders of fact", are rated as the more authoritative fact finding authorities.

Every judge tells every jury some version of *"If the question is one of fact, it should be*

decided by the jury at trial." - http://legal-dictionary.thefreedictionary.com/Question+of+Law

But conveniently, even when the only contested issue of prolife trials is whether the unborn are human beings, and that is the defendant's only defense, courts haven't allowed juries to even know the existence of the defense, much less decide it, ever since courts discovered that when juries are shown this fact question, aborticide loses.

> After the court ruled that it would allow the [Necessity] Defense to go to the jury, the Women for Women Clinic dropped the prosecution. If the defense is permitted, evidence is introduced that life begins at conception. This evidence is rarely contradicted by the prosecution, which is merely proving the elements of criminal trespass. Rather than risk such a precedent, many clinics prefer to dismiss. In fact, defense counsel have admitted that their intent is to bring the abortion issue back before the United States Supreme Court to consider the very question of when life begins, an issue on which the Court refused to rule in Roe... *("Necessity as a Defense to a Charge of Criminal Trespass in an Abortion Clinic", 48 U.Cin.L.Rev. 501 (1979), in a footnote on page 502. The Cincinnati Law Review footnote analyzes the case of Ohio v. Rinear, No. 78999CRB-3706 (Mun. Ct. Hamilton County, Ohio, dismissed May 2, 1978)*

By calling the goal of triggering Roe's "collapse" clause through jury verdicts an "admission", this law review author, who may reflect the sentiments of some judges, treats the resort to our 6th Amendment right to Trial by Jury as some sort of nefarious scheme which the clever author has finally exposed.

Digression: how can any Court say they have given a criminal defendant his 6th Amendment Right to Trial by Jury, in a trial whose defendant is not allowed to tell the jury about the only contested issue? And when that issue is the fact issue of "when life begins"? Yet in tens of thousands of prolife trials, that fact question has been the only contested issue, and as the Cincinnati Law Review article reports, judges no longer allow juries to know it even exists. Where do we find an exception for the right to trial by jury when there is only a question of law, in the 6th Amendment? Yet this statement from a legal dictionary correctly states current practice:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury... 6th Amendment to the U.S. Constitution

> If the question is one of law, the judge may decide it without affording the parties the opportunity to present evidence and witnesses to the jury. http://legal-dictionary.thefreedictionary.com/Question+of+Law

Juries "establish" facts by their sheer power, apart from any respect judges have for their expertise or competence. When a pattern of jury acquittals seem to turn on some fact alleged by prosecutors, prosecutors eventually give up building cases on that fact.

No single jury verdict establishes this kind of influence over American law; it takes a series of them. But an Illinois Supreme Court called this process anarchy.

> Under Roe, an abortion during the first trimester of pregnancy is not a legally recognizable injury, and therefore, defendants' trespass was not justified by reason of necessity.
>
> Defendants attempt to *circumvent the effect of Roe* and to bolster their defense of necessity by arguing that they reasonably believed that they acted to prevent the destruction of human life. They point to language in Roe in which the court declined to speculate on when human life begins. [Citation omitted.] Defendants argue that life begins at the time of conception, and that they were denied due process of law because the trial court refused to admit evidence which was proffered to support this contention.
>
> True, in Roe, the court acknowledged the existence of competing views regarding the point at which life begins. However, the Court declined to adopt the position that life begins at conception, giving recognition instead to the right of a woman to make her own abortion decision during the first trimester. [Citation omitted.] *We do not believe that the Court in Roe intended courts to make a case-by-case judicial determination of when life begins.* We therefore reject defendants' argument." *People v. Krizka* 92 III.App.8d at 290-91, 48 Ill.Dec. 141, 416 N.E.2d 36 (*1980*)

The Court's bottom line was not any response to the evidence that aborticide is, in fact, barbaric genocide, but the Court's "belief", not citing any authority for such a "belief" in Roe, law, or case law, that "we do not believe that the Court in Roe intended courts to make a case-by-case judicial determination of when life begins."

It is unlikely that the *Roe* justices, who treated "when life begins" as a fact issue which the justices had less capacity to resolve than doctors and preachers, and who invited ***triers of fact*** to resolve it even if that meant *Roe's* "collapse", could not have anticipated the possibility of

resolution through future cases! And surely the *Roe* justices understood that case law is not established by a single case that then automatically prevails across the nation for all time, but by a series of cases with somewhat competing arguments and rulings. "Precedent" is sort of an average of them.

Juries likewise establish facts, and the acceptability of various arguments, as prosecutors and defense teams study thousands of varying verdicts to estimate what strategies seem to work, and what claims of facts juries will accept.

Krizka's fear of case-by-case anarchy from answering *Roe's* invitation to establish the factual nature of aborticide is fear of the *everyday operation of American law.* The *opposite* of *Krizka's* claim is true: *Roe does* invite Triers of Fact – juries – to establish the Facts of "when life begins" in the only way possible: case by case.

However, as already noted, Courts stopped letting juries know about what was usually the only contested issues of prolife cases, as soon as they saw that aborticide was losing. This must be seen as, and argued as, a consensus among virtually all judges that some other fact-finding authority has inherited Roe's invitation to address "when life begins", than juries. It can also be argued that to the scandalously limited extent judges have allowed juries to weigh this fact question, juries have almost unanimously "established" that conception is "when life begins".

Expert witnesses? In almost every prolife trial that has argued the Necessity Defense and challenged Roe, of which there were about 60,000 as of about 1989 (I remember that figure reported by Operation Rescue about that year as the number of prolifer arrests to date), doctors have been introduced as "expert witnesses" that life begins at conception, but juries weren't allowed to hear them, either, and courts almost never addressed the soundness of their testimony. I don't believe any judge ever told such an Expert Witness that he was wrong about the fact. As the preceding Cincinnati Law Review article said, "This evidence is rarely contradicted by the

prosecution."

Here is an example of expert testimony which the Scott Roeder jury heard, though outside the context of any defense which would have made the fact relevant:

> When a sperm cell unites with an egg cell, this gives rise to the child...." (Shelley Steadman, DNA expert, testifying for the prosecution. The transcript is quoted at http://saltshaker.us/roeder/12-01-07_RoederFirstSupplementalBrief.pdf, page 11.)

And here is a quote from one of America's most famous doctors: "A person's a person, no matter how small." - Dr. Seuss, "Horton Hears a Who."

One would think all this weight of tens of thousands of uncontested courtroom proofs that "life begins at conception", lying in forgotten climate controlled courtroom basements all across America, would count for *something.*

But so far, it has meant, in the eyes of America's judiciary, nothing. This must be seen as, and argued as, a consensus among virtually all judges that some other fact-finding authority has inherited Roe's invitation to resolve "when life begins", than juries or expert witnesses. It may also be argued as uncontested consensus among expert witnesses that "when life begins" is at conception.

What is left? Not any court: if SCOTUS declares itself incompetent to even "speculate", unless some other court presumes greater expertise or authority. What is left, as America's legally recognized fact-finding authorities, are states, and Congress.

States?

SCOTUS has never denied the authority, to trigger legal aborticide's "collapse", of the state fact-finding by the 37 states with fetal homicide laws, in which are included the three whose personhood statements specify the context of aborticide. Only one state made the issue ripe, and SCOTUS avoided it. Cert. denied, 416 U.S. 993 (1974).

Through the discussion of Roe by the four federal judges who overturned Rhode Island's law, we have clues about how SCOTUS might weigh state power to trigger Roe's "collapse", if they had to.

Rhode Island had specifically drafted its personhood affirmation to trigger Roe's "collapse" clause so that its criminalization of aborticide could stand. The appeals court didn't think a state personhood affirmation established the fact with enough authority to trigger Roe's "collapse" clause.

> It is true that the Court in Wade and Bolton did not attempt to decide the point "when human life begins." No reading of the opinions, however, can be thought to empower the Rhode Island legislature to "defin[e] some creature as an unborn child, to be a human being and a person from the moment of its conception." *Doe v. Israel,* 482 F.2d 156 (l st Cir. 1973)

In light of the dozens of constitutional challenges which personhood statements in the context of fetal homicide laws have since survived, not to mention *Webster* which pointed out that even *Roe* permitted states to believe the unborn are "persons" in the context of probate or tort, one might regard this opinion as out of date.

The Court's supporting logic for saying a state legislature's personhood finding of fact didn't carry enough weight to trigger Roe's "collapse" relied on equating the *explicit* finding of fact of a legislature (in Rhode Island) with an *AG's opinion* in court that a legislature (in Texas) *implied* its acceptance of the fact.

> ...defendant [Rhode Island's AG] relies principally on the fact that the Rhode Island legislature had made a conclusive finding that life begins with conception. In Roe v. Wade the Court specifically stated that it was irrelevant, in determining the validity of Texas' statute, that Texas adopted the theory that life begins at conception. "[W]e do not agree that, by adopting one theory of life, Texas may overide the rights of the pregnant woman that are at stake." Id. at 162, 93 S.Ct. at 731. Defendant nevertheless would argue that the Rhode Island legislature's "conclusive presumption or finding of fact" that life begins at conception requires this court to find that Rhode Island's interest in preventing abortions should be weighed more heavily than the Supreme Court weighed Texas' interest in Roe v. Wade.

It should be obvious to everybody else that a legislature's enacted law more authoritatively represents a state than an AG's statement in court, and an explicit official statement carries more weight than an implication. It is nonsense, therefore, to *deny* "that Rhode Island's interest in preventing aborticides should be weighed more heavily than the Supreme Court weighed Texas' interest in Roe v. Wade." The fact that SCOTUS was unimpressed by an AG's alleged implication during a court battle does *not* tell us SCOTUS would be equally unimpressed by an explicit official statement in an enacted law.

Especially since Roe's only justification for alleging its own uncertainty about "when life begins" was its failure to find an explicit statement about it in any law, to counter the supposed implication of lesser worth in the lesser protection of the unborn than of adults that it found in criminal penalties.

Yet to acknowledge a point in favor of the Court, Roe's words are not that the *Texas AG's finding* didn't carry enough weight, but that *Texas* didn't carry that much weight. That *implies* that even had the Texas legislature established the fact, Roe would still not have been impressed.

If that is what Roe meant, that raises the question: the "collapse" clause clearly spoke of the possibility of some future establishment of unborn personhood, which would obviously ["of course"] trigger legal aborticide's "collapse". But if a state legislature lacks sufficient "weight" to "establish" that fact, what does? Had that judge ruled after a majority of states had enacted similar personhood laws which had all survived constitutional challenges, would he have been more impressed? If that still wouldn't have been enough for him, would he have been satisfied by a jury, such as in a criminal case? An expert witness? How about Congress?

One weakness of a state personhood statement, that doesn't exist with federal law, is that another state may establish a different view, so a state finding is a slippery foundation for national policy. District Judge Pettine mentioned this as he overturned Rhode Island's aborticide ban,

along with his additional claim, more dubious, that courts should be trusted to define who is a human being because they have had so much more successful experience doing so:

> ...while the States have traditionally established a network of property and contract rights, they have not done so as to life, liberty or person. There is little reason to accept or give determinative weight to **varying state versions** of the existence or character of the rights at stake. Such issues are exclusively questions of Federal constitutional law. See Griswold v. Connecticut, 381 U.S. 479, 85 S. Ct. 1678, 14 L. Ed. 2d 510 (1965).

Pettine argues that states have no experience defining "persons" so they should not be entrusted with it. Had the Northern states believed that after SCOTUS' shameful Dred Scott case, there would have been no civil war.

It is true that rights to life, liberty, and property are "fundamental rights", over which SCOTUS overrules states all the time for not protecting enough, and often we are grateful. But regarding no other right has SCOTUS point blank said anything like "we can't figure out whether unborn babies of humans are humans." SCOTUS can't take a non-position and then say "and everyone else, shut up. We don't want to hear any evidence. Don't confuse us with facts. Our minds are already made up."

Fortunately, SCOTUS said no such thing. This judge puts words in Roe's mouth because he doesn't want Rhode Island to challenge Roe's conclusion with evidence. As if Dred Scott slipped his mind, the judge proceeds with a list of cases he said SCOTUS did not screw up:

> Surely the States could not, by legislative or judicial fiat, overturn the Dartmouth College case, 4 Wheat. 518, 17 U.S. 518, 4 L. Ed. 629 (1819), by finding that a charter was not a 'contract'; or overturn Goldberg v. Kelly, 397 U.S. 254, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970), by finding that the right to welfare benefits was not 'property'; or overturn Pierce v. Society of Sisters, 268 U.S. 510, 45 S. Ct. 571, 69 L. Ed. 1070 (1925), by finding that the right of parents to send their children to private school was not a 'liberty'; or overturn Brown v. Board of Education, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954), by finding that black children were not 'persons'. If a Federal Constitution is to exist, these decisions must be made by the Federal courts."

While we don't want a return to the finding "that black children are not 'persons'",

wasn't that the very finding imposed on Northern states by SCOTUS, and imposed to this day by SCOTUS regarding the unborn? Are we now supposed to find reassurance in SCOTUS' unreviewable authority to tell us who is a human being – despite Roe's invitation of review?

But fortunately, in the case of Roe, we don't have to challenge SCOTUS' finding of fact that unborn babies are *not* human persons, because Roe never made one. Roe never said unborn babies are *not* persons. Roe said the opposite: it asserted its own inability to "speculate as to the answer", and solicited "establishment" of the "facts".

See Appendix 4 for more analysis of Pettine's ruling.

It may be argued that 37 states with personhood language, plus the presumption of unborn personhood implicit in the almost unanimous state criminalization of aborticide prior to *Roe,* "establishes" that "when life begins" is at conception about as much as state fact-finding authority can.

So what fact-finding authority is left?

Congress?

SCOTUS accepts the authority of federal law over itself, until such time as it rules a law unconstitutional. But 18 USC§1841(d), and state laws like it, have been unanimously declared constitutional by courts dozens of times. (See appendix 3 for an overview.)

I can't think of any "weightier" fact-finding authority in American law than Congress. Blackmun never specified how much authority it would take, but his "of course" acknowledges that enough of such authority exists somewhere. Unlike juries, which can establish facts only with a series of verdicts, Congress can establish a fact with a single law. Unlike states, whose view of facts may vary, (although no state has said the unborn are *not* human beings), Congress' view speaks for the whole nation.

By those measures, Congress is America's premier fact-finding authority. That, plus the

fact it is the only institution left about whose fact-finding authority SCOTUS has not articulated reservations in the context of aborticide, demands acknowledgment that a finding of fact by Congress is authorized by *Roe* to carry sufficient weight to trigger Roe's "collapse" clause. At least among those fact finding authorities *which courts allow to rule* on the issue, Congress is the premiere fact finding authority.

But even if it weren't, this last remaining fact-finder in American law to take a position on "when life begins" makes it unanimous among all America's fact-finders. The consensus of juries, the consensus of expert witnesses, the majority of states, and finally an act of Congress, all now unanimously agree that "life begins at conception"; ie. all unborn babies are humans/persons "at all stages of gestation". We could also add the prolife proclamations of governors and presidents. This is all unanimous and uncontested among all legal authorities who have take a position: not one legal authority, anywhere, at any time, has ever asserted that unborn babies are *not* human.

Congress has officially established as legally recognizable fact that all unborn babies, "at all stages of gestation", are "members of the species homo sapiens", which makes them, according to abundant case law including Roe itself, "persons" under the 14th Amendment which demands their protection by states by criminalizing all threats to them.

Should any judge or anyone opine that the Fact that unborn babies are human persons can't be "established" until juries further "establish" it, the answer should be that the definitive "establishment" of the Fact by Congress and several states, undisputed by any legal authority, should at the very least require judges to allow juries to decide the issue from now on. To do any less is to defy Roe, whose "collapse" clause does not merely *permit* "establishment" of the Fact, but reflects the unthinkability of not establishing it if the fact is true.

(Digress*ion: It is a fundamental, egregious, and obvious violation of "due process"*

to deprive a criminal defendant of his right to trial by jury. How is it a "trial by jury", when the defendant is not even allowed to tell the jury about the only contested issue of a trial, which is a fact issue, and which is the defendant's sole defense? The jury is not even allowed to know that the defendant has a defense. All they know is that he admits all the actions with which he is charged, yet he pleads "innocent", which makes him look crazy.)

4. SCOTUS can't overturn Congress' finding of fact (that the unborn are human) unless it is "clearly erroneous". But no American legal authority has said the unborn are *not* human.

When federal law states a fact, that makes overturning it more difficult. SCOTUS' jurisdiction over facts is more awkward.

> It is well settled that American courts possess power to review the constitutionality of legislative enactments. But this power of judicial review does not inherently include the power to examine underlying legislative findings of fact informing policy decisions... legislative action can be defeated if its constitutionality is dependant upon facts later determined to be erroneous or fundamentally changed. *https://litigationessentials.lexisnexis.com/webcd/appaction=DocumentDisplay&crawlid=1&doctype=cite&docid=64+N.Y.U.+Ann.+Surv.+Am+L+837&srctype=smi&srcid= 3B15&key=22a32f13f5e95d1b4e7309e826e98eb6*
>
> See also *http://latimesblogs.latimes.com/lanow/2010/12/-prop-8-analysis-must-appellate-court-sociological.html*
>
> In Ragland Inv. Co. v. Commissioner, 435 F.2d 118 (6th Cir. 1970), the court stated that on appeal, the court will not disturb findings of fact unless they are *clearly erroneous.* - See more at: http://appeals.uslegal.com/standards-of-review/clearly-erroneous-standard/#sthash.aCQISOJg.dpuf
>
> *Nolo's Plain-English Law Dictionary. Gerald N. Hill, Kathleen Thompson Hill. 2009.* clearly erroneous n. The standard that an appellate court normally uses to review a trial judge's findings of fact when a civil case that was tried without a jury is appealed. The appellate court may not reverse the decision merely because, based on the facts, it would have reached a different conclusion. However, it may reverse the decision if the appellate court determines that the trial court's decision was clearly erroneous, even if there is some evidence in the facts to support the decision.
>
> *Merriam-Webster's Dictionary of Law. Merriam-Webster. 1996.* clearly erroneous A standard of review in civil appellate proceedings. Under this standard, an appeals court must accept the lower court's findings of fact unless the appellate court is definitely and firmly convinced that a mistake has been made. In other words, it is not enough that the appellate court may have weighed the evidence and reached a different conclusion; the lower court's decision will only be reversed if it is implausible in light of all the evidence.
>
> Clearly erroneous **clear·ly erroneous** *adj*: being or containing a finding of fact that is not supported by substantial or competent evidence or by reasonable inferences findings of fact...shall not be set aside unless *clearly erroneous — Federal*

> *Rules of Civil Procedure* Rule 52(a) *see also amendment vii to the* constitution *in the back matter compare* abuse of discretion, de novo ◇The requirement that findings be clearly erroneous to be set aside is a standard of review used esp. by an appellate court when reviewing a trial judge's (as opposed to a jury's) findings of fact for error. http://law.academic.ru/596/clearly_erroneous
>
> 7th Amendment to the U.S. Constitution: ...no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.
>
> *The Essential Law Dictionary. — Sphinx Publishing, An imprint of Sourcebooks, Inc. Amy Hackney Blackwell. 2008.* abuse of discretion A standard of reviewing a lower court's or other decision maker's judgment. To overturn a decision for abuse of discretion, the appellate court must find that the decision was wholly unsupported by the evidence, illegal, or clearly incorrect.

It should prove impossible for SCOTUS to find the personhood statements of Congress and 37 states "clearly erroneous", when *not one legal authority in the entire United States, in all these 41 years, has ever positively stated that the unborn are* not *human beings!*

See Appendix 3 for a list of legal authorities which have affirmed the humanity/personhood of the unborn.

5. States are't just *permitted* to outlaw aborticide, but *required* by the 14th Am. §1841(c) doesn't lessen this, or treat the unborn as less than "persons in the whole sense"

Not only did aborticide lose its constitutional protection 10 years ago, but states have been required by the 14th Amendment to protect unborn human life by generally criminalizing aborticide, section §1841(c) notwithstanding.

> 18 U.S.C. §1841 **(c)** Nothing in this section shall be construed to permit the prosecution— **(1)** of any person for conduct relating to an abortion for which the consent of the pregnant woman... has been obtained... [or] **(3)** of any woman with respect to her unborn child." (See Appendix 1 for full text of 18 U.S.C. §1841)

If §1841(d) does not satisfy the clear plain meaning and invitation of the "collapse" clause, then the clause has no meaning, and if words have no meaning, then there is no reason to suppose that any part of (c), which also consists of words, has any meaning. It is impossible for

words to have no meaning while reading (d), but to suddenly have meaning while reading (c).

But if words have meaning, federal law now recognizes the unborn "as persons in the whole sense". Roe therefore, by its own order, "collapses". It must be vacated, in order to obey it, and (c) cannot prevent that collapse.

§1841(c) has no power to bind state legislatures or state courts. Nothing in those words hinders any state authority from criminalizing any item on that list. These words only say this U.S. Code section does not create penalties for these actions. *Yet*. No enabling legislation has been created to apply the principle to elective aborticides. *Yet*. It will take new scheduled penalties in state laws to "permit", or authorize prosecution. 18 U.S.C. §1841(a) scheduled penalties only for some who are guilty of "intentionally killing or attempting to kill a human being" and left penalties for other situations for the future. Section (c) means no more than that.

The "collapse" clause and §1841(d) interact dynamically: §1841(a), (b), and (d) actuate the "Collapse" Clause of Roe without legal injury to §1841(c). Any state resumption of aborticide restrictions or outlawing is isolated from §1841(c) or, for that matter, from Roe reversal.

That is, (d) directly requires states to protect the unborn, regardless of what any court says – even if there were no "collapse" clause. The "collapse" clause makes this step less confrontational. It spares Courts from finding themselves at war with Reality, which Congress is obliged to accommodate with or without SCOTUS.

Members of Congress who voted for §1841, are immunized from responsibility for any legal consequence of the reversal of Roe. Reversing Roe is in the hands of the Supreme Court. Outlawing aborticide — or not – would upon such reversal be in the hands of the state legislatures which cannot be bound by a Federal law within the ambit of the 14th Amendment.

In other words, §1841(d) affirms Reality, directly obligating states, under the 14th

Amendment, to criminalize aborticide. It has also triggered Roe's "collapse" clause (which is different than triggering the "collapse" of Roe itself. It is by Roe's continued authority that state courts must, now that the previously uncertain facts are resolved, protect the unborn). That "collapse", by its own terms, enlists the 14th Amendment to *require* states to criminalize aborticide, to protect the "right to life" of the unborn. Once that happens, it is impossible for §1841(c) to then prohibit states from obeying the Constitution – even if that were the meaning of (c), which it is not.

§1841(c) on its face states that "Nothing in this section shall be construed" to create penalties for elective aborticide. Reversal of Roe, according to precedents listed in Payne v. Tennessee 501 U.S. 808 (1991) and secondary to the straightforward, binding application of the "collapse" Clause to §1841, does not per se outlaw aborticide. It simply returns the matter to sovereign state legislatures.

Except that it is impossible to trigger Roe's "collapse" without the finding of fact that conception is "when life begins", and once that fact is legally recognized, it will require criminalization of aborticide in all 50 states.

§1841(c) is not binding on the states to compel them to permit aborticide. There is a legal discontinuity between Roe reversal and a State outlawing aborticide. While the one may require the other, it does not create the other. It does not happen instantly or automatically. Reversal of Roe and the hypothetical future possibility of states outlawing aborticide are legally discrete events. §1841(c) remains intact if Roe were reversed, and §1841(c) cannot compel state legislation.

§1841(c) may obviate a sanction for aborticide, but it doesn't undo §1841 (a),(b), and (d) which define it as murder. *The effect of §1841 in total is to define intentional unborn child killing as murder.* The immunity it extends for those murders called elective aborticides is only from the

penalties of (a) and (b). It is not from penalties created by states, or by a future Congress. It did not define elective aborticide to involve some kind of "non-murder."

The duty of the jury, in a properly conducted aborticide prevention case, to establish where aborticide is in fact murder, impels it to that conclusion by §1841's definition of unborn babies as human beings, and is not hindered from that conclusion by the fact that §1841 did not create equal penalties for murdering all of them.

The 2004 law does not "permit prosecution" of aborticideists or mothers. In other words, aborticideists and mothers are exempted from the specific penalties which the 2004 law imposes upon other murderers.

There are three reasons this can't mean states are prevented by this 2004 law from enacting their own criminal laws authorizing penalties against aborticideists: (mothers are not going to be prosecuted in the foreseeable future, and even in the distant future their penalties will always be light, for reasons given later):

(1) **Jurisdiction.** State legislatures don't need the "permission" of federal law to enact whatever criminal laws they please. Federal law doesn't have that kind of jurisdiction over states. Federal laws have jurisdiction over federal property, and actions that cross state lines, for which the ever-stretching "commerce clause" is invoked. But the 2004 law says nothing about the Commerce Clause or federal property, so it makes no pretense at jurisdiction over states. The only other way Congress asserts itself over states is by offering states back their citizens' own money on the condition they follow their latest law. But the 2004 law doesn't offer states any money. The reach of federal law, to impose criminal penalties over states, is so limited that 18 U.S.C. §1841(a) applies this law's *penalties* only to a list of 68 *federal* criminal violations.

(However, section (d) doesn't list a penalty. It states a fact. And although states aren't subject to Congress' version of the facts, the U.S. Supreme Court is.)

Guided by the Supreme Court's "absurd result" test, we should choose an interpretation of clause (c) that is consistent with legal reality.

(2) **Grammar.** A statement of fact that a law does not constitute permission does not make the statement a prohibition.

If your mom doesn't give you permission, that doesn't mean your dad can't.

If you get a building permit to install a fireplace, and the fine print says "this does not constitute permission to install a bathtub", that statement should not be taken as a prohibition against the homeowner going to the plumbing department for a separate permit to install a bathtub. By the same principle, the statement that section (c) is not "permission" to prosecute aborticideists is not a law against a state creating a state law that gives prosecutors that needed "permission" to prosecute aborticideists. ("Authorization" might have been a clearer word choice than "permission", but "permission" is clear enough.)

(3) **Constitution.** After the 2004 law "established" the humanity of the unborn, states became legally obligated by the 14th Amendment to criminalize aborticide to give the unborn "equal protection of the laws". A federal law can't order states to disobey the Constitution.

Appendix 5 addresses how unborn babies can be legally recognized as "persons in the whole sense" while laws treat them differently; whether the humanity of the unborn is contradicted by the Freedom of Access to Clinic Entrances Act (FACE); and the meaning of wording suggesting the unborn are humans only "in this section".

A criminal case was foreseen by the National Women's Law Center as the kind of case that could topple legal abortion through 18 USC§1841(d), during debate over the law:

> ...the bill's construction and vague language ensures that prosecutions will get bogged down in arguments about when life begins--discussions better held by constitutional scholars, academics, clerics and philosophers, not by juries in criminal courts [in which otherwise criminal restraint of an abortionist was justified to save human lives:

The 18 USC§1841(d) challenge is made during the "comparison of harms" element of the Necessity Defense, codified in Iowa as "Compulsion", Iowa Code 704.10. It puts out of date state supreme courts' decisions to keep the only contested issue of the trial (the fact question of the factual nature of abortion) from the knowledge of the jury, because "how can abortion be a harm, if it is constitutionally protected?" 18 USC§1841(d) clarifies that abortion (1) is definitely a harm, (2) is therefore no longer constitutionally protected, and (3) therefore defendant's action taken to save lives is justified.

6. Clean Hands: the "protected party" has no standing to maintain protection.

Not only is the no contact order, enforced by criminal court, invalid on the ground of Iowa Code 704.10, but it is based on a civil action brought originally by a plaintiff who had no legal standing to sue me in the first place, since 18 U.S.C. 1841(d) was enacted in 2004, and no standing to maintain protection from me now. The "safety" of entities engaged in what is now legally recognizable as murder are not legally protectable.

Planned Parenthood has no legal standing to sue a respondent prolifer for injunctive relief because Planned Parenthood does not have "clean hands" before the law, with respect to the matters which have precipitated respondent actions which Planned Parenthood seeks to abate.

Especially when the object of relief demanded is some specious "intent to threaten, intimidate, or alarm" which is exposed by unbiased reflection to be a "threat" to plaintiff's self esteem, absolute zero intimidation, and only the slightest alarm concerning plaintiff's profits. And absolutely no threat whatsoever to the physical safety of any employee of that bloody business which is now legally recognizable as murder.

The "dirt" on Planned Parenthood's "hands" consists primarily of what has, since 2004, been the *legally recognizable* murder, stripped of any and all "constitutional protection", of

millions of "members of the species homo sapiens". In few cases is the "clean hands" rule so dramatically relevant as here, so it may be useful to review the level of justice the rule is meant to achieve.

Black's Law Dictionary summarizes:

> What is CLEAN HANDS? It is a rule of equity that a plaintiff must come with "clean hands," i. e., he must be free from reproach in his conduct. But there is this limitation to the rule: that his conduct can only be excepted to in respect to the subject-matter of his claim; everything else is immaterial. American Ass'n v. Innis, 109 Ky. 595, 00 S. W. 3SS.

Pomeroy, concluding how "clean hands" are a requisite for any plaintiff, says *any* "unconscientious conduct" of the plaintiff, relevant to his conflict with the respondent, bars relief:

> It is not alone fraud or illegality which will prevent a suitor from entering a court of equity; any really unconscientious conduct, connected with the controversy to which he is a party, will repel him from the forum whose very foundation is good conscience. (Equity Jurisprudence, Pomeroy, p. 675. *Complete title: A Treatise on Equity Jurisprudence, as administered in The United States of America; adapted for all the states, and to the union of legal and quitable remedies under the reformed procedure. By John Norton Pomeroy, LL.D.. 3rd Edition, Volume 1, (of 4 volumes), San Francisco: Bancroft-Whitney Company, Law Publishers and Law Booksellers, 1905.*)

In other words, "He that hath committed iniquity shall not have equity."

> § 397...This maxim is sometimes expressed in the form, He that hath committed iniquity shall not have equity....it is...a universal rule guiding and regulating the action of equity courts in their interposition on behalf of suitors for any and every purpose....(page 656, Pomeroy)
>
> "He who comes into equity must come with clean hands." (Title of Section IV, "Equity Jurisprudence" by Pomeroy, page 656.
>
> He who seeks equity must do equity...
>
> ...whenever a party...seeks to set the judicial machinery in motion and obtain some remedy, has violated conscience, or good faith, or other equitable principle, in his prior conduct, then the doors of the court will be shut against him in limine; the court will refuse to interfere on his behalf, to acknowledge his right, or to award him any remedy. (Pomeroy, page 657)

Here Pomeroy reminds us that Courts of Equity operate beyond the guidance of law, out in that ether where conscience, justice, and "righteous dealing" alone are the standard for the court. Indeed, the upholding of this religious area we call "morality" is the sole purpose of courts of equity, so that any court repudiating that purpose abandons the only reason for its existence. Am I overstating Pomeroy's point here? Is Pomeroy overstating legal reality? I can't think of any other way to justify the existence of courts of equity:

> § 398. Is based upon Conscience and Good Faith....the principle was established from the earliest days, that while the court of chancery could interpose and compel a defendant to comply with the dictates of conscience and good faith with regard to matters outside of the strict rules of the law, or even in contradiction to those rules, while it could act upon the conscience of a defendant and force him to do right and justice, it would never thus interfere on behalf of a plaintiff whose own conduct in connection with the same matter or transaction had been unconscientious or unjust, or marked by a want of good faith, or had violated any of the principles of equity and righteous dealing w**hich it is the purpose of the jurisdiction to sustain**. (Pomeroy, page 658)

The standard in furtherance of which Courts of Equity were created is a very high standard:

> „,the party asking the aid of the court must stand in conscientious relations towards his adversary; that the transaction from which his claim arises must be fair and just, and that the relief itself must not be harsh and oppressive upon the defendant. [Reasons to refuse relief include] sharp and unscrupulous practices, ...overreaching,...concealment of important facts, even though not actually fraudulent,...trickery,...taking undue advantage of his position, or...any other means which are unconscientious.... (Page 661)

Page 662, the plaintiff's own fraud is another reason to deny him relief.

The qualification is that the "iniquity" must be related to the matter for which the plaintiff seeks relief. Here Pomeroy explains more about the precedent named in Black's Law Dictionary, and he explains it a little more clearly:

> It is a rule of equity that a plaintiff must come with "clean hands," i. e., he must be free from reproach in his conduct. But there is this limitation to the rule: that his conduct can only be excepted to in respect to the subject-matter of his claim ; everything else is immaterial. American Ass'n v. Innis, 109 Ky. 595, 00 S. W. 3SS. Footnote:..American Ass'n v. Innis, 109 Ky. 595, 60 S. W. 388. It is held, in accordance with the maxim, that **a plaintiff who maintains a nuisance has no standing in equity to enjoin its unauthorized abatement:** Pittsburgh, C., C. & St. L. R'y Co. v. Town of Crothersville, 159 Ind. 330, 64 N. E. 914. (Page 659)

Obviously the plaintiff's "nuisance" or "iniquity" is related to the relief requested by every aborticideist suing any prolifer, since the only reason any prolifer gets in the crosshairs of any aborticideist is to mitigate, if possible, the aborticideist's egregious scandalous bloody "iniquity". Courts of equity have certainly been tempted to rule that aborticide is "outside the subject matter of the controversy", while every observer smiles at the fiction; but no one can with a straight face insist aborticide is "misconduct...with which the opposite party has no concern":

> § 399, Its Limitations....The maxim...is confined to misconduct in regard to, or at all events connected with, the matter in litigation, so that it has in some measure affected the equitable relations subsisting between the two parties, and arising out of the transaction: it does not extend to any **misconduct...with which the opposite party has no concern.**..a court of equity...will not go **outside of the subject-matter of the controversy**, and make its interference to depend upon the character and conduct of the moving party in no way affecting the equitable right which he asserts against the defendant, or the relief which he demands. (Pomeroy, page 660.)

"A court of equity will not aid...when the illegality [of the plaintiff] is...a *malum in se* [evil in itself/inherently evil], as being contrary to public policy or to good morals. [For example] violation of chastity, compounding of a felony, gambling, false swearing, the commission of any crime, or breach of good morals." I will show shortly how aborticide is "evil in itself" and "contrary to good morals". Here is the complete paragraph:

> § 402. Illegality...Wherever a contract or other transaction is illegal, and the parties thereto are, in contemplation of law, in pari delicto, [both parties are at fault] it is a well-settled rule...that a court of equity will not aid a particeps criminis

> [accomplice in crime], either by enforcing the contract or obligation while it is yet executory, nor by relieving him against it, by setting it aside, or by enabling him to recover the title to property which he has parted with by its means. The principle is thus applied in the same manner when the illegality is merely a malum prohibitum [prohibited by statute], being in contravention to some positive statute, and when it is a malum in se [evil in itself/inherently evil], as being contrary to public policy or to good morals. Among the latter class are agreements and transfers the consideration of which was violation of chastity, compounding of a felony, gambling, false swearing, the commission of any crime, or breach of good morals. (Pomeroy, page 666)

Human right to life, and the inherent evil of taking it without due process, needs no law or Constitution, actually, to so recognize it. So says the Declaration of Independence, which calls it "truths" that are "self evident":

> Hodges v. U.S. , 203 US 1 (1942). "The right to the enjoyment of life and liberty and the right to acquire and possess property are fundamental rights of the citizens of the several states and are not dependent upon the Constitution of the United States or the federal government for their existence."
>
> Bennett v. Boggs, 1 Baldw. 60 (1830). "Statutes that violate the plain and obvious principles of common (Natural) right and common reason are null and void."

The fact that Planned Parenthood has *not yet* been prosecuted for its aborticides, because no law has yet been passed fundamentally outlawing them, does not hinder Courts of Equity from recognizing aborticides as "inherently evil", or for that matter, as no longer "constitutionally protected", and thus as murder which the 14th Amendment requires states to criminalize. There are all kinds of other matters which Equity Courts legally recognize as criminally "illegal" and/or as evil, even though statutes fail to enable prosecution:

> Miscellaneous cases...Agreements in unreasonable restraint of trade or tending to monopoly are illegal and will not be enforced.... No relief against infringement will be granted when plaintiff's trade-mark or trade-name is a fraud on the public....Contract or conveyance against policy of United States land laws is illegal, and will not be enforced....An injunction will not issue at the suit of a person conducting an illegal business to restrain a police captain from stationing officers continuously on the premises: Weiss v. Herlihy, 49 N. Y. Supp. 81, 23 App. Div. 608. An injunction will not issue to restrain a postmaster from interfering with plaintiff's mail, when plaintiff has been engaged in a fraudulent scheme: Public Clearing House v. Coyne, 121 Fed. 927. (Pomeroy, p. 669 footnote)
>
> A contract may be perfectly valid and binding at law; it may be of a class

> which brings it within the equitable jurisdiction, because the legal remedy is inadequate; but if the plaintiff's conduct in obtaining it, or in acting under it, has been unconscientious, inequitable, or characterized by bad faith, **a court of equity will refuse him the remedy of a specific performance, and will leave him to his legal remedy** by action for damages. (Pomeroy, page 660)

Not only do Courts of Equity have the duty under "clean hands" to reject plaintiff Planned Parentood's application for relief, but state courts have a duty under the 14th Amendment to avoid being complicit in the crime of taking human life, which has been legally recognizable as the substance of Planned Parenthood's "business" since 2004. Legislatures have, for 10 years, had a 14th Amendment duty, articulated in Roe v. Wade itself, to outlaw aborticide, and courts have had that same 14th Amendment duty to acknowledge the legal facts on the ground since 2004 that trigger that duty – although **courts of course can't be faulted for failing to rule on issues not yet brought before them.**

Court rulings, as well as laws, which misperceive the requirements of the Constitution and come down on the wrong side of it, have no force of law:

> Norton v. Shelby County, 118 US 425 "Any unconstitutional act is not law, it confers no rights, it imposes no duties, it affords no protection, it creates no office, it is an illegal contemplation, as inoperative as though it had never been passed."
>
> Hurtado v. United States, 410 US 578 (1973) "It is not every act, legislative in form, that is law. Law is something more than mere will exerted as an act of power… Arbitrary power, enforcing its edicts to the injury of the party and property of its subjects is not law."
>
> U.S. v. Morris. 125 F 322, 325. "Every citizen and freeman is endowed with certain rights and privileges to enjoy which no written law or statute is required. These are the fundamental or natural rights, recognized among all free people."

Of course as a practical matter, disobeying an unconstitutional law can still get a person arrested by police who don't yet realize it is unconstitutional, and punished by courts slow to adjust their precedents to new legal realities. But that is a separate issue from whether an "act" is *in fact* unconstitutional. And the distinction is very important, because the most honorable citizens will obey the Constitution over any countervailing law when they conflict, though

painfully aware of the risk of wrongful prosecution, in the hope of eventually correcting legal errors and restoring our Republic to the Rule of Law.

I say “aware of the risk”, not “accepting the risk”. That there should be any risk at all, for obeying the Constitution, is unacceptable. It is a thing which any human being of principle must challenge, and by the grace of God, change.

Especially since it is Roe v. Wade itself, upon whose reasoning I rely for authority that since 2004, aborticide has had no remaining “constitutional protection” but rather came under a 14th amendment requirement upon states to outlaw it, because as Roe said it, the fact that it is murder has been “established”.

> Relying on prior decisions of the Supreme Court is a perfect defense against willfulness. United States v. Bishop, 412 US 346

Please forgive this one final observation, that according to the following precedent, neither Planned Parenthood attorneys, nor prosecuting attorneys, nor judges, are immune from liability for their vigorous, active obstruction of even the minutest efforts to defend the Constitutional Rights of the unborn to live, not to mention for their failure to, themselves, defend those rights:

> Owens v. City of Independence,445 US 622, 100 S. Ct. 1398 Maine v. Thiboutot, (1980), 448 US 1, 100 S. Ct. 2502 (1980), Hafer v. Melo, 502 US 21 (1991) Officers of the Court have no immunity, when violating a constitutional right, from liability, for they are deemed to know the law.

CONCLUSION. The scheduled “hearing on the merits as to whether the Defendant continues to pose a threat to the safety of the Protected Party” must be conducted without the input of Planned Parenthood or its employees, since the safety of entities engaged in what is now legally recognizable as murder are not legally protectable.

Under Iowa Code 704.10, I can't even be prosecuted for violating the letter of criminal laws, by actions which prevent mere serious injury. Much less can I be prosecuted for actions which were never alleged to violate any statute, and which have prevented many deaths.

Therefore, the proper goal of the hearing should be a directed verdict that the no contact order should be cancelled, as having no legitimate object under "clean hands", and as not being legitimately enforceable under Iowa 704.10.

Submitted by Defendant Donna Jean Holman
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PROOF OF SERVICE

Copies of the foregoing Motion to Dismiss have been mailed to my attorney and to the prosecutor by U.S. Mail:

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Appendix 1

Full Text of 18 USC 1841:

(a)

(1) Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

(2) (A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child's mother.

(B) An offense under this section does not require proof that—

(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A), be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.

(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

(b) The provisions referred to in subsection (a) are the following:

(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247,248, 351, 831, 844 (d), (f), (h)(1), and
(i), 924 (j), 930, 1111, 1112, 1113,1114, 1116, 1118, 1119, 1120, 1121, 1153 (a), 1201 (a), 1203, 1365 (a),1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)
(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191,2231, 2241 (a), 2245, 2261, 22 61A, 2280, 2281, 2332, 2332a, 2332b,2340A, and 2441 of this title.

(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C.848 (e)).

(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

(c) Nothing in this section shall be construed to permit the prosecution—

(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

(3) of any woman with respect to her unborn child.

(d) As used in this section, **the term "unborn child" means a child in utero, and the term "child in utero" or "child, who is in utero" means a member of the species homo sapiens, at any stage of development, who is carried in the womb.**

Appendix 2

Fetal homicide laws/personhood declarations and their constitutional challenges

(Summarized from the National Conference of State Legislatures at http://www.ncsl.org/research/health/fetal-homicide-state-laws.aspx)

California: People v. Davis [872 P.2d 591 (Cal. 1994)], "fetus" was properly added to the state murder code, but the term applies "beyond the embryonic stage of seven to eight weeks." <> People v. Dennis [950 P.2d 1035 (Cal. 1994)], capital punishment for a double murder OK'd.

Georgia: "The proposition that Smith relies upon in Roe v. Wade -- that an unborn child is not a 'person' within the meaning of the Fourteenth Amendment -- is simply immaterial in the present context to whether a state can prohibit the destruction of a fetus." Smith v. Newsome, 815 F.2d 1386 (11th Cir. 1987). <> See also Brinkley v. State, 322 S.E.2d 49 (Ga. 1984) (vagueness/due process challenge).

Pennsylvania: "to accept that a fetus is not biologically alive until it can survive outside of the womb would be illogical, as such a concept would define fetal life in terms that depend on external conditions, namely, the state of medical technology (which, of course, tends to improve over time). . . viability outside of the womb is immaterial to the question of whether the defendant's actions have caused a cessation of the biological life of the fetus . . ." Commonwealth of Pennsylvania v. Bullock (J-43-2006), December 27, 2006, rejecting constitutional challenges to the Crimes Against the Unborn Child Act, 18 Pa. C.S. Sec. 2601, said any intrauterine life is "living" and can perfect a corpus delecti, even if the court refrained from explicitly defining the unborn as persons.

Bullock ruled as if the unborn were persons, punishing their killing as a homicide. The Court unanimously rejected an array of constitutional challenges to the Crimes Against the Unborn Child Act, 18 Pa. C.S. Sec. 2601 et seq., including claims based on Roe v. Wade and equal protection doctrine. Although the law applies "from fertilization until birth," Bullock argued that Roe allowed such a law to apply only after viability. <> Commonwealth of Pennsylvania v. Corrine D. Wilcott, January 24, 2003, arguments were rejected that the law is unconstitutionally vague, violates U.S. Supreme Court aborticide cases, violates equal protection clause, and conflicts with state tort law on definition of "person."

Michigan: Michigan v. Kurr, No. 228016, Oct 4, 2002, likewise found that any intrauterine life is "living" and can perfect a corpus delecti, even if the court refrained from explicitly defining the unborn as persons. The defendant in that case was the mother. She was specifically granted retroactive permission to use lethal force only because she was pregnant with quadruplets.

Missouri: (Webster has already been addressed.) In *State v. Knapp*, 843 S.W. 2nd (Mo. en banc) (1992), the Missouri Supreme Court held that the definition of "person" in this law is applicable to other statutes, including at least the state's involuntary manslaughter statute.

Texas: Terence Chadwick Lawrence v. The State of Texas (No. PD-0236-07), November 21, 2007, the court unanimously rejected claims that the 2003 Prenatal Protection Act was unconstitutional for various reasons, including inconsistency with Roe v. Wade. The court's summary explained that after learning that a girlfriend, Antwonyia Smith, was pregnant with his child, defendant Lawrence "shot Smith three times with a shotgun, causing her death and the death of her four-to-six week old embryo." For this crime, Lawrence was convicted of the offense

of "capital murder," defined in Texas law as causing the death of "more than one person . . during the same criminal transaction." The court said that the aborticide-related rulings of the U.S. Supreme Court have

> no application to a statute that prohibits a third party from causing the death of the woman's unborn child against her will....Indeed, we have found no case from any state supreme court or federal court that has struck down a statute prohibiting the murder of an unborn victim, and appellant [Lawrence] cites none.

Utah: State of Utah v. Roger Martin MacGuire. (January 23, 2004). MacGuire was charged under the state criminal homicide law with killing his former wife and her unborn child. He argued that the law, which covered "the death of another human being, including an unborn child," was unconstitutional because the term "unborn child" was not defined. The Utah Supreme Court upheld the law as constitutional, holding that "the commonsense meaning of the term 'unborn child' is a human being at any stage of development in utero. . ." MacGuire was also charged under the state's aggravated murder statute, which applies a more severe penalty for a crime in which two or more "person" are killed; the court ruled that this law was also properly applied to an unborn victim and was consistent with the U.S. Constitution.

All of the following challenges were based at least partly on *Roe* and/or denial of equal protection:

Illinois: U.S. ex rel. Ford v. Ahitow, 888 F.Supp. 909 (C.D.Ill. 1995), and lower court decision, People v. Ford, 581 N.E.2d 1189 (Ill.App. 4 Dist. 1991). <> People v. Campos, 592 N.E.2d 85 (Ill.App. 1 Dist. 1992). Subsequent history: appeal denied, 602 N.E.2d 460 (Ill. 1992), habeas corpus denied, 827 F.Supp. 1359 (N.D. Ill. 1993), affirmed, 37 F.3d 1501 (7th Cir. 1994), certiorari denied, 514 U.S. 1024 (1995).

Louisiana: A double murder charge for the same act is not "double jeopardy": State v. Smith, 676 So.2d 1068 (La. 1996), rehearing denied, 679 So.2d 380 (La. 1996).

Minnesota: State v. Merrill, 450 N.W.2d 318 (Minn. 1990), cert. denied, 496 U.S. 931 (1990).

establishment clause -- State v. Bauer, 471 N.W.2d 363 (Minn. App. 1991).

Wisconsin: regarding due process -- State v. Black, 526 N.W.2d 132 (Wis. 1994) (upholding earlier statute).

Missouri: State v. Knapp, 843 S.W. 2nd (Mo. en banc) (1992), the Missouri Supreme Court held that the definition of "person" in Mo. Rev. Stat. 1.205.1 is applicable to other statutes, including at least the state's involuntary manslaughter statute.

Appendix 3

Legal authorities which have “established” that conception is “when life begins”

Among legal authorities who have taken a position on this issue, there is uncontested consensus. Stipulations that life begins at conception have been made by Iowa Governor Branstad (In his annual proclamation on the anniversary of Roe that defiantly proclaims its error), Presidents Reagan *(See footnote 1a)* and Bush, (who have been filling the Supreme Court with justices whom they expect will respect the right to life from conception), virtually every state legislature, whose decriminalization of aborticide was only under the duress of Roe, (Including Iowa, whose first aborticide laws were in 1838, 8 years before Iowa had a Constitution; Iowa's 1843 revision survived unchanged until January 22, 1973), the current Nebraska. Missouri. and Louisiana legislatures which continue to boldly proclaim the error of Roe, *(See footnote 1b) the Christian, Jewish, and many other Bibles,* (*See footnote 1c)* a virtual consensus of medical science, (as I am prepared to prove in testimony), and the majority of Americans *(See footnote 1d) (whose legal authority is expressed in the opening phrase of the Declaration of Independence, and whose legal "teeth" on this issue have been demonstrated by their ability to elect presidents determined to replace the justices who made America kill its unborn).*

Even Statements of Planned Parenthood, the complainant, through 1963, stipulate to the fact that life begins at conception, saying, "An abortion kills the Life of a baby after it has begun. It is dangerous to your life and health." (See footnote 1e)

An Alaskan Supreme Court Justice has emphatically denounced the error of Roe and declared the unborn to be both human and person. In Cleveland v. Municipality of Anchorage, Alaska, 631 P.2d 1073, 1084, he wrote:

"I empathize with the defendants' sorrow over the LOSS OF HUMAN LIVES caused by abortions. I believe the United States Supreme Court BURDENED THIS COUNTRY WITH A TRAGIC DECISION when it held in Roe...that the word "person, as used in the fourteenth amendment, does not include the unborn..., and that states cannot 'override the rights of the pregnant woman' by 'adopting one theory of life.'"(See footnote 1f)

Footnote 1a. A Public Law/Presidential Proclamation dated January 14, 1988 was quoted in State v. O'brien, 84 s.v.2d 187, 189 as follows: "'all medical and scientific evidence increasingly affirms that children before birth share all the basic attributes of human personality -- that they in fact are persons...' and the President has proclaimed the 'unalienable personhood of every American, from the moment of conception until natural death'".

President Reagan also affirmed the “compelling Interest of the several states to protect the life of each person before birth, and the unalienable right to life is found not only in the Declaration of Independence but also In the Constitution that every President is sworn to

preserve. protect and defend. Both the Fifth and Fourteenth Amendments guarantee that no person shall be deprived of life, liberty, due process of law.... In the 15 years since the Supreme Court's decision in Roe v. Wade, however, America's unborn have been denied their right to life."

Footnote 1b. Missouri #1.205, R.S.Mo.1986, states: "1) The life of each human being begins at conception"; 2) "unborn children have protectable interests In life, health, and well being"; and 3) Effective January 1, 1988 the laws of this state shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state..."

Louisiana LSA-R.S. 40:1299,35.0 reads "it is the intention of the Legislature of the State of Louisiana to regulate abortion to the extent permitted by the decisions of the United States Supreme Court. The Legislature does solemnly declare and find in reaffirmation of the longstanding policy of this State, that the unborn child is a human being from the time of conception and is, therefore, a legal person for purposes of the unborn child's right to life and is entitled to the right to life from conception under the laws and Constitution of this state. Further, the Legislature finds and declares that the longstanding policy of this State Is to protect the right to life of the unborn child from the time of conception by prohibiting abortion permissible only because of the decision of the United States Supreme Court and that, therefore, if those decisions of the United States Supreme Court are ever reversed. or modified or the United States Constitution is amended to allow protection of the unborn then the former policy of this State to prohibit abortions shall be enforced." LSA-R.S. 14:2(7) defines "person" as "...a human being from the moment of fertilization and implantation."

Nebraska 28-325. R.R.S. 1943, says "(1) That the following provisions were motivated by the LEGISLATIVE INTRUSION of the United States Supreme Court by virtue of its decision removing the protection afforded the unborn. Sections 28-325 to 28-345 are in no way to be construed as legislatively encouraging abortions at any stage of unborn human development, but it is rather an expression of the will of the people of the State of Nebraska and the members of the Legislature to PROVIDE PROTECTION FOR THE LIFE OF THE UNBORN CHILD WHENEVER POSSIBLE; (2) That the members of the Legislature expressly DEPLORE the destruction of the UNBORN HUMAN LIVES which has and will occur in Nebraska as a consequence of the United States Supreme Court's decision on abortion of January 22, 1973." !!!!! That's the most indignation I've ever seen in a law! But when that indignation is focused, by lawmakers, on the U.S. Supreme Court, what does that say about the threat to the Rule of Law posed by Roe?

Footnote 1c. The "Old Testament" of the Christian Bible, which is the Jewish Scripture, states: "For thou hast possessed my reins: thou hast put your hand upon me in my mother's womb. I will praise thee for I am fearfully and wonderfully made: marvelous are thy works; and that my soul knoweth right well. My substance was not hid from thee when I was made in secret, and curiously wrought in the lowest parts of the earth. Thine eyes did see my substance, yet being Incomplete; and in thy book all my members were written, when as yet there was none of them."Psalm 139:13-16.

While still in the womb, God knows people and sanctifies them: "Before I formed thee in the belly I knew thee; and before thou camest forth out of the womb I sanctified thee, and I ordained thee a prophet unto the nations.' Jeremiah 1:5.

While still in the womb, people already have a moral nature: "The wicked are estranged from *the* womb: they go astray as soon as they be born, speaking lies."Psalm 58:3.

The Christian New Testament adds: While still in the womb, God calls people to the ministry: "But when it pleased God, who separated me from my mother's *womb,* and called me by his grace, To reveal his Son in that I might preach him among the heathen..."Galatians 1:15~16

While still In the womb, God is able to fill people with the Holy Spirit: [John the Baptist] shall be great in the spirit of the Lord...and he shall be filled with the Holy Ghost, even from his mother's womb."Luke 1:15

While still in the womb, people are able to discern the voices of wonderful people: blessed art thou among women, and blessed is the fruit of thy womb. And whence is this to me, that the mother of my Lord should come to me? For, lo, as soon as the voice of thy salutation sounded in mine ears, the babe leaped In my womb for Joy.' Luke 1:42-44

Public laws (rulings by the President with authority only over the Executive Branch of the federal government) may have no compulsory force outside the executive branch of the federal government. But in an absolute vacuum of legal opinion about a fact, their statements have standing (they are worth considering), as the O'Brien court recognized (see footnote 2). Public law 5761 of January 14, 1988, Federal Register Vol. 53, #ll, declares the humanity of the unborn child and the compelling interest of the several states to protect the life of each person before birth."

If a state supreme court considers, to be worth considering, a public law's statements about when life begins, perhaps the statements of another public law, enacted not alone by the President but also by a Joint Session of Congress, should be worth considering, which acknowledge an authority which defines when life begins. Public law 97-280, October 4, 1982, 96 Stat. 1211, recognizes "both the formative influence the Bible has been for our nation, and our NATIONAL NEED TO STUDY AND APPLY the teachings of the HOLY Scriptures."If a president and a JOINT SESSION OF CONGRESS, the powers who appoint the members of the Supreme Court, declare the humanity of the unborn child and our national need to apply the teachings of the Holy Scriptures, perhaps the Holy Scriptures may be instructive for this court also. They foster no doubt about when human life begins. It begins BEFORE conception.

Footnote 1d. There has been wide debate over the interpretation of public opinion polls. The bottom line is that a clear majority of Americans, once they understand what they are being asked, believe Roe was in error and want that error reversed. I am prepared to prove this in testimony. My grounds for introducing this testimony are not only that life begins at conception according to the premier legal authority of this land, "We the People", but also that their voice must be the standard in 'ordinary standards of Intelligence and morality', by which the court must evaluate whether the harm of killing the unborn is greater than the "harm"of trespassing.

Footnote 1e.Plan Your Children For Health And Happiness, Planned Parenthood Federation of America, 1963. (A booklet.) Source: Grand Illusions, tne legacy or Planned Parenthood, by George Grant, published by Wolgemuth S Hyatt, Brentwood IN, page 73. If we may assume the human condition of the unborn has not changed between 1963 and the present, then this STIPULATION of the complainant itself is still relevant.

Footnote 1f. Justice Dimond (concurring) continues his bitter analysis of Roe: 'I do not agree with the Court's conclusion that a state's Interest in potential life does not become 'compelling' until the fetus has attained viability. It stated its explanation for this conclusion as follows:

"With respect to the State's important and legitimate interest in potential life, the 'compelling' point is at viability. This is so because the fetus then presumably has the capability of meaningful life outside the womb. State regulation protective of fetal life after viability thus has both logical and biological justifications.'

~ "(410 U.S. at 163, 93 S.Ct. 731-32, 35 L.Ed.2d at 183) As Professor Tribe indicates, 'One reads the court's explanation several times before becoming convinced that nothing has Inadvertently been omitted. (Tribe, Forward to "The Supreme Court 1972 Term", 87 Harv.L.Rev. 1. 4 (1973](footnote omitted]). I agree with Professor Tribe when he states, 'Clearly, this

(analysis] mistakes a definition for a syllogism', and offers no reason at all for what the Court has held.' (Id., quoting Ely, 'The Wages of Crying Wolf: A Comment on Roe v. Wad.', 82 Yale L.J. 920, 924 (1973](footnotes omitted])."

("Syllogism"is defined in its best sense as a specific process of reasoning where bits of evidence are assembled into a conclusion, and in its worst sense as "subtle, tricky, or specious reasoning". "Specious"means intelligent sounding baloney. So when the Alaskan supreme court justice calls the Roe definition of "viability"not a definition at all, but rather a "syllogism"offering no reason for its existence, the clue that he means "syllogism"in its worst sense, that is a very refined way of saying it is a bunch of intelligent sounding baloney. If you think about it, the definition of the worst sense of "syllogism", specious reasoning, is another way of saying reasoning that has the appearance of being a syllogism in the best sense. That describes the "reasoning"of Roe, whose statements seem, well, connected, yet when you arrive at the end of them you wonder why it still doesn't quite make sense.)

(Justice Dimond, continuing:) "In effect, the Supreme Court -held that because there is am consensus as to *when* human life begins it ant act as if it were proven that human life does not begin until birth so as to preserve to women the right to make their own decision whether an abortion takes a human life or not. It would make more sense to me if, in the face of uncertainty, any error made were side in favor of the fetus, which many believe to be human life.

"The development of a zygote into a human child is a continual, progressive development. No one suggests that the born child is not a human being. It seems undeniable, however, that human life begins before birth. As Professor Curran states:

"'[T]he fetus one day before birth and the child one day after birth are not that significantly or qualitatively different-in any respect; Even outside the womb the newborn child is not independent but remains greatly dependent on the mother and others. Birth in fact does not really tell much about the individual as such but only where the individual is--either outside the womb or still Inside the womb.' (C. Curran, Transition and Tradition in Moral Theology 209 (1919]). Similarly, viability does not mark the beginning of the truly human being.

"[V]iability again indicates more about where the fetus can live than what It is. The fetus immediately before viability is not that qualitatively different from the viable fetus. In addition viability is a very inexact criterion because it is intimately connected with medical and scientific advances. In the future It might very well be possible for the fetus to live in an artificial womb or even with an artificial placenta from a very early stage in fetal development.

"I join with those persons who believe that truly human life begins sometime between the second and third week after conception...."

Footnote 2:

Not even Roe v. Wade denies that life begins at conception.

The Hole in Roe through which Violence can Drain

The justices literally wrote that they were incompetent to know.

Can you imagine some young kid picking some group -- let's say, well, truck drivers -- and carrying his weapon into a truck stop and slaughtering everyone there. And then when he is arrested, can you imagine him saying, "Oh really? Gosh, I didn't know! I'm so terribly sorry! You can't mean it! You say they're Human Beings?!"

But then can you imagine the police then letting him go, saying, "Oh, you didn't know? Well never mind then. It wasn't your fault. Just don't do it again."

Does that seem like too much latitude to give someone responsible for murder? We give the Supreme Court far more.

The five justices who signed Roe literally said "Duh, we can't tell if they're human beings, so we'll decide whether to kill them without caring about that possibility." Yet we not only

do not arrest them, or put them in jail, or even impeach them, but we keep them for our leaders! We obey them! Even after medical evidence pours in to inform them of what they could not tell, they keep right on killing, again and again, and we patiently wait for the day they are determined shall never come when they will acknowledge the new evidence! And while the Court on the one hand expects mercy because it "doesn't know", lower courts use their power to prevent the decision being made by juries, the more competent Judges of the Facts, who DO know.

No legal authority has yet challenged the statement of legal fact, that "life begins at conception", and therefore it merits the status of UNCONTESTED legal fact, as it were a STIPULATION of America's entire judicial system. Roe v. Wade never challenged this fact, though pressed to do so. Its ground for avoiding this issue was its INCOMPETENCE (through want of wisdom, it explained) to decide it. The court said: *"We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, THE JUDICIARY, at this point in the development of man's knowledge, IS NOT IN A POSITION TO SPECULATE AS TO THE ANSWER."*(410 U.S. 113, 159)

(Since when is the inability of human beings to achieve 100% consensus a reason for a court to not decide an issue? Isn't that what courts are for, to decide causes where the parties can't come to agreement by themselves?)

The Supreme Court has yet to deal with this central issue, despite enormous pressure to do so from thousands of "rescue"cases where this is the key issue. It has so far acknowledged its incompetence to do so. We may presume that if the high court does not consider itself competent to decide when life begins, it will not very likely consider state supreme courts any MORE content to decide when life begins. Indeed, neither has any state supreme court yet directly challenged the majority assumption of "We The People"that life begins at conception.

The failure of courts to positively affirm that life begins at conception does not detract from the uncontested status of that legal fact. This failure exists because of a lack of competence. When lack of competence is the grounds for a court to avoid a decision, we do not then expect ANY decision, yea or nay. Therefore the court's failure to positively affirm that life begins at conception cannot be turned into evidence that the court is now competent to decide that question, or that the court HAS decided that question!

The Oregon Supreme Court even reported with approval a trial court's finding that Rescuers "had proffered sufficient evidence on all the elements of the choice of evils [Compulsion] defense, generally, to submit it to the jury."This report included "evidence offered by defendants in the form of expert opinion testimony that life begins at the time of conception."(State v. Clowes, 801 P.2d 789, 791 Or. 1990)

Were the justices really so unable to tell that what is a baby a minute after birth is not fundamentally changed from what it was a minute before? A human being with all the protection of the Constitution? Or were they evading responsibility for what they knew, talking like the Pharisees 2,000 years ago?

Matthew 21:23 And when he was come into the temple, the chief priests and the elders of the people came unto him as he was teaching, and said, By what authority doest thou these things? and who gave thee this authority? 24 And Jesus answered and said unto them, **I also will ask you one thing, which if ye tell me, I in like wise will tell you by what authority I do these things. 25 The baptism of John, whence was it? from heaven, or of men?** And they reasoned with themselves, saying, If we shall say, From heaven; he will say unto us, Why did ye not then believe him? 26 But if we shall say, Of men; we fear the people; for all hold John as a prophet. 27 And they answered Jesus, and said, We cannot tell. And he said unto them, **Neither tell I you by what authority I do these things.**

Stenberg v. Carhart doesn't dispute the FACTS, either. Here's the opening paragraph of the "Opinion":

"We again consider the right to an abortion. We understand the controversial nature of the problem. Millions of Americans **believe** that **life begins at conception and consequently that an abortion is akin to causing the death of an innocent child; they recoil at the thought of a law that would permit it.** Other millions fear that a law that forbids abortion would condemn many American women to lives that lack dignity, depriving them of equal liberty and leading those with least resources to undergo illegal abortions with the attendant risks of death and suffering. Taking account of these virtually irreconcilable points of view, aware that constitutional law must govern a society whose different members sincerely hold directly opposing views, and considering the matter in light of the Constitution's guarantees of fundamental individual liberty, this Court, in the course of a generation, has determined and then redetermined that the Constitution offers basic protection to the woman's right to choose. *Roe* v. *Wade,* "http://supct.law.cornell.edu/cgi-bin/sup-choice.cgi?410+113" (1973); *Planned Parenthood of Southeastern Pa.* v. *Casey,*"http://supct.law.cornell.edu/cgi-bin/sup-choice.cgi?505+833" (1992). We shall not revisit those legal principles. Rather, we apply them to the circumstances of this case."

Notice a few things about this opening. "causing the death of an innocent child" is treated as a matter of "belief". No attempt is made to consider whether the deaths are a FACT. The opposing "view", that not being allowed to kill their babies would rob women of "dignity", is treated as if it is equal in weight to the first "view", and as if two "virtually irreconcilable...sincerely held...points of view" cancel each other out, like two chess pieces "traded" and discarded, cleared out of the way so they no longer distract us from the battle before us, leaving our decisions simpler, uncomplicated by their nagging cries.

The Court could not treat opposing views as capable of canceling each other out by their mere weight of popularity, if the Court were qualified to determine which "view" is supported by the FACTS. If, in FACT, aborticide "causes the death of innocent children", then it is absurd to associate such carnage with "dignity". It is absurd to treat such murders as any kind of legally acceptable "choice". If the Court weighed the FACTS, then the two "views" would not be irreconcilable at all. The "view" that children die would govern the case, and the "view" that mothers cannot have dignity without murdering their babies would simply be laughed out of the courtroom.

This opening paragraph should prove the Court still refuses to take any position, "yea or nay", on the FACT of whether aborticide kills innocent human beings, just as it did in Roe itself where it said "if the doctors and preachers can't agree when human life begins, how are WE supposed to figure it out?" (Those weren't the exact words but they are close.)

Appendix 4

Rhode Island's Judge Pettine's creative logic

Brainstorming possible future objections to the simplicity of§1841(d)'s triggering of Roe's "collapse" clause.

U.S. District Judge Pettine in Rhode Island was the first to opine why Roe can survive a state's "establishment" of the Fact that all unborn babies are humans/persons. Here are that judge's rather creative logic and my responses, offered as the beginning of brainstorming future possible arguments.

Were all Rhode Island's arguments addressed and disposed of by Roe? Pettine said:

> It is first argued that the state legislature has found that life begins at conception and has protected this life from homicide. Secondly, it is argued that the state legislature has declared a fetus to be a "person" within the meaning of the Fourteenth Amendment to the United States Constitution and that this legislative declaration is binding on this Court. Both arguments are insufficient.
>
> The Rhode Island legislature apparently read the opinion of the Supreme Court in Roe v. Wade to leave open the question of when life begins and the constitutional consequences **[**12]** thereof. This is a misreading of the opinions of the Supreme Court in Roe v. Wade and Doe v. Bolton.
>
> It is apparent from the opinion in *Roe* that the argument that life begins at the instant of conception and that the taking of this fetal life would be homicide was raised by the parties and amici before the Supreme Court and that the Supreme Court considered this argument in reaching its decision. A reading of the opinion as a whole can result in no other conclusion. Moreover, there are numerous specific indications that this argument was raised and considered.

Well, yes, the argument was raised. But the AG raising it did not have the support of explicit statements in law to back him up. So *Roe* was able to suppose that the unequal penalties between killing an unborn baby and killing an adult proved that "our laws have never treated the unborn as persons in the whole sense." It is hardly a misreading of Roe to note that Roe left hanging the question of when life begins. Any *other* reading is a "misreading". *Roe* could not have been more explicit.

Roe did not say "we don't know when life begins even though Texas law *implicitly* says so." Roe said "We don't know when life begins because *no* law *explicitly* says so, including those of Texas, whose AG *says* it implicitly says so but any *implication* that life begins at conception is canceled by its lower penalty for killing an unborn baby, than for killing an adult, which *implies to us* that *Texas has never treated the unborn as persons in the whole sense."*

Pettine said "the court went to great lengths to detail the history of attitudes and laws about aborticides, including various concepts of when life begins", so therefore there is nothing left for a state to do that Roe hasn't already considered. But Justice *Blackmun's "collapse" clause gives no hint of forethought of what it would take to trigger it*. Roe had said the reason for its alleged uncertainty about "when life begins" was that not one statute was found that explicitly declared personhood from conception. So Rhode Island's presumption was certainly reasonable,

that such an explicit declaration by a state would resolve SCOTUS's uncertainty. We still don't know if SCOTUS would find this presumption reasonable, since SCOTUS won't say; all we have is a lower judge's guess.

Does Roe treat "when life begins" as a *fact* question? I have been writing as if the question of "when life begins" is obviously a "fact question", and was treated as such by *Roe.* But Pettine didn't think it that obvious:

> To me the United States **[**6]** Supreme Court made it unmistakably clear that the question of when life begins needed no resolution by the judiciary as *it was not a question of fact.* As will be discussed infra, I find it all irrelevant to the issues presented for adjudication....*Nor does the Rhode Island legislature have the power to determine what is a "person"* within the meaning of the Fourteenth Amendment. Such a question is *purely a question of law* for the courts, independent of any power in the state legislature to create evidentiary presumptions. It has always been the Supreme Court that has given content to the term "person" under the Fourteenth Amendment.

Yeah, and nice job, Dred Scott! 14th Am had some say, thru Congress

It is obvious to me that Roe treated "when life begins" as a fact question, because Roe said "if the preachers and doctors can't agree, how are WE supposed to figure it out?"

> Texas urges that, apart from the **Fourteenth Amendment**, life begins at conception and is present throughout pregnancy, and that, therefore, the State has a compelling interest in protecting that life from and after conception. We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer. **[p160]**

Had Roe considered it a question of law, they would not have cared what doctors thought, and *certainly not preachers!!!* On matters of law, SCOTUS justices are the world's experts. Yet on the question of "when life begins", the justices wrote that they were incompetent, not only to "establish" the facts, but they weren't even "in a position to speculate" about them!

Roe's "collapse" clause hardly regards the "fact" of "when life begins" as "irrelevant"! The "collapse" it foresaw was of the entire case for legal aborticide!

Roe could not more clearly have agreed that the *fact question* – whether the unborn are "persons", or as Roe said elsewhere, "recognizably human" – is the issue upon which the legality of aborticide rests. Should it be "established", Roe said, that the unborn are persons, then "of course" the case for legal aborticide "collapses".

Roe did not dispute Texas' argument that the state should win if the personhood of the unborn were fact. Roe disputed whether the AG's and the Texas lower court's assertions that the unborn are "recognizably human/persons" were Texas' real position, in view of Texas law's lesser penalties for killing an unborn baby than for killing an adult.

Judge Pettine, in other words, thought Roe's view of the humanity of the unborn was so entrenched that Roe regarded reality as irrelevant, so therefore, Rhode Island's personhood affirmation was irrelevant:

> **[**14]** The circumstance that the argument presented to and rejected by the Supreme Court in *Roe* is presented again in the guise of a "factual" declaration by the Rhode Island legislature does not change the result in *Roe* or the obvious applicability of *Roe* here.

Then who *did* Roe have in mind as having enough authority to "establish" what the Roe justices said they were incompetent to "establish", being inferior in authority to doctors and preachers?

> Judge Pettine: A further indication that the issue has been conclusively determined against these Rhode Island statutes is given by the post-*Roe* action of the unanimous Supreme Court in refusing to reconsider its remand of the Connecticut abortion cases for further consideration in light of *Roe* and *Doe* [5] and in dismissing the **[*1201]** appeal for want of a substantial federal question in Byrn v. New York City Health & Hospital Corp. [6]

How significant can it be that SCOTUS didn't hear a case the second time, after remanding to a lower court with instructions? Most SCOTUS appeals are lucky to get heard *once!* And how did Pettine find out the Byrn case was rejected "for want of a substantial federal question", since "The Court's orders granting or denying cert. are issued as simple statements of actions taken, without explanation"? (http://www.law.cornell.edu/wex/certiorari) Perhaps that is the most logical possibility found in SCOTUS Rule 10, but SCOTUS rejects so many cases that rejection is no indication that its question was not "substantial". A question must excite the justices to be heard. A reasonable guess is that a question that challenges what the Justices want to happen, or to which they have no answer, would not excite them.

Roe's "collapse" clause acknowledged the possibility of establishing "when life begins". That means SCOTUS believes *some* entity has sufficient authority to establish that. Who, if not states?

Roe had said there is such a thing as establishing "when life begins" by authorities superior in their fact-finding ability to SCOTUS, which declared itself incompetent to "speculate as to the answer". But SCOTUS also said one state's theory of when life begins, not explicit in a statute but only implied, in the opinion of an AG during appeal, is not enough to do it. That begged the question: how much, then, is enough? How about an explicit statement in state law? Can we nullify Roe that easily, Rhode Island asked? If not, how much more evidence do you want, to establish what you say you are too incompetent to see with your own eyes, SCOTUS?

Do you seriously imagine SCOTUS looked forward to that inquisition? No wonder they would not review Rhode Island's appeal!

Did Roe rule out a state's answer to "when life begins"? Does SCOTUS have sole jurisdiction to answer this question? Pettine begins with his reasons SCOTUS' view (or non-view) of "when life begins" trumps that of states, and ends with Marbury v. Madison which asserts SCOTUS' authority to rule Congress' laws unconstitutional, too. 18 USC§1841(d) is pretty much immune to that challenge, however, because it, and dozens of similar state personhood statements in "unborn victims of violence"-type laws, have withstood dozens of Constitutional challenges.

Here Pettine strings together several improbable unsupported assumptions:

> "Third, the argument was specifically addressed at 147, **[**13]** 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 where the court declined to accept Texas' argument that the State's interest was defined by the "fact" that life began at the moment of conception and instead recognized that the State's interest was in the protection of potential life. [4]

The judge appears to confuse Texas' argument that its interest is *defined by the 'fact' that life began at the moment of conception"* with Texas' argument that *its AG's affirmation of that fact in court sufficiently "established" it.* Admittedly, Roe rejected the latter. But obviously, Roe's acceptance of the former is what its "collapse" clause is all about.

> (Pettine continues:) 4 The court, by giving recognition to the "less rigid" claim of a legitimate state interest in potential life, did not leave it open to states to re-assert the more rigid claim based on conception as the commencement of life.

Roe's "collapse" clause could not more clearly say that Roe's downgrading of the unborn to mere "potential life" must "of course...collapse" upon the "establishment" of conception as the commencement of life. Whether Roe's "collapse" clause "did not leave it open" to *states* to "establish" this fact is the great question which Roe left dangling, and which SCOTUS has since declined to resolve. But Roe obviously "left it open" to *some* fact-finding authority to "establish" whatever fact they could.

> (Pettine continues:) Rather, the Supreme Court rejected an inflexible analysis on its evaluation of state interests which would hinge on the acceptance or non-acceptance of the theory that human life begins at conception.

Roe may have "rejected" an "evaluation of state interests which would hinge on the...*non*-acceptance of the theory that human life begins at conception", in the sense that if the humanity of the unborn is flatly rejected, no restriction of aborticide at any stage makes sense. In fact, the very idea of harm to "potential life" seems a weak reason for a criminal law, since by that standard vasectomies would be illegal. But Roe's "collapse" clause does *not* "reject an inflexible analysis...of state interests" based "on the *acceptance*...of the theory that human life begins at conception." The clause *invites* such an analysis, saying "of course" once submitted, its consequences must be inflexible. Roe's "rejection of the theory that the state's interests are 'compelling' in the first trimester" was clearly limited, by its "collapse" clause, to the context of the absence of any explicit "showing", in any statute, of "'life' at conception".

> (Pettine continues:) In effect, the court lessened the burden of justification of the criminal abortion statutes. "Life" at conception did not have to be shown. The "potentiality" of life was sufficient to sustain the claim of the interests of the state beyond the protection of the mother. The ultimate holding of the Supreme Court in Roe v. Wade defined the parameters of these state interests and in doing so rejected the theory that the state's interests are "compelling" in the first trimester.

Yes, that's what happened "in effect", based on alleged *uncertainty* about the facts, but while leaving the door wide open to reversal, upon *establishment* of the facts. \

Pettine describes how "the court weighed the state's interest", without acknowledging that this "weighing" was done before any state's "establishment" that life begins at conception on the scale:

> The court weighed the state's interest during the first trimester in protecting the potentiality of human life and in safeguarding the health of the pregnant woman which in the light of history is not on delicate balance [sic?] until after such period. In this first phase of pregnancy, the court held that the state, by adopting one theory of life, cannot override the constitutional right of privacy of the pregnant woman. In the second trimester, the court held that the state, in the promotion of the health of the mother, might regulate the abortion procedure. Only in the last trimester was it held that the state's interest in the potentiality of human life became compelling to the

extent that the state might proscribe abortions where not necessary to save the life of the mother.

Pettine argues that states have no experience defining "persons" so they should not be entrusted with it. Had the Northern states believed that after SCOTUS' shameful Dred Scott case, there would have been no civil war. Pettine's second observation is that state opinions about "when life begins" make a clumsy basis for national policy, since they vary. That is my argument for saying the federal law, 18 USC§1841(d), presents a stronger case for triggering Roe's "collapse" clause than a state personhood law.

> ...while the States have traditionally established a network of property and contract rights, they have not done so as to life, liberty or person. There is little reason to accept or give determinative weight to **varying state versions** of the existence or character of the rights at stake. Such issues are exclusively questions of Federal constitutional law. See Griswold v. Connecticut, 381 U.S. 479, 85 S. Ct. 1678, 14 L. Ed. 2d 510 (1965).

Interesting point, actually. It is true that rights to life, liberty, and property are "fundamental rights", over which SCOTUS overrules states all the time for not protecting enough, and often we are grateful. But regarding no other right has SCOTUS point blank said "we are too dumb to know whether unborn babies of humans are humans." SCOTUS can't take a non-position and then say "and everyone else, shut up. We don't want to hear any evidence. Don't confuse us with the facts. Our mind is already made up."

Fortunately, SCOTUS said no such thing. This judge puts words in Roe's mouth because he doesn't want Rhode Island to challenge Roe's conclusion with evidence.

> Surely the States could not, by legislative or judicial fiat, overturn the Dartmouth College case, 4 Wheat. 518, 17 U.S. 518, 4 L. Ed. 629 (1819), by finding that a charter was not a 'contract'; or overturn Goldberg v. Kelly, 397 U.S. 254, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970), by finding that the right to welfare benefits was not 'property'; or overturn Pierce v. Society of Sisters, 268 U.S. 510, 45 S. Ct. 571, 69 L. Ed. 1070 (1925), by finding that the right of parents to send their children to private school was not a 'liberty'; or overturn Brown v. Board of Education, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954), by finding that black children were not 'persons'. If a Federal Constitution is to exist, these decisions must be made by the Federal courts."

Wups, while we don't want a return to the finding "that black children are not 'persons'", wasn't that the very finding imposed on Northern states by SCOTUS, and imposed to this day by SCOTUS regarding the unborn? Are we now supposed to find reassurance in SCOTUS' unreviewable authority to tell us who is a human being?

But fortunately, in the case of Roe, we don't have to challenge SCOTUS' finding of fact that unborn babies are *not* human persons, because Roe never made one. Roe never said unborn babies are *not* persons. Roe said the opposite: it asserted its own inability to "speculate as to the answer", and solicited "establishment" of the "facts".

> Pettine: It is sheer sophistry to argue as the defendant does that Roe v. Wade and Doe v. Bolton can be nullified by the simple device of a legislative declaration or presumptions contrary to the court's holding.

Me: except that the Court avoided any "holding"!

> Pettine, continuing: Indeed it is a surprising attempt by one independent branch of government **[*1202]** to invade and assume the role of the other.

Except that Rhode Island attempted no "invasion" of the "role" of SCOTUS whatsoever! Rhode Island simply accepted Roe's invitation to establish the fact which Roe could not! It is Pettine who "invaded" the "role" of SCOTUS by blocking the invitation so graciously extended!

> Pettine, continuing: The right of a state to declare an entity **[**19]** does not carry with it the judicial prerogative to determine the constitutional status of such entity.

I don't even know what that means.

> Pettine, continuing: Finally, it must be said that the Supreme Court having ruled on this issue, its judgment is the law of this land. Under our scheme of government, it is the Supreme Court, not state legislatures, that ultimately determines the meaning of constitutional guarantees. Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L. Ed. 60 (U.S. 1803); McCulloch v. Maryland, 17 U.S. 316, 4 Wheat. 316, 4 L. Ed. 579 (U.S. 1819).

Is Pettine sure he wants people to remember Marbury v. Madison?

A 33 minute documentary about the case (http://www.youtube.com/watch?v=rXwTrArJ1zM) is brilliantly done, but its narrated conclusion overstates SCOTUS' "victory". It exults in what Chief Justice Marshall *said,* and glosses over what President Thomas Jefferson and his Congress *did.*

Marshall *said* SCOTUS has the right to declare an act of Congress unconstitutional. Jefferson and Congress demonstrated their *power* to remove federal-question jurisdiction from lower courts (which was not restored until 1875), to make SCOTUS judges ride their horses to distant courts to hold court (which continued until 1879), to order SCOTUS when to take a vacation and for how long, and to eliminate entire courts and judgeships.

Newt Gingrich offers creative additional Constitutional ways for Congress to educate justices about the correct interpretation of the Constitution, in "Bringing the Courts Back Under the Constitution". (https://newt.org/wp-content/uploads/2013/04/Courts.pdf)

Today the national dispute over the authority of courts to define constitutional rights focuses on gay marriage. In Iowa, voters removed half the Iowa Supreme Court over that stunt. The authority of courts to define constitutional rights has been hotly disputed from Marbury v. Madison, through Dred Scott, through Roe v. Wade, through today's battles over gay marriage.

It is true that the 14th Amendment will not tolerate once again classifying blacks (today the "suspect class" would be "illegals") as subhuman, as the Supreme Court did, and it is true that if any state does, the Supreme Court has legitimate authority to rule against that state, even if the state's argument is not that "illegals" are definitely *not* human, but that *we cannot tell if illegals are human, since our pastors and politicans are unable to reach a consensus.*

But with aborticide, the Court is perpetuating the same foolishness as in Dred Scott, in classifying an entire "suspect class" comprising millions of human beings as subhuman. Fortunately the Constitution provides several remedies for the misbehavior of courts, such as those detailed in Newt Gingrich's study.

We have a solution in America's founding documents. Our Declaration of Independence is our foundation, in that it gives our Constitution its right to exist. And our Declaration identifies *its* foundation: "the laws of nature and nature's God", which plainly meant, in those days, God,

and the Word of God. Acts 5:29 declares “we ought to obey God rather than men” when the two authorities conflict. Everyone, whether President, Congressman, Justice, jury member, policeman, pastor, or voter, ought to do what is right, which includes pressuring those in other roles to do what is right. 1 Peter 2:13 through the end of the letter does not say, in the Greek, that we should obey authorities when they are wrong, but that we should be involved in restoring rebellious authorities to God’s vision of their proper roles. God created institutions of authority, and it is what God created that we must support and maintain, not the abuse of authority of wicked people in those positions.

Jefferson’s 1820 warning resonates with friends of Liberty today:

> You seem ... to consider the judges as the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps.... Their power [is] the more dangerous as they are in office for life, and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruptions of time and party, its members would become despots. It has more wisely made all the departments co-equal and co-sovereign within themselves. [Jefferson, Thomas. The Writings of Thomas Jefferson, Letter to William Jarvis (September 28, 1820).

Fortunately, however, in the case of aborticide, there is no need for Congress to go head-to-head against SCOTUS. There is no dispute between them. SCOTUS said “we don’t know, so here’s what we’ll do until someone tells us”, and Congress said “we know, and we’re telling you, so now you know what to do”.

“And by the way, thanks for asking.”

Appendix 5

§1841(c) doesn't protect aborticide, and misc. other objections

Appendix 4 topics: "Persons in the whole sense" despite disparate treatment? <> The inherent difficulties of drafting enabling legislation <> Freedom of Access to Clinic Entrances Act (FACE) <> The unborn are humans only "in this section" <> The intent of 18 U.S.C. §1841(c), (d)

Wikipedia asks me to "briefly explain" any edit that I submit. I said: "I rescue the article from the previous paragraph's conflation of 18 USC §1841's penalties in (a) with its finding of fact in (d). The fact allegedly and logically triggers Roe's "collapse" clause, and is unaffected by the 'penalties' section."

Roe equates "human" with "person". (See argument #1.) Upon legal recognition of the "fetus" as "human", *Roe* demands acceptance of the unborn baby as a "person". To the extent *Roe* is obeyed, then once the "personhood" of the unborn was established by clause (d) of the 2004 law, no reading or misreading of clause (c) had any power to order states not to criminalize aborticide, because the 14th Amendment from that point *required* states to criminalize aborticide in order to extend "equal protection of the laws" to the unborn. Not even the Supreme Court itself, once that happens, has such power to protect aborticideists, according to *Roe*! This limit to Supreme Court authority is so obvious that Roe said "of course"!

Misunderstanding of the operation of section (c) is widespread. Republican Congressman Sensenbrenner assured his Democrat friends, whose votes he needed to pass the law, that (c) confines the effect of the law to baby killing *not* chosen by mothers. His evidence: §1841 "does not by its terms regulate aborticide". The statement is at best simplistic, and is completely irrelevant to the reality that section (d) establishes precisely what Roe v. Wade said must be established, for legal aborticide to end.

> Sensenbrenner, during debate on 18 USC §1841: Mr. Speaker, H.R. 1997, just like the Missouri law that the Supreme Court refused to strike down, does not by its terms regulate abortion and, indeed, H.R. 1997 includes provisions that specifically exclude abortion-related conduct.
>
> Both before and since the Webster decision, every single unborn victims law passed by State legislatures that has been challenged in court has been upheld. Anyone who claims this bill has anything to do with abortion and opposes it on those grounds is inviting this body to focus not on unborn child victims, but on red herrings.

Sensenbrenner's implication is that those state laws could not have been upheld, had they challenged aborticide.

But that issue was avoided in all those cases. No litigant asked whether Roe v. Wade remains Constitutional in the face of the personhood affirmations in the context of fetal homicide laws. The issue raised in all these cases was just the opposite: it was whether personhood affirmations are constitutional since they seem to conflict with Roe v. Wade. All these courts decided they are. All these courts affirmed the constitutionality of their establishment of all unborn babies as humans/persons.

Remember that all these challenges to unborn victims laws were brought, not by prolifers wanting to end legal aborticide, but by thugs who killed pregnant wives or girlfriends and wanted Roe's dehumanization of the unborn to stomp the life out of Unborn Victims of Violence laws so they wouldn't be convicted of a double murder. They were asking for the overturn of the unborn victims laws on the grounds that Roe does not acknowledge unborn babies as persons. In all of those decisions, courts ruled that Roe does not negate the fact that all unborn babies are human persons, so the double murder charges stand.

"Persons in the whole sense" despite disparate treatment? *Roe* said the fact that killing the unborn was punished less than killing the born implies the unborn "have never been treated by the law as persons in the whole sense".

> *(Roe:)* In areas other than criminal abortion, the *law has been reluctant to endorse any theory that life, as we recognize it, begins before live birth or to accord legal rights to the unborn* except in narrowly defined situations and except when the rights are contingent upon live birth. For example, the traditional rule of tort [lawsuits] law denied recovery for prenatal injuries even though the child was born alive. 63 That rule has been changed in almost every jurisdiction. In most States, recovery is said to be permitted only if the fetus was viable, or at least quick, when the injuries were sustained, though few courts have squarely so held. 64 In a recent development, generally opposed by the commentators, some States permit the parents of a stillborn child to maintain an action for wrongful death because of prenatal injuries. 65 Such an action, however, would appear to be one to vindicate the parents' interest and is thus consistent with the view that *the fetus, at most, represents only the potentiality of life. Similarly, unborn children have been recognized as acquiring rights or interests by way of inheritance* or other devolution of property, and have been represented by guardians ad litem. 66 Perfection of the interests involved, again, has generally been *contingent upon live birth. In short, t****he unborn have never been recognized in the law as persons in the whole sense.***

When Roe opines that "the law has been reluctant to endorse" unborn personhood, Roe is chasing "penumbras" of implications again, since criminal penalties do not generally specify their scientific or theological rationales. Lighter penalties for prenatal injuries than for postnatal injuries have at least one other explanation than that unborn babies aren't worth as much: human courts have an evidence problem in linking external trauma to a mother with the injuries months later in the newborn. The fact that parents have an interest in the birth of their baby is a pretty poor rationale for concluding that the baby has no equal or greater interest in his own birth!

But the point of bringing up this quote is to remind us that so-called disparate treatment of the unborn is a major excuse Roe has for dehumanizing the unborn, which brings us to section (c), which many read as likewise regarding babies whose mothers want them dead as less "human" than babies whose mothers choose to love. So here we will address whether (c), or any other "exception" such as rape or incest that permits aborticide in some cases, can rise up as proof that even the prolife authors of these laws do not honestly regard certain unloved babies as "persons in the whole sense."

It may be objected that Congressional withholding of protection from the unborn "human" children whose mothers arrange for their killing mirrors the kind of difference between legal treatment of born and unborn babies from which *Roe v. Wade* presumed laws historically treat only born babies as "persons in the whole sense".

The most obvious difference is that only 18 USC §1841(d) explicitly defines an unborn baby as "a member of the species Homo Sapiens, at any stage of development, who is carried in

the womb."

The difference in treatment, then, requires some other explanation, than that loved babies are human while unloved babies are tumors. There are many reasons laws treat equally deserving citizens differently.

Sometimes the difference reflects the realities of the limitations of government in recognizing when citizens equally deserve rights. For example, a law student one week before taking his bar exam may be equally qualified with the lawyer who took it a week ago, but Courts are unable to recognize their equality until students actually take it and pass it. Similarly, unborn babies before and after "viability" are equally "persons" and "humans" according to federal law since 18 USC §1841(d), but the justices of *Roe v. Wade* admitted they were "unable to speculate" whether that was the case.

Sometimes the difference is because of the difference in how criminal intent must be established. For example, no one says laws treat auto accident fatalities as less human than gunfight fatalities because drivers who kill with their cars are not penalized as greatly! The difference is one of intent, which is and should be an element of First Degree Murder. Similarly, *Roe* misunderstood the point of Exodus 21:22 when Roe (in a footnote) gave the passage as a possible reason for treating unborn babies as not fully human. It says when a pregnant woman finds herself in the middle of a fight between two men, and gets hit, causing her child to go into labor, then if the child is unharmed, a jury shall set damages. This does not suggest the baby is less than human; but only a jury can hear witnesses to establish how deliberate the punch to the womb appeared.

Sometimes the difference has nothing to do with merit, but with political reality. It would be absurd to conclude from repeal of prohibition, while marijuana criminalization increased, that drinking is "not legally recognizable as a harm"! Or even that it is less harmful than marijuana! The disparity simply reflects political reality, and nothing else. The newspaper headlines and Congressional debate about 18 USC §1841 proved beyond any reasonable doubt that the disparity of treatment of loved unborn babies, versus unloved unborn babies, had nothing to do with a finding of law that not being loved makes you less than human, and everything to do with the pro-death political machine.

To imagine any deeper significance in 18 USC §1841's disparate treatment would quickly lead to absurdity. To imagine the disparity was Congress' thoughtful, deliberate choice, as opposed to the result of limitations beyond its control, would place Congress in a patently false, even absurd, and profoundly immoral theoretical position, where, to maintain any semblance of consistency when trying to explain the statute, it *must* concede that this statute implies that the right to life of an innocent human being depends purely on the will of its mother. Congress would have to posit that the slaying of an unborn human child is a non-harm under United States law, provided solely that his mother wants him dead.

Were this a correct interpretation of 18 USC §1841, then, given its explicit equation of the humanity of the unborn with that of the born, mothers of older children who want them dead have a legal, if not Constitutional right to kill them.

Should any Court remain tempted to discount Laci's Law's establishment of the personhood of the unborn because of its "ambiguity" or "inconsistency", let that Court first note again the unambiguous verbiage that the unborn are "homo sapiens", and second note that the rule of lenity dictates, generally, that ambiguities in statues are to be resolved in favor of defendants.

> "The rule of lenity applies only if, after seizing everything from which aid can be derived,...we can make no more than a guess as to what Congress intended.' "

Muscarello v. United States, 524 U.S. 125, 138, 118 S.Ct. 1911, 141 L.Ed.2d 111 (1998).

To interpret the facial contradiction between the two relevant parts of §1841 as "ambiguities" is to accuse Congress either of patent absurdity or monstrous immorality. This Court should construe the statute to intend, minimally, that, even if the killing of an unborn child is tolerated when the mother - but no one else - wishes to kill him, nonetheless, the overwhelmingly more important fact is that Congress still expressly concedes that soon-to-be-aborted children are still just that – unborn children and human beings. Congress concedes this by not having written soon-to-be-aborted children out of its definition of "unborn child". From this, full 14th Amendment rights may be inferred by a reasonable person.

The inherent difficulties of drafting enabling legislation fully account for the myth that "[T]he unborn have never been recognized in the law as persons in the whole sense." Roe v. Wade, 410 US 113, 162 (1973)

During the mid-90's I was, one year, reading every bill that was introduced in the Iowa legislature. One bill would have added milk crates to the list of containers that could not be legally stolen. There were about eight other containers on the list already in the law.

This only illustrates the imprecision of the legislative process. It typically takes 10 years from the time lawmakers begin seeing the need of a law to its enactment; the process requires public education, and passionate defenders to push it ahead of others cramming their way into legislative "funnels" (deadlines for getting out of committees, etc.)

Even after getting something in law, the legislature after the next election may be dominated by the other party which will attempt some means of nullifying it.

Besides the constantly shifting popular definitions of right and wrong, reality constantly surprises us with some new set of circumstances that we discover our laws have not anticipated. And as we address it, we worry about unintended consequences of our attempts to patch the problem.

The challenges of protecting the unborn, before Roe, with laws that protected all unborn humans as fully as born humans, may be appreciated by reflecting on the enabling legislation prolifers really ought to be discussing for the future, when Roe's "collapse" is finally official.

For example, should contraception have the same penalty as a surgical aborticide, considering the difference in criminal intent – nearly everyone admits surgical aborticide kills a human being, but even a majority of prolife Christians don't know contraception does?

Should mothers be penalized equally with aborticideists, considering the profound difference in culpability: aborticideists are very clear about what they are doing, as evidenced by their efforts to keep mothers in ignorance of a number of facts which, if known, would depress business, while many young mothers are not only kept ignorant of those facts but are under tremendous pressure to kill?

If mothers are penalized, should age be a factor in weighing culpability, and consequently in determining a just penalty? That is, should a 12-year-old required to take a pill by her father receive the same penalty as a 17-year-old high school senior getting a surgical aborticide without notifying her parents?

Should a legislature accommodate the practical value of giving immunity to mothers who testify against aborticideists?

If contraception is penalized, how should the legislature treat forms of contraception where scientists are in doubt whether life is killed before or after conception? Since there is no body which a medical examiner can declare dead, and no way of knowing if a human was ever killed, should contraceptive use be prosecuted as murder, or as attempted murder? Or, given the

virtual impossibility of even knowing if anyone ever died, or if a given mother took any steps to kill as opposed to having a natural miscarriage – indeed, human courts can't even prove whether there was a miscarriage – should law focus instead on what can be proved, and simply penalize the sale of certain products?

It is fatally simplistic to just say "punish the killing of the unborn zygote with the same penalty you would punish murder" - as if even the murder of adults had just a single "one size fits all circumstances" penalty! Reality is far too complex to put up with that.

Freedom of Access to Clinic Entrances Act (FACE). It may be objected that 18 U.S.C. §1841(d) can't establish the fact of unborn humanity in all federal law because it is contradicted by 18 U.S.C. §248 (FACE, Freedom of Access to Clinic Entrances, 1992). FACE doesn't explicitly say anything about personhood, so such an objection would have for its basis some perceived implication of unborn personhood in "less than the whole sense". For example, if its authors thought babies were humans, why would they punish people trying to save them? Surely then, FACE implies a much lower view of the value of unborn life, canceling the affirmation of 18 U.S.C. §1841(d).

But FACE merely prevents *individuals* from saving the lives of the unborn; it asserts no jurisdiction over state legislatures or state courts, to prevent *states* from protecting the unborn in compliance with 18 U.S.C. §1841(d). Nothing in FACE even implies it takes a position on the value of unborn life contrary to the explicit statement of 18 U.S.C. §1841(d). FACE would appear far more clearly concerned with orderliness, consistent with the wide range of police actions from which unauthorized individuals are barred by law.

For the jury or any other fact finder, 18 U.S.C. §248 is irrelevant to establishing the factual nature of aborticide. It does not address the issue.

Nor does 18 U.S.C. §248 restrict the power of states to criminalize aborticide which 18 U.S.C. §1841 creates. Just as Roe v. Wade prohibited *states* from protecting the unborn without asserting jurisdiction over *individuals* who protect the unborn, even so 18 U.S.C. §248 asserts jurisdiction over *individuals* who protect the unborn without limiting any *state* who chooses to protect the unborn.

Nothing in any other federal law contradicts the finding of fact of 18 U.S.C. §1841(d), either.

The interaction of these laws and precedents may be illogical and embarrassing, but they are perfectly legal.

But then, that epitomizes the history of aborticide jurisprudence. Which should be no surprise, anytime anyone creates public policy concerning aborticide who is unable to discern whether aborticide is unthinkably barbaric genocide, or a tonsillectomy.

Usually laws and precedents attempt to logically respond to relevant facts. So where laws or precedents are premised on the facts being irrelevant, there should be no surprise if the laws and precedents are an illogical response to them.

The unborn are humans only "in this section". Perhaps it will be objected that §1841(d)'s establishment of the fact that the unborn are human only applies "in this section" of law, and not in any other area of law, such as where aborticide rights may lurk.

> (d) As used in this section, the term `unborn child' means a child in utero, and the term `child in utero' or `child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.'

The fact that this definition begins "as used in this section" does not confine this definition to this section. Whether or not an unborn child is a human being is a fact question, not a question of law. Therefore, if it is a true fact in one section of law, it cannot be false in another

section of law.

No other definition in Federal law offers an alternative definition, and indeed a contradictory definition elsewhere would be absurd because if unborn babies are humans while you are reading this law they will not be changed into fish by your reading another section of law.

Especially where no other section of the U.S. Code defines unborn babies at any stage of development as anything other than human beings.

Section (a) applies this law's *penalties* only to a list of 68 federal criminal violations. But section (d) defines all unborn babies as "members of the species homo sapiens" as a *fact* recognized by federal law. Federal law didn't have to do that. In fact, the Democrats offered an alternative that didn't do that. The application of the *fact* established by (d) cannot be limited to the 68 crimes, or to any limited area of federal law. If one federal law says "running water is wet", and another federal law says "running water is dry", that would fail the Supreme Court's "absurd result" test. But now that a section of federal law says unborn babies of humans are humans, and no law, federal or otherwise, says otherwise, we have the uncontested legal recognition of all unborn babies of humans as humans. Grammatically, to say a definition of a word or phrase applies "in this context" never means it applies only in the specific example before us and nowhere else in English literature. It always means "in this and all similar contexts".

For example, in State v. Knapp, 843 S.W. 2nd (Mo. en banc) (1992), the Missouri Supreme Court held that the definition of "person" in Missouri law is applicable to other statutes, including at least the state's involuntary manslaughter statute.

Facts do not change according to which section of law you are reading. Certainly not facts like this!

It is this fact, legally acknowledged in this federal law, which "establishes" the personhood of the unborn. It is irrelevant which sections of federal law acknowledge this fact. It is irrelevant how many sections of law are affected by establishment of this fact.

It is also irrelevant whether there are sections of federal law which *should* be affected by this definition but which aren't yet. For example, FACE, 18 U.S.C. §248, Freedom of Access to Clinic Entrances, enacted in 1992, creates draconian penalties for trying to save lives taken by aborticide. Its continued existence, even after Congress discovered that all unborn babies are human beings, is absurd and horrifying.

But there are two reasons FACE does not undermine the 2004 definition's satisfaction of the conditions of Roe's "collapse" clause: (1), the 2004 definition came 12 years after 1992; federal law is a patchwork of laws reflecting the varying principles held by over 100 different Congresses over two centuries; contradiction in the philosophies behind human laws is to be expected. If it were grounds for invalidating laws we would have few laws! But who would decide which to repeal in the event of such a contradiction? (2) The 1992 law does not dispute that the unborn are human beings. It simply ignores the issue.

In 1992, saving unborn humans was severely punished, while ignoring the little detail of whether they were humans; in 2004, they were declared humans, without this principle being explicitly applied to the repeal of the 1992 law. There is no contradiction in the letter of the law. There is no confusion in how to enforce the two laws. The contradiction is only in the philosophies that inspired them.

But even that is entirely typical for humans, since some of the very same human lawmakers voted for the 1992 law as who voted for the 2004 law, with little or no attention to their philosophical inconsistency.

If philosophical inconsistency were grounds for repealing laws and rulings, we would never have gotten *Roe v. Wade* in the first place! *Roe* certainly has little consistency with the

Preamble to the Constitution which says the beneficiaries of its rights are "ourselves and our posterity"! *Roe* certainly robs half our posterity of their right to life, without which all the rest of our Constitutional Rights are of little value!

The *intent* of 18 U.S.C. §1841(c), (d)

It may be objected that whatever the actual language of these sections, the *intent* of (c) was to have nothing to do with elective aborticide. Such an objection reflects unfamiliarity with the operation of enabling legislation, which always limits itself to the specified circumstances without embarrassment that it does not cover others, and without any implication that others ought not be covered. But let's humor the objection for a moment anyway.

You can read the debate for yourself of Congress at http://thomas.loc.gov/cgi-bin/query/C?r108:./temp/~r108LEqiR2. Or you can read it with my analysis interleaved, and color coded to easily find where they addressed Roe's "collapse", at http://saltshaker.us/SLIC/congressionalrecord2004.pdf.

You will find a lot of confusion about what it will accomplish. Half a dozen Republican Congressmen promised Democrats their precious legal aborticide would be untouched. But no one analyzed the grammar or legal operation of (c); the promises were general and fuzzy. The rest of the Republicans eloquently spoke for the unborn; they couldn't have cared less about vain promises to Democrats.

None of the Democrats bought the promises. They quoted Republican Senator Hatch, the chairman of the Senate Judiciary Committee and sponsor of the Senate version, telling CNN on May 7, 2003, "They say it undermines abortion rights. It does, but that's irrelevant." Only one Congressman, through a letter from the Women's Law Center, predicted a specific way §1841(d) might topple legal aborticide: through a criminal trial in which the defendant argues that he took his action to save many human lives.

In short, no case can be made from the Congressional debate that §1841(d)'s threat to legal aborticide was a huge surprise. I haven't yet read the debate in the Senate.

Of course, no one misunderstood the intent of Congress to certify the humanity of the unborn as a legally recognizable fact. So if there was any surprise at all, it was that a fact might actually affect judicial thinking in the next ten years.

If there is any law that needs repeal because its effect is not what its authors intended, it is not §1841(d), but Roe v. Wade. Roe's "collapse" clause is very clear that Blackmun did not want to be found guilty of *knowingly* legalizing genocide. The "collapse" clause is his escape clause from personal responsibility, his excuse before God. "Gosh, I didn't know they were human beings. Why didn't someone tell me? I would have stopped it in a fetal heartbeat!"

Even if §1841(d) were a nefarious conservative plot to sneak something into law that not one Congressman understood, that is hardly a ground for setting aside a law from Washington DC, where slipping through massive change "under the radar" (bills with consequences not clear from the text) is how things are done.

Further argument. 18 U.S.C.§1841 satisfied the criteria in Roe v. Wade for Roe's "collapse" by establishing, as a matter of fact as well as of legal recognition, the humanity of the unborn. A U.S. law is superior in authority to a U.S. Supreme Court decision, in the sense that the Supreme Court must obey it, until such point as the Court declares it unconstitutional. Not that there is any conflict between 18 U.S.C.§1841 and Roe v. Wade, requiring courts and citizens to decide which to obey. The two are in harmony. 18 U.S.C.§1841 does not attack Roe, but satisfies the conditions which Roe invited fact finders to establish.

18 U.S.C.§1841(c) states that it should not be construed to outlaw aborticide, but this

statement should not be construed to prevent the “collapse” of Roe. The “collapse” of Roe will not itself outlaw aborticide; it will only free *states* to outlaw aborticide. Outlawing aborticide is clearly a process with two distinct steps, and Laci’s Law clearly takes only the first.

18 U.S.C.§1841 defines the humanity of unborn humans as equal with that of born humans, even though it does not penalize their murders equally.

Roe said one thing and did another. It expressly declined to hold that the unborn are not human persons, citing expert disagreement on the matter, but then ruled as if it had found thus by holding that early unborn life is expendable, at the unreviewable will of the mother. The cases Roe claimed “faced the [personhood] issue squarely” (Roe at 15 , e.g,. Keller and Montana), did not actually so rule, but rather, like Roe, side stepped the core issue, and acted as if they had found one way or another, when they had not. Yet even Roe protected “viable” or “third trimester” children as whole legal human persons. No case makes a positive finding that unborn life is *not* legally recognizable as human life. Since 18 U.S.C.§1841, no court *can* do this.

Keeler v. Superior Court, (87 Cal. Rptr. 481, 2 Cal. 3d 619,470 P.2d 617 [CA, 1970]) cited in Roe as ruling against legal personhood of the prebom, in fact states the opposite; Keeler himself was freed solely for lack of notice that unborn death would be dealt with as homicide. The California legislature was free to codify any unborn's intentional killing as a homicide.

E-FILED 2015 JUL 14 3:09 PM JOHNSON - CLERK OF DISTRICT COURT

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

STATE OF IOWA,	)	
	)	No. **SMSM067310**
Plaintiff,	)	
	)	
vs.	)	**RULING ON MOTION TO VACATE NO CONTACT ORDER**
	)	
DONNA JEAN HOLMAN,	)	
	)	
Defendant.	)	Date: **July 14, 2015**

This matter comes before the Court upon Defendant's **Motion to Vacate No Contact Order**. The Defendant requested that the matter be submitted on Affidavits and waived an In-Court Hearing. Court having reviewed the motion and reviewed the file herein, now makes the following Findings, Conclusions and Ruling:

FACTS

The Defendant is an anti-abortion protester. On November 1, 2006 she was at the Iowa City Planned Parenthood facility located at 850 Orchard Street. As persons attempted to enter the facility, the Defendant yelled at them and attempted to force anti-abortion materials upon them.

The Defendant continued yelling loudly outside the clinic disrupting the business of the clinic. Her conduct alarmed and annoyed persons entering, leaving and working at the clinic.

On **January 26, 2007**, the Defendant was convicted of the crime of **Harassment 3rd Degree** in violation of Iowa Code Section **708.7(1)(b)** and **Disorderly Conduct** in violation of Iowa Code Section **723.4(2)**.

A **Harassment No Contact Order** initially entered on November 2, 2006 was extended for a period of five years to **January 26, 2012**.

On **November 16, 2011**, the State filed a **Motion to Extend** the No Contact Order for an additional five years. Attached to the State's Motion were the Affidavits of Rebecca Bruce and Patrick Wheeler. Based upon the information provided in the Affidavits that the Defendant was continuing to protest at Planned Parenthood facilities and to be arrested and charged for her conduct, the Court found that the Defendant continued to pose a threat to the safety of the Protected Party and extended the No Contact Order for an additional five year to **January 26, 2017**.

The procedure for extending a no contact order is set forth in Iowa Code Section **664A.8**. No requirement for notice and hearing prior to the court considering a motion to extend is included in the statute.

The Defendant was personally served with a copy of the November 16, 2011 Order on November 16, 2011, and only now, three years later, complains about the Order.

The Court has reviewed the Affidavits of Rebecca Bruce, Patrick Wheeler and Penelope Dickey filed by the State, and the Affidavits of Karen Hempen, Dave and Dorothy Leach and the Defendant, filed by the Defense.

The Court has reviewed Iowa Courts On-Line and finds that one March 11, 2014, the Defendant was alleged to have violated a Protective Order entered in Lee County. This violation was subsequently dismissed. On October 11, 2011, the Defendant was charged with Criminal Trespass in Montgomery County. She was convicted after a Bench Trial on January 25, 2012.

CONCLUSIONS

Defendant now asks the Court to vacate the Order extending the No-Contact Order based upon an absence of facts which would show the Defendant continues to present a threat to the victim herein.

The Defendant cites *State v. Olney*, No. 13-1063, filed June 24, 2014 (Iowa App. 2014) in support of her Motion.

The Court respectfully suggests that Defendant misinterprets *Olney*, Id. The facts in *Olney* are somewhat similar to the facts in this case. In *Olney* the State's motion to extend the no-contact order was set for hearing and notice was mailed to the defendant's last known address. The defendant did not appear at the hearing and the no-contact order was extended as requested. The parties agreed that the defendant did not receive notice of the date and time of the hearing.

The lower court ruled that Iowa Code Section 664A.8 did not extend a right to the defendant to be heard before deciding to extend a no contact order. The lower court further determined that "there is no statutory authority for the court to vacate, reconsider, and terminate the no contact order." Id. at page 4.

On appeal, the Court of Appeals likened a no-contact order to an injunction and applied Iowa Rule of Civil Procedure **1.1509** which provides that "(a) party against whom a temporary injunction is issued *without notice* may, at any time, move the court where the action is pending to dissolve, vacate, or modify it." (emphasis added).

The Court of Appeals reversed the district court order denying Olney's motion on the basis it lacked authority to vacate, reconsider, or terminate the no-contact order and remanded the case for a consideration by the district court on the merits. Id. page 8.

The Court of Appeals *did not find* that the order extending the no-contact order was illegal or that Section 664A.5 or .8 required a hearing. The Court only decided that Olney could move the court to dissolve, vacate or modify the no-contact order and that, if supported by evidence on the merits, the district court had the authority to vacate, reconsider or terminate the no-contact order pursuant to Rule 1.1509.

In this case, the relief requested by the Defendant was a finding that the Order entered on November 16, 2011 was illegal and should be vacated. This Court denied that motion and request and now declines to amend any part of the Ruling filed on August 22, 2014. The Court did agree to treat the Defendant's Motion as a request for a hearing on the merits as to whether the Defendant continues to pose a threat to the safety of the Protected Party.

RULING

It is very clear from the Defendant's Affidavit that she has no intention of stopping her activities as an anti-abortion protester. She argues that she is only exercising her right to freedom of speech and that her intent is not to annoy, alarm, or intimidate, but to communicate to women why they should not kill their children. *Affidavit 12-27-14, page 2, paragraph 6.*

The Defendant asks to be allowed to stand five feet from the entrance to Planned Parenthood in Iowa City (Protected Party herein) so that she may speak to those who wish to enter. *Affidavit 12-27-14, page 3, paragraph 8.*

The Affidavits of Rebecca Bruce and Patrick Wheeler establish that the Defendant was, on October 6 and 7, 2011, trespassing upon Planned Parenthood properties in Ames, Ankeny and Red Oak. She was subsequently convicted of Criminal Trespass in Montgomery County on January 25, 2012.

The Affidavit of Penelope Dickey establishes that the activities of the Defendant continue to oppose and display hostility against Planned Parenthood in 2013.

Taken together, the Affidavits and the Defendant's criminal history clearly proves that the Defendant continues to present a threat to the safety of the Protected Party in this case, the Planned Parenthood Clinic in Iowa City, Iowa. The Court finds that the No Contact Order should not be vacated, modified or terminated.

IT IS THEREFORE HEREBY ORDERED that Defendant's **Motion to Vacate No Contact Order** is *denied*. The Extended No Contact Order entered herein on November 16, 2011 shall remain in full force and effect until January 26, 2017, and thereafter in the event the Order should be further extended as provided by law.

Clerk to notify.

3

State of Iowa Courts

Type: OTHER ORDER

Case Number	**Case Title**
SMSM067310	STATE VS HOLMAN, DONNA JEAN

So Ordered

Stephen C. Gerard, II, District Associate Judge,
Sixth Judicial District of Iowa

Electronically signed on 2015-07-14 15:09:58 page 4 of 4

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY
MAGISTRATE DIVISION

STATE OF IOWA
Plaintiff,

vs

DONNA HOLMAN,
Defendant,

NO: SMSMO67310 Cts. I and II

ORDER RE: JUDGMENT AND SENTENCE

FILED
2007 JAN 26 PM 3:27
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

NOW on this 26TH day of January, 2007, this matters comes before the Court for trial for the offenses of Disorderly Conduct, in violation §723.4(2) and Harassment in the Third Degree, in violation of §708.7(1)(b). The State appears by Johnson County Attorney Intern Shala Kasal and Assistant County Attorney Iris Frost. The Defendant appears in person with her attorney Allan Richards. The Court receives the evidence, including the testimony of multiple witnesses for the State, the Defendant and a DVD. Based upon the evidence presented, the Court finds the Defendant guilty of each offense.

The State recommends the maximum fine in these matters based upon the Defendant prior criminal record. The Defendant requests fines in these matters and that the bond posted be utilized to satisfy any fines imposed in these matters. The Defendant personally addresses the Court as to sentencing.

The Court now sentences the Defendant as follows:

Count I: Harassment in the Third Degree:

1) The Defendant is sentenced to serve thirty (30) days incarceration in the Johnson County jail. The Court suspends all thirty days and the Defendant is placed on one-year of probation with the following conditions of her probation:

-The Defendant is to have no further law violations;
-The Defendant is to complete a psychiatric evaluation within thirty days of this Order and follow through with any treatment recommendation and file verification of completion of the evaluation and treatment, if any, with the Court within 90 days.
-In addition to any other No Contact Orders entered in this matter, the Defendant prohibited from being on, near, or adjacent to Planned Parenthood, located at 850 Orchard Street in Iowa City, Iowa. The Defendant is further prohibited from having any contact with any employees of Planned Parenthood.

2) The Court imposes a $250.00 fine, $80.00 surcharge, and $50.00 court costs.

Count II: Disorderly Conduct:

1) The Defendant is sentenced to serve four (4) days incarceration in the Johnson County jail. The Defendant is given credit for four (4) days previously served.
2) The Court imposes a $250.00 fine, $80.00 surcharge, and $50.00 court costs.
3) The Court directs the Clerk to apply the Defendant's bond toward the above fines, surcharges, court costs and witness fees. The Court exonerates any remaining balance of the bond.

Defendant no contact order remains in effect for a period of 5 yrs from the date of this order.

In making these sentencing determinations, the Court takes into consideration Chapter 907 of the 2005 Code of Iowa and the following facts: 1) the Defendant's age; 2) the Defendant's prior criminal record; 3) the aggravating facts and circumstances of these cases; and 4) the State's recommendation. The Defendant is informed of her right to appeal. Bond on appeal $1000.00

The Court FURTHER ORDERS that the matter shall be reviewed by the Court on July 26, 2007 to evaluate the Defendant's compliance with the conditions of her probation.

Clerk to notify.

KAREN D. EGERTON
Magistrate, Sixth Judicial District

FILED
2007 JAN 26 PM 3:27
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

cc: CA
Def
P. Petty
DCS
JCSD
1-26-07 MS

Registry updated 1-26-07 MS

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

State of Iowa	)	
	)	
Plaintiff,	)	No.SMSM067310
	)	
vs.	)	**DECISION ON**
	)	**MISDEMEANOR APPEAL**
DONNA JEAN HOLMAN,	)	
	)	
	)	Date: February 20, 2007

FILED
2007 FEB 20 AM 11: 36
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

Defendant was convicted by a Judicial Magistrate of the offense of **Harassment in the Third Degree**, in violation of Iowa Code Section **708.7(1)(b).** and **Disorderly Conduct a violation of Iowa Code section 723.4(2).** Defendant appeals this conviction. The Court, having reviewed the record herein, now makes the following findings, conclusions and ruling.

FINDINGS

The Court has received the record in this matter, including the Complaint, Pleadings, the Judicial Magistrate's Minutes of the witnesses' testimony, and exhibits introduced in this case, pursuant to the provisions of Iowa Rule of Criminal Procedure 2.73. Having reviewed the same, the Court finds the record to be adequate for review and a decision on Defendant's Appeal.

CONCLUSIONS

Pursuant to Iowa Rule of Criminal Procedure 2.73, a District Court's appellate review in a simple misdemeanor case is controlled by the substantial evidence standard. If the findings of fact in the original action are supported by substantial evidence, the District Court is bound by them on appeal. State v. Skeel, 486 N.W.2d 43 (Iowa 1992). In that regard, the Judicial Magistrate had the opportunity to hear the testimony of the witnesses, observe the appearance and demeanor of the witnesses, and to form an opinion concerning the credibility of each witness.

Defendant has challenged various evidentiary rulings of the Magistrate. Particularly, she claims a right to the names of those patients at Emma Goldman present at the time of the incident. The Court finds that the evidence properly admitted supports the findings of the Magistrate and that Defendant was given ample opportunity to cross examine the witnesses presented by the State.

RULING

The Court, having reviewed the record in this case FINDS that there is substantial evidence in the record to support the Judicial Magistrate's findings of fact and the Trial Court's conviction herein. Accordingly, the Verdict of the Trial Court and the sentence entered is affirmed. Costs of this Appeal are assessed against the Defendant.

2/20/07
cc: Richards
Def
CA

Clerk to notify.

Sylvia A. Lewis

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

STATE OF IOWA	)	No. SMSM067310 - I
v.	)	
DONNA JEAN HOLMAN,	)	STATE'S MOTION TO MODIFY AND EXTEND NO CONTACT ORDER
Defendant	)	

COMES NOW Naeda Erickson, Assistant Johnson County Attorney, and moves this Court for an order modifying and extending the no contact order, and in support states:

1. Defendant was convicted of Harassment on January 26, 2007, which sentence included a no contact order in effect until January 26, 2012.

2. At the request of the victim, the State requests the no contact order be extending for an additional five (5) years based on the nature of the offense and the victim's affidavit (attached). The State believes Defendant continues to pose a threat to the victim's safety.

3. The defendant was charged with Trespass in violation of Iowa Code Section 716.8(1) in Montgomery County, Iowa on October 07, 2011(SMMG530480) for the events described in the attached affidavits.

WHEREFORE, the State of Iowa requests the Court modify and extend the no contact order entered at sentencing now effective until January 26, 2012, and that the order include that the Defendant shall be taken into custody by a peace officer for a violation of the terms stated in the order.

Respectfully submitted,

Naeda Erickson
Assistant Johnson County Attorney

FILED
11 NOV 16 AM 8:21
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

cc: JCAO
Defendant
774 Eicher St.
Keokuk, IA 52632

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY
MAGISTRATE'S DIVISION

STATE OF IOWA,	)	
	)	NO. SMSM067310 - I
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT
	)	
DONNA JEAN HOLMAN,	)	
	)	
Defendant.	)	

I, Rebecca Bruce, am a Facility Technician for the victim in the above-captioned matter, and my employer has requested that the Johnson County Attorney's Office apply to the Court to modify and extend the no contact order in this case for an additional five years.

1. I believe that the Defendant continues to pose a threat to my safety, that of my employer, our employees, patients and volunteers.

2. I believe that the no contact order will help protect me, my employer, our employees, patients and volunteers from the Defendant.

3. On or about October 7, 2011 I witnessed Donna Holman enter and remain on Planned Parenthood of the Heartland property at our health center located at 950 Senate Ave., Red Oak, Iowa 51566.

4. As I was leaving the health center that day, I witnessed Donna Holman's van drive by the health center, then turn around and pull into the parking lot. She then proceeded to take out and post anti-Planned Parenthood, anti-abortion signage while parked in the health center parking lot.

5. After witnessing Donna Holman enter and remain on Planned Parenthood of the Heartland property I called the Center Manager and asked her to call the police as per the advice of our Security Manager.

6. Donna Holman has been told in the past that she is not permitted on Planned Parenthood of the Heartland property.

7. I waited to speak to the Montgomery County Sheriff, and when he arrived I explained that Donna Holman was trespassing. I requested that she be removed from the property and that appropriate charges be filed against her.

8. Donna Holman was subsequently arrested by the Montgomery County Sheriff's Office for trespassing on Planned Parenthood of the Heartland property.

Dated this 1 day of November, 2011.

Rebecca J. Bruce

Subscribed and sworn to before me this 1 day of November, 2011.

Signed Marlene Stimson
Notary Public in and for the State of Iowa

NOTARIAL SEAL IOWA
MARLENE STIMSON
COMMISSION NO. 751399
MY COMMISSION EXPIRES
2-25-14

RECEIVED

NOV 04 2011

JOHNSON COUNTY ATTORNEY

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY
MAGISTRATE'S DIVISION

STATE OF IOWA,	)	
	)	NO. SMSM067310 - I
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT
	)	
DONNA JEAN HOLMAN,	)	
	)	
Defendant.	)	

I, Patrick Wheeler, am the Security Manager for the victim in the above-captioned matter, and I have requested that the Johnson County Attorney's Office apply to the Court to modify and extend the no contact order in this case for an additional five years.

1. I believe that the Defendant continues to pose a threat to my safety, that of my employer, our employees, patients and volunteers.

2. I believe that the no contact order will help protect me, my employer, our employees, patients and volunteers from the Defendant.

3. As Security Manager, my duties include ensuring the security of our patients, clinics, and providers against harassment, threats, and other disruptive activities. To that end I conduct employee training on security, recognizing suspicious behavior, and avoiding/reacting to threats or harassment, and reporting of those instances when they occur. I also receive and review incident reports regarding security concerns, and make determinations and recommendations regarding potential threats and harassment, and appropriate action by employees or the organization as a whole to ensure the security of the organization, its employees and patients.

4. On October 6, 2011 at approximately 8:45AM, I received a telephone call from Susanne Anderson from Planned Parenthood of the Heartland's Ames office. Ms. Anderson advised that Donna Holman's vehicle was on Planned Parenthood of the Heartland property. Ms. Anderson stated that Holman had already been advised to leave, but refused. I advised Ms. Anderson to call 911 and have Ames police respond. Anderson called me at approximately 9:15AM to inform that Ames Police had served Holman with a trespass notice.

5. On October 6, 2011 at approximately 11:55AM, I received a telephone call from Maria Waters. Waters informed me that Donna Holman was at the Ankeny clinic of Planned Parenthood of the Heartland. Waters advised that she asked Holman to leave the property but that Holman had refused. I was close to the Ankeny clinic so I advised Waters to stay inside and call the Ankeny Police Department. I arrived at approximately 12:00PM to the Ankeny clinic. Upon my arrival I observed Holman putting anti choice literature on surrounding cars. I advised Holman that I was the Security Manager for Planned Parenthood of the Heartland. I then advised Holman that she was trespassing and would need to leave. Holman refused. Ankeny Police arrived and after investigating, served Holman with a Trespass Notification Form. Holman then left the Ankeny clinic.

6. On or about October 7, 2011 Donna Holman entered and remained on Planned Parenthood of the Heartland Property at our health center located at 950 Senate Ave., Red Oak, Iowa 51566.

7. Donna Holman was subsequently arrested by the Montgomery County Sheriff's Office for trespassing on Planned Parenthood of the Heartland property.

8. In 2008, Donna Holman was ordered by a Johnson County Magistrate to undergo psychiatric evaluation and treatment, which she refused. Her violation of the court order resulted in a 30 day jail stay.

9. Because of her history of harassment and trespass aimed at Planned Parenthood of the Heartland, its employees, and patients, behavior which has continued as recently as October 7, 2011, I believe Donna Holman remains a threat to Planned Parenthood of the Heartland, its employees and patients. My security concerns with regard to Donna Holman are exacerbated by her apparent lack of remorse for her behavior and her unwillingness to undergo court ordered evaluation and treatment.

Dated this 2nd day of November, 2011.

Subscribed and sworn to before me this 2nd day of November, 2011.

Signed
Notary Public in and for the State of Iowa

GENERAL NOTARY-State of Nebraska
JOYCE CRAFT
My Comm. Exp. Aug. 23, 2015

RECEIVED
NOV 07 2011
JOHNSON COUNTY ATTORNEY

Form 4.14: *Modification, Extension, or Cancellation of No Contact Order (Criminal Prosecution of Harassment §708.7, Stalking §708.11, Sexual Abuse § 709.2, § 709.3, or § 709.4).*

Order of Protection
AMENDED

This order can be verified during business hours with the Johnson County Clerk of Court at (319) 356-6060 or anytime with the Johnson County Sheriff (law enforcement agency) at (319) 356-6020.

Case No. SMSM067310 - I

Judge _____
(print or type name here)

County Johnson State IOWA

MODIFICATION, EXTENSION, OR CANCELLATION OF NO CONTACT ORDER
(Criminal Prosecution of Harassment § 708.7, Stalking § 708.11, Sexual Abuse § 709.2, § 709.3, or § 709.4)

ISSUE DATE: _____

PROTECTED PARTY:

PLANNED PARENTHOOD
First Middle Last

Other Protected Persons:

All employees, contract workers, volunteers, patients of Planned Parenthood and anyone accompanying them.

STATE OF IOWA
V.
DEFENDANT:

DONNA JEAN HOLMAN
First Middle Last

DEFENDANT Date of Birth 05/25/35

776 EICHER ST., KEOKUK, IOWA 52632
Address for Defendant (not shared address with Protected Party)

CAUTION: ☐ *If checked,* ***FIREARMS WARNING for Law Enforcement***

THE COURT HEREBY FINDS:
It has jurisdiction over the parties and subject matter, and the Defendant has been provided with reasonable notice and opportunity to be heard. **Additional findings are set forth below.**

THE COURT HEREBY ORDERS:

( ) The previous order is hereby cancelled as of (see #1 below) _____

(X) This modified order expires on JANUARY 26th, 20 17

Additional terms of this order are as set forth below.

WARNINGS TO DEFENDANT:
This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and any tribal jurisdiction (18 U.S.C. § 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. § 2262).

Federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. § 922(g)(8)).

Only the court can change this order.

FILED
11 NOV 16 AM 8:21
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

Effective Date January 30, 2007

the 15 day of November, 2011, this matter is before the court regarding the No
order entered on January 30, 2007.

The court ORDERS as follows (check the appropriate option(s) below):

____ (1) The order is hereby **canceled**.

____ (2) The order is **modified** as follows:_____

The modification is effective ( ) immediately. ( ) upon service. To the extent not inconsistent herewith, the prior protective order shall also remain in force.

__X__ (3) The court finds the defendant continues to pose a threat to the safety of the protected party (ies). THEREFORE the order entered pursuant to Iowa Code Chapter 708 or 709 is hereby **extended.** for a period of 5 years

(4) The clerk of court shall reflect this change in status on the domestic abuse registry and shall notify law enforcement regarding this order.

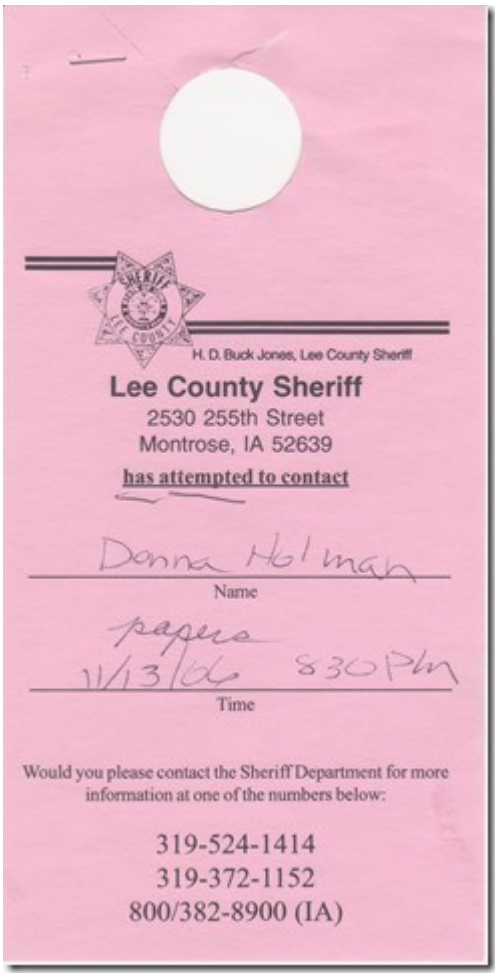
Stephen H
JUDGE, 6th JUDICIAL DISTRICT

[ ] Defendant was personally served with a copy of this order by the court.
[ ] The clerk of court shall provide copies of this order to the protected party, county attorney, defendant, counsel of record (if any) and the _____ County Sheriff as required by Iowa Code sections 236.5(5) and 664A.4.
[X] The Johnson County Sheriff shall serve and return service of this order upon defendant.
NOTICE: If you have a disability and need assistance to participate in court proceedings, please call the ADA Coordinator at ( ) _____. If you are hearing-impaired, call Relay Iowa TTY at 1-800-735-2942.

CC: PP
CA
JCSD w/return
11-16-11
JL

CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA
FILED
11 NOV 16 AM 8:21

Registry updated
11-16-11
JL



H. D. Buck Jones, Lee County Sheriff

Lee County Sheriff

2530 255th Street
Montrose, IA 52639

has attempted to contact

Donna Holman

Name

papers
11/13/06 830PM

Time

Would you please contact the Sheriff Department for more information at one of the numbers below:

319-524-1414
319-372-1152
800/382-8900 (IA)

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY
MAGISTRATE'S DIVISION

STATE OF IOWA, Plaintiff, vs. DONNA JEAN HOLMAN, Defendant.	)	NO. SMSM067310 AFFIDAVIT

I, Penelope Dickey, am the Chief Operating Officer for the victim in the above-captioned matter, and my employer has requested that the Johnson County Attorney's Office ask the Court to deny Defendant's request to lift the no contact order placed upon her as a result of this case.

1. I believe that the Defendant continues to pose a threat to my safety, that of my employer, our employees, patients and volunteers.

2. I believe that the no contact order will help protect me, my employer, our employees, patients and volunteers from the Defendant.

3. Donna Holman continues to frequent events where she knows Planned Parenthood of the Heartland staff will be present, and with her husband Dan Holman has continued to drive their truck displaying graphic anti-abortion materials and distribute statements displaying hostility to Planned Parenthood of the Heartland.

4. Donna Holman was present at the Iowa Board of Medicine hearing occurring on or about August 28, 2013 on proposed rule ARC 891C aimed at restricting Planned Parenthood

of the Heartland's telemedicine system and at which a number of Planned Parenthood of the Heartland's staff, supporters and board members spoke.

5. Donna Holman was present at the hearing for a temporary stay of the rule promulgated by the Iowa Board of Medicine in ARC 891C, that occurred on or about October 30, 2013.

6. Donna Holman's husband, Dan, continues to come to Planned Parenthood of the Heartland clinics to protest, including the clinic in Iowa City.

7. The activities Donna Holman engages in are similar to those activities she engaged in prior to the no contact order, but for the specific activities prohibited by the no contact order.

8. Donna Holman's continued behavior, with examples noted above, causes me feel as though she sees Planned Parenthood of the Heartland, its employees and volunteers as adversaries. As I noted above, she has already shown that she is still able to, and intent on, opposing Planned Parenthood of the Heartland. Since she is still able to engage in that kind of ordinary opposition with the no contact order in place, I am concerned about her future behavior, and the safety of staff and patients should she want to have more direct contact with either in the event that the no contact order is lifted.

Dated this 6th day of November, 2014.

Penelope Dickey

Subscribed and sworn to before me this 6th day of November, 2014.

NOTARIAL SEAL IOWA
ERIKA GITHENS
COMMISSION NO. 751400
MY COMMISSION EXPIRES
2/25/2017

Signed Erika Githens
Notary Public in and for the State of Iowa

In the Iowa District Court for Johnson County

Upon the Petition of State of Iowa, Plaintiff, -vs- Donna Jean Holman, Defendant.	)	SMSM067310 AFFIDAVIT

In the County of Lee within the State of Iowa	) ss:	

I, Donna Jean Holman, being first personally aware of the facts attested to, competent as a witness, and duly sworn, do depose and state as follows:

I, Donna Jean Holman, being first personally aware of the facts attested to, competent as a witness, and duly sworn, do depose and state as follows:

1. My name is Donna Jean Holman. I am 5'7" tall and I weigh 160 pounds. I reside in Keokuk, Iowa. I have lived there for 74 years. I am a well-established member of that community. I was born on May 25, 1935; Counting the time I was in my mother's womb, I am 80 years old. I am fully retired and I live on a fixed income as a result. My health is good. My main interest in life at this point is trying to save preborn babies from being murdered. This is what leads me to contest the extension of the current no contact order in this case. I am writing this affidavit to show I do not present a threat of harassment or violence.

2. I am not a violent person. Once, 20 years ago, I did kick a person when I was being manhandled by 2 person while protesting at Horizons (aborticide facility) in Carthage, Illinois February of l993. The circumstances were that I followed a l5 year old girl who entered the premises. Office manager, Chris Francovich and abortionist James

E. Coeur had hammer locks on both my arms, both were standing behind me when I decided to kick one of them. As I recall, there was no significant injury. Since that occasion, I have never been violent in pursuit of my aim to save preborn babies from being killed.

3. As an 80 year old lady, I don't believe I pose any threat or risk of harm to the great majority of the population. Even if I were so inclined (which I am not), my muscle strength simply does not allow me to hit someone hard enough to cause damage. Quite frankly, I don't think I could even cause much distress to most people with a physical blow either.

4. My intent as a Missionary to the Pre-Born is to ensure that any woman entering an aborticide facility have all of the information they need to make an informed decision on whether they want to murder their baby. I believe I have a right to peacefully communicate in this regard.

5. The only harassment violation I have is in this case. Although I have been charged with trespassing for trying to communicate with women entering a baby-killing facility, I have never since the conviction in this case been charged with harassment.,And as I said before, I am not a violent person, so I have not been charged with crimes of violence either.

6. I believe the County Attorney's request to extend the no contact order should be denied for many reasons. First, I have been rehabilitated. I served my jail time and as my record shows, I have not harassed anyone since. I do not communicate with people without legitimate purpose. My purpose in communicating with women considering aborticide is to ensure they are fully informed. This is in my opinion a very legitimate purpose. I would also add that I believe it is protected speech under the 1st Amendment to the US Constitution and to section 7 of Article I of the Iowa State Constitution. Finally, my intent is never to annoy, alarm, or intimidate; my intent is to

communicate to women why they should not kill their children.

7. To put this as clearly as I can, I seek JUSTICE FOR PREBORN BABIES. And I desire EQUAL PROTECTION for preborn babies.

8. For all of these reasons, I do respectfully request that this Court deny the County Attorney's motion to extend the no contact order and that this Court terminate said Order. Alternatively, I request that some reasonable accommodation of my right to free speech be made. I am not seeking to annoy, alarm, or intimidate people but rather to communicate. I therefore ask that if any Order remain after this hearing, that I be allowed to stand within 5 feet of the entrance to Planned Parenthood in Iowa City or on the public right of way and to speak in a normal voice to those who wish to enter. People seeking aborticide have the right to hear the baby's point of view. I am sure that Planned Parenthood is not giving this information or there would be less children murdered by their parents.

9. I would also like to add that with the impact of Federal Law 18 U.S.C. 1841 - (d) wwhci recognized the humanity of all pre-born babies at ALL stages of development. What Planned Parenthood is doing is ILLEGAL as of April 1, 2004. LIFE BEGINS AT FERTILIZATION (see State of Kansas V, Scott Roeder Case # 10-104520 – S

I, Donna Jean Holman, have read the foregoing instrument and all statements within this instrument are true and correct as I verily believe and I, Donna Jean Holman certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

12-27-14
date

Donna Jean Holman
Donna Jean Holman

Subscribed and sworn to before me by said Donna Jean Holman this 27 day of December, 2014.

Tonya Boltz
Notary Public State of Iowa

3

NOTARIAL SEAL IOWA
TONYA BOLTZ
Commission Number 713927
My Commission Expires
12-6-2016

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

State of Iowa, Plaintiff, vs Donna Jean Holman, Defendant.	)))))))	SMSM067310 **1.908 Notice to the Court and Request for Continuance**

COMES NOW, Defendant by and through Attorney William (Bill) Monroe, and states:

1. A hearing on Defendant's Motion to Vacate or Modify No Contact Order is set for hearing on Affidavits for Friday January 16, 2015 at 10am. This is a hearing on "evidentiary affidavits."

2. On January 16, 2015, Counsel for Defendant, is also previously scheduled for a Probation Violation Hearing set in North Lee County case # FECR07762 at 10:30am.

3. It is not possible for this Attorney be in North Lee County at 10:30am and in Johnson County at 10am on the very same day.

4. In accordance with Iowa Rule of Civil Procedure 1.908, Counsel notifies this Court of these conflicting court dates and further, respectfully requests that this case of State v Holman be continued to another day and time to allow the undersigned attorney to attend the criminal docket cases listed in paragraph 2 above.

5. Defendant also respectfully suggests that perhaps a personal presence hearing is not necessary and that the parties could instead simply submit written arguments to the court by a date certain. This would perhaps be the most effective use of scant court resources.

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(over please)

6. The Johnson County Attorney Rachel Zimmerman does not object to continuing this hearing.

Wherefore, Petitioner respectfully requests that the hearing set in this case for January 16, 2015 at 10am be continued 7-21 days or alternatively that this Court set a date certain to submit written arguments instead of a holding a hearing with oral arguments on Defendant's Motion to vacate or modify the No Contact Order in this case.

Respectfully Submitted,

Donna Holman, Defendant

By: /s/ William Monroe
William (Bill) Monroe (AT005513)
218 North 3rd, Suite 300
Burlington, Iowa 52601
Phone: (319) 754-1402
Fax: (319) 754-1404
Bill.Monroe@AttorneyMonroe.com

copy to:

Rachel Zimmerman,
Johnson County Attorney Office,
417 S. Clinton St PO Box 2450
Iowa City, IA 52240

PROOF OF SERVICE

The Undersigned certifies that the foregoing Instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on _____, 20___.

By:	US Mail	Fax / **Email**
	Hand Delivered	Overnight Courier
	Certified Mail	Other/Courthouse Box

Signature /s/ William Monroe

DIVISION XIV
FORMS

Rule 6.1401 Forms.
Rule 6.1401 — Form 1: ***Notice of Appeal.***

IN THE IOWA DISTRICT COURT
FOR JOHNSON COUNTY

(Insert district court caption.)

SMSM067310
No. _____ *(district court case number)*

STATE VS. HOLMAN, Donna Jean

NOTICE OF APPEAL

To: The clerk of the district court for JOHNSON County, the clerk of the supreme court and

STATE OF IOWA

(insert names of unrepresented parties and attorneys of record).

Notice is given that Donna Jean Holman *(insert the names of the parties who are taking the appeal)* appeal(s) to the Supreme Court of Iowa from the final order entered in this case on the 10th day of August, 2015, and from all adverse rulings and orders inhering therein.

Dated this 10th day of August, 2015

Donna Jean Holman
776 Eicher St.
Keokuk, Iowa 52632
1-319-524-5587
truthvan@ yahoo.com

Donna Jean Holman
(signature of appellant or appellant's attorney)
Name, address, telephone number, fax number, and e-mail address of appellant or appellant's attorney.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this notice of appeal was served on the 10th day of August 2015 upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

Donna Jean Holman
(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009]

E-FILED 2015 AUG 17 2:34 PM JOHNSON - CLERK OF DISTRICT COURT

State of Iowa Courts

Type: CERTIFIED NOTICE OF APPEAL

Case Number	**Case Title**
SMSM067310	STATE VS HOLMAN, DONNA JEAN

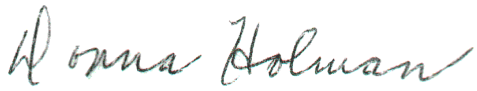
So Ordered

Tammie Christiansen, Clerk of Court Designee,
Johnson County Iowa

Electronically signed on 2015-08-17 14:34:10 page 2 of 2

Certificate of Service

A copy of this Appendix was transmitted to the Iowa Attorney General by efiling it with the Iowa Supreme Court, pursuant to 16.317(1)(a)(2), on May 16, 2016.



_____ ___May 16, 2016_____

Signature Date