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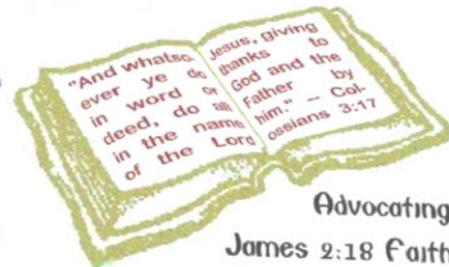
Jun 2010 AD  
373rd Issue!

# SaltShaker.us

"A Journal of out-of-the-closet Christianity"

The P&A has readers from many churches, but formal ties with none, the obstacle being, THEY say, not that stands reported here are Biblically unsound, or untrue, but *uncomfortable*. ("If we allowed information about abortion or sodomy in church, that might offend sodomite abortionists, whom we want to come hear (what's left of) the 'gospel'.")

## the Prayer & Action NEWS



Mailed Jun 30, 2010 AD

**Information Line:** 515/256-0637 or Alm-O-nds. (Don't get that confused with Nut-Cake, which is a government number.) **E-mail:** Music@Saltshaker.US. **Web page:** www.Saltshaker.US **To subscribe:** see inside back page. "Please join our news network. And please report needs and news in your community that will give us reason to praise, that will help us discern, or that will call us to prayer and action." **Editor:** Dave Leach. For resume, see "Who's Who in Media and Communications", '98-05, "...in America", '96-09 "...World", '96-09 "...Midwest", '94-02. **Whenever you hear needs shared between God's people, you hear**

**Warning:** These articles are encoded to make them illegible to relativist liberals -- they contain Truth.

Second Scrappy Issue of 2010! 6/30

## How to Submit Your Own Brief in the Scott Roeder Case, and be a voice for the unborn!

### a trumpet call



for the Armies of God to Assemble

Resources inside:

- \* Notes on Scott's trial, to give you an idea of what kind of issues have foundation in the trial record, that you can raise in your brief;
- \* The Kansas Supreme Court's sample application to file an Amicus Curiae (you have to ask the court to file your Friend of Court brief, and then wait 4-6 weeks to hear back from them);
- \* Dave Leach's application, illustrating "reasons of substance" (for the court to grant permission) that are available to a non-lawyer;
- \* A hilarious application illustrating how *not* to persuade the Court;
- \* The Kansas Court Rules regarding these briefs;
- \* The latest developments;

"Courage is not the absence of fear but the judgement that something else is more important [than safety]. The brave may not live forever but the cautious do not live at all."

Paraphrased from the Princess Diaries by Jo Zie Thorp

# Scott Roeder Trial Notes

By Dave Leach

Taken during Scott Roeder's trial January 25-29, 2010

Keyed into computer June 20-27, 2010

Monday notes were on a notebook which came up missing. The witnesses called were the deacons at Reformation Lutheran Church on May 31, 2009, the day Scott Roeder shot and killed George (Tiller the Killer) Tiller there. Towards the end of these notes, as you will see, Judge Wilbert called the deceased "George Killer", so in conformity with judicial practice, these notes refer to him as "Killer".

**Tuesday, January 26, 2010 AD**

**Witness: Lt. Kenneth Landwehr**

Landwehr has worked for Wichita since 1978. He is commander of the homicide department. When he arrived at the scene of Killer's tilling, several officers were there already.

Killer's wound was larger than the bullet, which is evidence of a gun against the forehead, which causes a star-shaped blowback. The wound was above the right eye. Video showed Tiller's blood-covered head being worked on; his suit was still clean.

[Ed: I was amazed that, considering what weak stomachs these people have about pictures of aborted babies! Especially when they went to heroic lengths to keep the jury from having to look at our van parked every day outside the jury room, spiriting them in from unknown locations by circuitous routes, as In Session reported! So as not to "prejudice" the jury! Didn't Judge Wilbert foresee that these gory pictures of Tiller's corpse might "prejudice" the jury against Scott?]

Exhibits 8 and 12: gory photo #12 shows the whole body on the floor, the suit spotless, the head blood-covered. Landwehr: "I was directing the investigation." A photo array showed Scott's driver's license photo with 5 other photos, printed out to see if witnesses would positively identify Scott.

Wichita police went to Johnson County to search Scott's home and car, after the arrest. One went by helicopter.

**Witness: Jason Bartel**, with the Wichita police 8 years. He is on the Patrol Scat Team, a special community action team. [Ed: I sure hope I misspelled "scat"!]

"We searched hotels to see where all Scott had stayed. He stayed at the Guardian Suites and the Starlight."

**Witness: Sandy Michael**, Garden Inn and Suites.

Scott was a normal guest. On the morning of the tilling, Scott showed not anxiety or sense of urgency. After he checked out and while the room was checked, he waited in the office as usual to retrieve his \$25 deposit. He was friendly, and happy-go-lucky. He said "Take your time. I can sit here and wait." Checkout was 9:30am. The court even got to watch a surveillance video of Scott waiting, and even slipping out to the bathroom!

**Witness: Deputy Andrew Lento**, Johnson County Sheriff's Office. He was with the department 11-1/2 years. At 10:40am he received a BOLO alert - "Be On the LookOut (for a wanted vehicle)".

"I stopped Scott. I drove behind Scott, blocking both lanes, with hazard lights behind but no lights in front. I followed 4-1/2 to 5 miles until other officers could join us, then I turned on the other lights in front."

Lento showed his video of the arrest. He gave instructions to Scott by loudspeaker to raise his hands, with his right hand to pull out the car keys and drop them on the ground, and while that hand is up to use the left hand to open the door from the outside, then step out, pull out shirt from pants, then step backwards a few yards, then

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get on knees, hands still up, finally lay down on stomach, while half a dozen officers surrounded him, one with gun drawn close by and others handcuffed him.

Back at the station, they had him stand on a large paper so any DNA might fall off him on to it. The paper was kept for evidence.

Cross Examination, by Public Defender Steve Osborn: Lento had conducted maybe 2 or 3 high risk traffic stops before. "I was in the middle of the median, in a marked car. Scott had to have seen that, and could easily have exited before I pulled out to stop him. He also could have exited when followed by three other marked cars. Not only was there no attempt to flee, but there had been no attempt to cover or disguise the license plate. Roeder complied with all the directions given him.

[Ed: this was obvious as the video showed how conscientiously Scott processed all those complicated directions, and perhaps there were others squirming as I was, wondering, had that been me, could I have obeyed any better? Much rode on the answer to that question, since a few times Scott made movements which normally would seem courteous and submissive but were not ordered by the policeman, and the policeman had to correct him, or repeat instructions. And all during this, several policeman with nervous trigger fingers were scrutinizing his every movement!]

Lento acknowledged that Scott complied with all directions, didn't resist, and didn't try to flee.

**Witness: Private Investigator Andrew Malk** (sp?)

I collected the shell casing, and Killer's glasses. He analyzed photos of coffee splatters on the car. "Normally we wouldn't have paid attention to splatters but I had been told about the coffee." (A Monday witness, one of the deacons who followed Scott out, carried his cup of coffee with him, and as Scott drove out, threw his coffee at Scott through his open window. He said Scott's reaction was a look of surprise.)

Two live rounds were under Scott's front seat. (driver's side?) A box of shells were under the right front seat.

A flier about a Swahili service at Killer's church was retrieved from Scott's car as "evidence"! On it was written, by Scott, "Save us from the time of trial, deliver us from temptation."

Also found was a \$68.38 check made out to "The Bullet Hole".

Under the front seat was found a large butcher knife (at least in size) with a wide blade, and an ornate shape. In the back seat was a white shirt with light brown stains – presumably the coffee stains (Scott had presumably changed shirts).

## TUESDAY AFTERNOON

**Witness: Special Agent Andrew Alvey**, FBI. He was with the FBI 24 years. He was the senior team leader on the Kansas City Evidence Response Team.

When Alvey called Killer's tilling a "murder", that word was objected to, and replaced with "homicide".

Alvey checked Scott's two residences. He was known to live on Mercer street, and a residence on Knox was also suspected of being where he lived. At Knox it looked like no one had lived there for awhile.

First, Alvey "secured" the apartment, so no one can get in or go out. Then they go in after they get their search warrant. In the bedroom, he found a box of ammo, with an invoice from The Bullet Hole for \$17.95 - \$19.32 with tax. [Ed: I must confess there were other critical details like that which I simply could not wake up my writing hand sufficiently to record.]

**Witness: Matt Smith**, who worked for Jayhawk Pawn and Jewelry. [Ed: I have a note about "Lawrence Smith" next to Matt's name; I don't remember its meaning.]

Matt sold Scott his .22 gun. Scott first looked at a 9mm but decided for the .22 because ammo is more available.

To buy a gun, a driver's license is necessary. Approval happens in 3-4 days. Transactions are videotaped, so the courtroom was blessed with a rather boring video of Scott buying his gun! Actually the detail was poor, so one's assurance that it really was Scott was that no one objected.

The gun cost about \$280.

The prosecutor has the very box that Scott's gun was sold in. [Ed: talk about a candidate for a high dollar E-bay auction bid item!]

**Witness: James Conner**, same store. [Ed: I took no notes; nothing interesting or new, apparently.]

**Witness: Jeff Neal**, same store. He is the manager of the Jayhawk store.

On May 23, title to the gun was transferred to Scott. Scott was seen talking to others waiting for the store to open.

[Ed: Is this stuff relevant?! Public Defender Mark Rudy, and prosecutor Ann Swegle, in particular, have terrible pronunciation, and talk like machine guns – an unfortunate combination – and they see no virtue in using the microphone – so maybe there was some relevance explained which I simply couldn't make out, but I doubt it. I feel sorry for the court reporter! I thought about why this was putting me to sleep even though the subject was intensely vital to me, while TV holds my interest even though the subject matter is trivial. On TV, they pronounce, the volume is consistent; you can turn it up; and you can switch channels when it is boring.]

**Witness: Rex Campbell**, High Plains Gun Shop, Topeka

Scott went in May 20. He was using 22 shorts, which won't work in that gun. He needed 22 longs. The gun was very dirty and dry. He had electrical tape around the handle. The gunsmith oiled it, took off tape, and tightened the grip. Scott bought Winchester and American Eagle ammo, gun oil, and a bumper sticker. He was in the shop 30-40 minutes. There were 50 high velocity rounds in each box.

**Witness: TFO Denton Murray**, highway patrol, FBI terrorism task force.

David Roeder, Scott's brother, called Murry after the shooting. He was concerned that his fingerprints may have been on the gun used to till Killer. He called at 9:30 Saturday. He called Friday, the day before, also. He said a reporter had notified him of Scott's tilling. He said Scott had called him before, wanting to test fire his gun at David's country home. Scott had previously had a 9mm gun, but had pawned it; David had retrieved it from pawn.

"We got to David's home at 4pm. It is a gated home with a 100-150 yard drive. He showed where they test fired. The shot about 30 rounds behind the house, and 10 more in the creek bed. They went to the High Plains gun shop because the ammo was wrong. He shot in a creek because he wanted to see where the bullets hit [as opposed to shooting at a distant target and not being able to see where they hit] – they ricocheted off the water [or, caused a splash]."

**Witness: Michael Miller**, special agent, FBI, Collection of Evidence, Topeka.

Miller found 43 casings behind David's home. Whenever he found one he would put little placards by each. Miller proudly displayed photos of the bushes and grass with his pretty little cards all over.

Not content with 43 pretty cards, he called back to the office for more staff to come help his team find and count casings! "Later we got 15 casings and 2 projectiles".

Miller won the BORING TESTIMONY AWARD for his testimony, in a special ceremony presided over by Judge Wilbert called "Direct". Miller NOT ONLY sent out a team of forensics experts to prove that Scott practiced his gun, as if that would somehow be relevant in a trial where Scott already admitted tilling Killer! - but then he spent most of an hour TELLING US about it!

Oh boy, now a picture of a log with holes in it!

David also got an SKS gun from Scott.

On Cross examination (by the public defender), it was revealed that Miller never found 9mm casings. [Ed: what, do these attorneys know how to spell r-e-l-a-v-u-n-s?]

**Witness: Detective Timothy Relph**, Wichita Police Department, was awarded First Runner Up for the BORING TESTIMONY AWARD for buying boxes of rounds matching Scott's purchases to do tests!

[Ed: I'm sorry, that's as far as my concentration could manage! Tests of WHAT? To do what, go shoot rounds in David's back yard, and then go count casings and put up more little tags?! If they REALLY wanted to do tests, they should have found some more abortionists to shoot in the Narthex of Reformation Lutheran Church right after the service started, the air still laced with the smell of fresh doughnuts! At least that would be more relevant to investigating a crime!]

**Wednesday, January 27, 2010 AD**

**Lecture from Judge:** Judge Wilbert addressed us public observers, after a break and before the jury returned. No sounds, moans, groans, or words, through the "more emotional" part of the trial coming up, after the prosecutor "rests", about noon, and the defense begins.

**Stipulation:** (A stipulation is an agreement between both parties, presented to the judge, that certain facts are true, without the need for any further court time to prove it.) Before April 10, Scott lived at 544 Knox. Then he moved to the Mercer address.

**Witness: Gary Miller, Chief of Criminalistics**, a firearms and toolmark examiner since 1985 for the Wichi-

ta police.

To prove that a bullet was fired by a particular gun, bullets are fired by that gun into a barrel of water so the bullet is brought to a stop without disturbing the markings. But no gun was found in this case. So, the casings fired behind David's home were compared with the casing found by Killer's tilled body in a Comparison Microscope that displays the two casings side by side.

Each gun has a distinctive chamber, which leaves marks on bullets. Marks are also made by extraction and ejection devices in the gun. Not only do these marks add up to differences during manufacturing, but these devices wear out at individual rates.

[Ed: Gary Miller came in as Second Runner Up in the BORING TESTIMONY playoffs. At least his testimony seemed vaguely relevant, or at least it would have been had Scott not already confessed to tilling Killer, but his voice was actually the model for sleep deprivation research, where it is critical that patients be put to sleep instantly in order to save researchers' time. As a musician with fairly close to Perfect Pitch, I was able to chart the rise and fall of Miller's voice as mostly falling between B and C, 2nd line to 2nd space, bass cleff. His very lowest pitch was A, and he occasionally rose to C# when he got real excited.]

Miller's results: he showed photos of bullet fragments named with "b", perhaps for bullet, and a number. "B2" and "B3", removed from Killer's brain, could not be confirmed as from Scott's gun, and neither could it be eliminated; it was only clear that it was from the same *type* of gun. B1 and B5 didn't have enough to even compare – fragments from Killer's brain and from Dave's property. But the cartridge casings at the church and at Dave's property were a positive ID.

31 cartridges were compared. The shells contain no gunpowder, but only primer. They travel at 480 [or maybe he said 408] feet per second. They are appropriate for small game, where pellet guns are appropriate.

**Witness: Shelley Steadman.** Shelley has an MS in Forensic Biology. She is the laboratory manager at the Sedgwick County regional forensic science center.

*She explained that "when the sperm unites with the egg, it gives rise to a child".*

[Ed: Dorothy and I were astonished at this acknowledgment of the humanity of the 60,000 souls whom Killer tilled!]

Steadman did not examine the coffee stain or notice anything else about the shirt. She said the blood on Scott's shoe (oh yes, lots of nice, graphic pictures!) and on the blue pants above the knee match Killer's blood.

On Cross Examination, she admitted that the only basis for her "one in 7 quintillion chance of a false match" was tests of only 100 people in each population group! She also said "if you don't match, it isn't you; if you DO match, it COULD be you."

**Witness: Jaime Oeberst, MD,** District Coroner Chief Medical Examiner, studied at the University of California in Berkely.

The autopsy began with x-rays, fingerprints, an external exam, then inside the brain. Lots of grisly photos, and microscope pictures. The x-rays located the bullets, as well as documenting the injury. Several small fragments were scattered through half the brain. Besides the entry hole, there were skull fractures from that, on up and back.

Lots and lots of grisly photos! Tiller's body, with blood washed off his face but still staining the wrinkles, the body yellow! Another photo, all the blood washed off, but a bloody star-shaped hole in the forehead very clear! She said gunpowder particles were present. [Ed: wait a minute: didn't the other guy say those shells didn't have gunpowder?! I'm confused!]

She said there was no exit wound.

She told how she followed the path of the bullet! She scalped Killer! She pulled his hair down his neck, and took another picture! She removed the brain, and took ANOTHER picture! She stuck a metal rod into the hole left by the bullet to make the travel path more visible! And these are the people who call the cops at just ONE picture of ONE of Killer's 60,000 victims!

[Ed: All of this, to prove Killer died of "a gunshot wound to the head"? To which Scott had already confessed?! Can you repeat after me, "g-o-v-e-r-n-m-e-n-t w-a-s-t-e"? So the next time a thief breaks into your garage and the police tell you they will do what they can but they are too busy with more serious felonies to put more resources into it, think of Jaime Oeberst, Timothy Relph, and Michael Miller!]

Cross examination, by Mark Rudy: the cursory exam on the scene is to check visually for furniture he might have struck on the way down that might have injured Killer.

There was a long, long "sidebar" (where the attorneys go up to the judge and they all whisper together

where no one can hear them) after Rudy asked the coroner a question about what she does to the body on the scene. That was objected to for being “beyond the scope of direct”. [Silly me, I thought most of this stuff was!]

By the time the coroner arrives, evidence like shell casings is often gone: police do the initial investigation while the body lies.

[Ed: The judge had ruled January 8 that there would be NO graphic pictures! Translation, after today: “We are not banning graphic pictures of BORN doctors – only of UNBORN doctors.”]

Wednesday, January 27, 2010 AD, Afternoon

Motion to Quash: the defense had a subpoena for production of Killer’s June 1 office appointment schedule. An earlier news story said the relevance was to prove that there were babies scheduled to be slain the very next day after Scott tilled him. The prosecutor made a “motion to quash” (cancel) the subpoena; but now, the public defender “withdrew” the subpoena, saving Judge Wilbert having to rule on it.

But now there is another motion to quash, on the subpoena of Barry Disney, the Kansas Deputy Attorney General, to testify that he had “probable cause” that Killer’s “abortions” were crimes, since Disney had prosecuted dozens of criminal charges against Killer! But Disney wanted no part of it! But rather than argue the matter himself, he sent Michael Leach to represent him.

Leach said the rationale for the subpoena was frivolous, and irrelevant, since Disney’s “work product is protected”, and besides Disney is busy working on another murder trial.

Judge Wilbert couldn’t understand what Disney could say that Scott couldn’t say in his own testimony. Scott can testify directly to his impressions, from attending Killer’s trial when it was prosecuted by Disney, that the evidence against Killer was persuasive regardless of what the jury thought. Scott doesn’t need Disney to say that, in addition, even the Attorney General of the State of Kansas likewise believed the evidence was persuasive, since otherwise he wouldn’t have been prosecuting him. That might be relevant if Scott’s defense were Defense of Others, which requires that Scott’s belief that he was preventing “unlawful force” was “reasonable”. But since Judge Wilbert had ruled that defense inadmissible, evidence supporting that defense, such as Disney’s testimony, was likewise inadmissible! Instead, Scott’s remaining potential defense is “voluntary manslaughter”, which requires Scott only to prove his belief was “honest”! Therefore, Scott may indeed testify that he sincerely, “honestly” believed his action prevented Killer’s “unlawful force”, but it is inadmissible for him to prevent evidence that his belief was not merely “honest”, but even “reasonable”! Thus, Scott can testify by himself to his belief, which should be satisfied by his personal testimony; but Disney’s testimony would create the danger of proving Scott’s belief was actually “reasonable”, which would be inadmissible!

Public Defender Mark Rudy countered that even to prove Scott’s belief was “honest”, he also has some burden to prove his was a “good faith belief”, which is satisfied by Disney’s concurrence with it.

But Wilbert said Scott can’t bring in collateral sources. It is not appropriate for Scott to attempt to prove that his beliefs were not only “honest”, but true. A witness about what Scott told them would be relevant, but not experts who know nothing of Scott who can only document that Scott is right, but cannot testify to what Scott believed.

Wilbert said “for Disney to say he had a good faith belief is almost redundant; these events are on the record and speak for themselves. I can take judicial notice that the charges succeed as far as they did, showing a good faith belief by Disney that the charges were supported by probable cause.

The prosecutor objected to allowing Scott to opine about Killer’s trial. She issued a standing objection to allowing the subject to be brought up.

Wilbert answered the prosecutor that he didn’t enact the Voluntary manslaughter defense! The legislature did, in 1992! “I’m not going to rule preemptively that Roeder can’t discuss his beliefs! (which are a statutory element of the charge)! I would be reversed in a heartbeat!”

The prosecutor said “what scares me is taking judicial notice of a trial where there was no conviction. You shouldn’t be giving out ideas.”

The prosecutor said “this direction is psychotic! We need a reasonable decision!

Mark Rudy, agreeing to Wilbert’s plan of “judicial notice”, said “OK, we will, as you say, get the court record of Disney’s prosecution, make a proffer of what evidence it contains for Scott, and accept your judicial notice of it. [Ed: in other words, the public defender would draft a statement along the lines Wilbert had indi-

cated – stating the fact that Disney had prosecuted Killer – and present it to Wilbert the next day for Wilbert’s official concurrence.] Rudy said Disney had prosecuted Killer for 29 counts involving 49 specific abortions.

Wilbert said, so long as it is relevant to Scott’s BELIEF, and NOT to whether Scott’s belief is TRUE. “Abortion isn’t on trial!”

### AMICUS BRIEF

The Amicus Brief jointly filed by NARAL and the ACLU was taken up next.

Now for perspective, an Amicus (Friend of court) brief is not supposed to be even ever filed in a trial! That is an option for an issue only before a Supreme Court, whether a state or the U.S. Supreme Court. There are rules governing its admission in Kansas: one doesn’t just take it upon himself to file such a brief! One first must ask the Supreme Court for permission to file, and wait 4-6 weeks for an answer. There is no provision in the court rules of Kansas for submitting an amicus at all, to the trial court, and certainly NARAL and the ACLU did not first ask permission! But they filed their joint Amicus brief! So Judge Wilbert had to so inform the defense and prosecution, with us trial observers listening.

Wilbert said he was ruling against it because (1) it presents nothing new; (2) it comes late in the trial; and (3) there is “no clear procedure for acceptance of amicus at trial court level.”

[Ed: Actually there is something new in the brief: a direct attack on the relevance of personhood language, when it finally finds its way into law. In 2007, Kansas passed Alexi’s Law, which defines ALL unborn babies as human beings, which Roe calls a synonym of “persons”. Yet the brief characterized the law as not saying babies are “persons for purposes of abortion”!]

My note to myself about the bloody pictures of Killer, written during a break

Judge Wilbert ruled January 8 that he would not allow graphic pictures, so naturally I was confused when he allowed, yesterday, graphic photos of Dr. Tiller laying on the church floor, his face covered with blood; and today, autopsy photos with his scalp rolled backwards, his brain removed with a metal rod sticking through the bullet path, and half-washed bloody head extending from a yellow body to show the star-shaped bullet wound!

I finally figured it out. Judge Wilbert did not mean to censor graphic photos of born doctors – only of unborn doctors.

Thursday, January 28, International Holocaust Day, the 65<sup>th</sup> Anniversary of the day Auschwitz was liberated, its persecutors forced to “rest” from their torments: today, Scott Roeder’s prosecutors “rest”. But they object to the first witness of the defense, and Wilbert decides to cross examine him without the jury present, before they decide whether to allow the jury to hear him.

Witness: [Phill Kline, former Kansas Attorney General](#).

[Ed: Kline as a Kansas lawmaker had drafted and enacted legislation especially aimed at stopping Killer’s circumvention of the law. Then he won election as Attorney General, partly on the platform of prosecuting such violations. During his four years he worked hard to assemble the evidence needed to prosecute, but was obstructed at every turn by officials in power with the help of Killer’s contributions, including the prosecutor in Scott’s case, Nola Foulston. Tiller’s money helped defeat Kline before he could put his case in order. After he was defeated, yet with still a couple of months in office, he filed charges anyway; he showed his evidence to a judge who agreed the case had merit, and the judge entered the charges. Nola said she would not dispute them. But the next day, Nola found another judge, who had not seen the evidence, to dismiss the charges on the ground that Kline did not have Nola’s “permission”! No law requires a state Attorney General, after a 4 year investigation, to then wait to file charges against a criminal until he gets the “permission” of the county prosecutor in which the criminal lives! Worse than that, the second judge did this in an “ex parte” hearing (where the other party is not there to defend himself) which is normally illegal! Kline now teaches law at Liberty University, at the law school founded by Jimmy Swaggert.]

Prosecutor Ann Swagle said there is no need for Kline to testify, because Scott can testify himself, about his motive. Of course, he should not be allowed to describe medical procedures, etc., etc. Kline wouldn’t add to what Scott can say himself, about the honesty of his beliefs. Besides, Kline’s “good faith belief” has been called into question.

[Ed: as jury selection began, newspapers announced that a Kansas ethics board had officially begun an investigation into Kline’s prosecution of Killer. It will of course be months before they rule on whether Kline was “ethical”, but the timing of their published suspicion was a cloud hanging over any credibility the jury would place in Kline, were the jury allowed to hear him. This cloud is what Swagle referred to.]

Kline took the stand with the jury absent; the plan was to preview his testimony, and later decided if any of it was relevant to the trial such that the jury should be allowed to hear it; if not, the testimony was at least placed on the record as an “offer of proof”, meaning it would be in the trial record reviewed later by the Kansas Supreme Court.

### [Phill Kline testimony](#)

Mark Rudy never met Phill Kline before Kline was Attorney General (AG) from 2002-2008. Before that he was a state legislator. Before that he was a radio broadcaster.

He said even as a legislator, “we were concerned about Tiller’s violations.” Where the law made an exception to its ban on abortions only for “severe fetal anomaly”, Tiller invoked that exception for a cleft palate! And for Downs Syndrome!

“We passed another law, that two doctors had to sign that the mother would have ‘severe and irreversible injury’ by giving birth. We also banned partial birth abortions.

“We had evidence that he was reporting one kind of abortion when he did another, in order to claim a mental health exception. We also investigated his coverup of statutory rape, and not reporting injuries.” He explained statutory rape: the age of consent is 14. That means any man who has sex with a younger girl, whether the girl thinks she consents to it or not, is guilty of “rape” since the girl is not judged as capable of informed consent on so serious and dangerous a matter. But if the man is a boy almost the same age, prosecutors normally let it go. However if the perp is an older man prosecutors want to go after them. So it is critical that prosecutors know the age of the perp. Prosecutors cannot learn the age of the perp if the abortionist does not report the incident. Since every pregnant girl younger than 14 is by statutory definition a rape victim, Killer is obligated to report each such case to the authorities. But Killer never did. Each time he failed, he committed a crime.

I think Kline said the law that required Killer to report statutory rape was one of the laws he and his peers passed.

Kline filed his charges against Killer on December 21, 2006, at 4:37pm, case number 06CR2961. “I met with Nola. The judge had to sign off on probable cause, which was done.”

Kline filed the charges “under seal”, meaning the public was not allowed to see the charges. “The complaint was made public, but not through us.”

Kline returned from Wichita to Topeka, the state capitol, after filing the charges. The next day he got an email from Nola, containing an order dismissing the case, but not by the same judge before whom Kline had appeared and presented evidence! “We filed an emergency motion to reconsider. Less than a month later I left office.”

Kline distanced himself from Scott Roeder by saying “Tiller was performing unlawful abortions, but that did not justify shooting him.”

[Ed: Regina D., during a break, said that even if Kline’s testimony never goes before the jury, surely it has persuaded Wilbert that Scott’s belief has enough objectivity to count as not only “honest” but “reasonable”. In a perverse way, her prescience was proved true. Wilbert did actually say, a little later, that the jury might reach that conclusion, which would be terrible!]

### [Argument: Should the Jury hear Kline?](#)

Wilbert actually ruled that the very expertise and respectability of Kline would give too much weight to the jury’s consideration of reasonableness!!!!

Wilbert: “Kline said exactly what I want to avoid. There is no indication in the record that Kline had a reasonable basis for calling Killer’s abortions illegal, and even if there were, it is inappropriate to bolster Scott’s beliefs with having any validity. Kline and Disney had no idea how these events affected Scott’s thought processes. If the jury is allowed to hear them, that might *prejudice* the jury to think that Scott’s beliefs are honest, or even reasonable”!!

[Ed: That’s right! Wilbert literally ruled that *Kline’s very credibility* is what disqualifies him from being heard by the jury! And that what would be wrong is any corroborating testimony that would make Scott’s beliefs seem more “honest” or “reasonable”! Is this not unprecedented? Is this not denial of Due Process? In every other case, is not the criteria of whether a witness is relevant, or appropriate, or useful, his *credibility*?]

Wilbert minimized the success Kline had getting a judge to file his charges against Killer, by erroneously characterizing the 2nd judge as canceling the first judge’s decision. Wilbert ignored the fact that the 2nd

judge had not seen the evidence, and conducted his hearing illegally: without Kline there to represent the state's interests.

OK, so now Kline and Disney, Scott's only two witnesses, are not allowed to testify. That leaves the "judicial notice" which Wilbert promised to "take" yesterday, of the facts that Disney had prosecuted Killer for 29 counts involving 49 abortions, which required that Disney first had "probable cause" that Killer was guilty.

But today Wilbert refuses to do it! After he had told the defense attorneys yesterday to prepare a statement for his approval, now, today, he refuses to "take judicial notice" of precisely those issues! And why not?

"That wasn't really a ruling, yesterday."

[Ed: Oh, when a judge tells you to do something, and says he will do something, that's not a ruling? That doesn't count?]

"I was just thinking out loud."

[Ed: Ah, I see. It's a ruling if you don't obey him, but if he doesn't obey himself, he was "just thinking out loud"!]

"I made those statements in the heat of argument. You do remember, don't you, that the argument was pretty heated?"

[Ed: He actually said that! I know you won't believe it until you read the transcript, but it's there!

[I will grant that yesterday the argument was pretty heated! Mark "Machine Gun Mouth" Rudy, and Ann "Rapid Fire" Swagle were pretty ruthless in explaining what was stupid about whatever the judge was going to do. Which of course was justified, because it *was* stupid. When your foundation is "this trial is NOT going to be about what everybody knows its about", anything you build on that is going to lean!

[I just wish that in *my* job I could tell a customer, "well, I know I told you when you bought the instrument that I would guarantee it against factory defects for one year, but that wasn't really a guarantee; I was just thinking out loud. And I wasn't thinking very clearly, because you see my wife had been crabby that day. And now that my wife has cooled off and I am thinking more clearly, it just doesn't seem right that I should have to stand behind a factory's goof ups for an entire year!]

**Warning to Scott.**

Well, the State has "rested", and while "resting", managed to knock off Scott's *only* witnesses, and what incredible witnesses! Barry Disney, a current deputy Attorney General, (one of many lawyers working under the elected Attorney General), and Phill Kline, *the* Kansas Attorney General until one year and a few days previously! Disney would have been a "hostile" (unwilling) witness, but Kline was actually a "friendly" (willing) witness.

So that leaves Scott's only remaining testimony: his own. But before he goes, the judge has to give him a pile of warnings and disclaimers.

There was something about waiving [giving up] his right not to be present at his own trial, to which Scott answered "under the circumstances I did agree to that, sir". I'm not sure; maybe they were talking about some pretrial hearing. Wilbert explained his right to not testify, since that would open him up to having to answer questions from the prosecutor. Scott waived that right, too. Scott was ready to testify.

**Jury In, 11:05 Thursday, January 28**

**Witness: Scott Roeder**

Public Defender Steve Osborn handled the "direct" (the first questioning of the witness). This was one of very few times when Osborn participated; most of the questioning was by Mark Rudy.

Scott grew up as a Christian. In his 20's, Scott fell away from church, but wanted to be more exposed to Christians material, including the 700 club. Scott always believed abortion was wrong. He was saved in 1992, and his conviction about abortion grew. He did sidewalk counseling in Kansas City. He learned of Killer. He learned what "late term abortion" means. He saw a video produced by Killer himself. He learned about the details of the law, and how Killer circumvented the law with mental health straw men.

He knew how quickly Killer recovered from being bombed in 1986. He knew that even after he was shot in both arms in 1993, he was back killing the next day!

He saw that the law wasn't going to help. He saw that lawmakers in general protected him.

Kline excited him. He was devastated when Kline's charges were blocked the very next day! He attended Tiller's trial when Disney later prosecuted him, with suspect determination, on scaled down charges.

Scott learned that Killer wore a bullet proof vest, and his office was a fortress. Even his car was bullet proof.

Scott concluded that tilling Killer at his church was the only alternative. Even there, he sought a way to

find Killer alone, to spare any risk to others. There simply was no other time or place.

Scott is 51. He was born February 25, 1958. He was born in Denver, and came to Topeka at age 2. He was there 20 years.

Scott doesn't dispute any of the evidence from the state.

Scott purchased a .22 Taurus. He went target practicing. He didn't tell his brother why. He checked into a motel.

Scott believes it is never right to take life, except in defense of yourself or others. He believes, therefore, that abortion is never right. The only moral exception is to save the life of the mother, "and even that, I struggle with". He does not believe mental health can be the basis for a valid exception [to a ban on killing people]. Killer listed such "mental health" problems justifying murdering babies as "anxiety", which is only a temporary depression.

Osborn asked "Were you aware that abortions were being done under this..."

Objection! Osborn needs to say "did you BELIEVE that...?"

Is rape a valid exception [to a ban on killing people], Osborn asked?

Scott's answer: "No. You're punishing the innocent for the sins of the father. Two wrongs don't make a right. Same with incest."

In answer to Osborn's question, Scott began listing the types of abortion.

Objection!

Osborn: "how many types are you familiar with?"

Objection! Ruling: You are not allowed to discuss specifics of procedures.

[Ed: What will not be clear from the transcript as it is in the video, is the hair-trigger tongues of the prosecutors! They *shouted* their objections! And they did it no later than 1.5 milliseconds after imagined grounds for them appeared! And when Wilbert ruled against Scott, he was angry with Scott, as if Scott was somehow supposed to anticipate what not to answer better than his attorney, who asked the questions which Scott answered! In fact, had Scott *not* answered the questions, he would have been angrily censured for *that*, too! The Youtube video of this exchange is posted at <http://www.youtube.com/watch?v=xB9s1jkYImU> ]

Osborn asked about late term abortions: how late does Scott believe "late term" indicates? Scott said after 22 weeks babies may be killed that way. Scott explained that babies of this age feel pain.

Objection! Speculation!

[Ed: Speculation? That a baby, minutes before birth, can feel pain, is speculation? And even if by some flood of ignorance it were, the persecutor has the effrontery to complain that Scott is speculating, after (1) the persecutor blocked Scott from bringing in expert witnesses about the nature of abortion, and (2) Wilbert's ground rules said that the ONLY evidence Scott could present was his speculation – his beliefs?

[Wilbert wants testimony limited to Scott's beliefs – yet *that* is objected to as "speculation", which of course everything is, without evidence allowed!

[Regina asked, will the jury feel gypped, ripped off, to not hear the nexus of the case? Will they feel irritated with the judge's and prosecutor's aggression compared with Scott's?]

I sidewalk-counseled at Tiller's clinic. We had a few successes (where customers of Tiller changed their minds and did not murder their babies), though some later changed their minds [and murdered their babies].

Killer is one of only three late term abortionists in America.

[My notes mention 1986 and 1993, but I don't remember what these dates mean. 1993 is when Shelley Shannon shot Killer in each arm. Maybe 1986 is when he was firebombed.]

Scott was interrupted from stating how many babies were killed by Tiller (in answer to an attorney's question) by a prosecutor's objection.

Attorney General Phill Kline's election excited Scott. It gave him hope. He had a prolife platform, and Scott was supportive. He knew that Kline had brought charges against Killer.

Break from 1:30pm to 1:43 pm

Deputy Attorney General Barry Disney was assistant AG after Kline. He brought 19 charges for an illegal late term abortion on the ground that Killer didn't get a valid second opinion. Scott went 2 or 3 times to the trial. That seemed, to Scott, the last step by Kansas to pursue Killer's violations of law.

Killer lived in a gated community (his house was well inside a neighborhood where the whole neighborhood was surrounded by a wall, and you had to drive through a guarded gate to get to it). Killer wore a bullet

proof vest, drove an armored car, and his clinic was a fortress. Nothing was being done. Babies were dying. I ruled out other ways to stop him because they might harm others or might be ineffective. I visited the church. It was the only window of opportunity I saw. I had the honest belief that he would continue. [Ed: this choice of words was because Scott's defense is Voluntary Manslaughter, which in Kansas reduces his sentence to 2-5 years if he "honestly believed" that his action was the only way to stop "unlawful violence".] A lot of children were in imminent danger if I didn't stop him. That was my honest belief. 22 hours later they would be dead.

I went to Killer's church for no other reason.

I did what I thought needed to be done for the innocent children. I shot him.

I had previously seen him at church, at his trial, and in prolife and his own literature.

I didn't disguise myself. I used my name at the hotel. I didn't alter my car license.

Maybe I should have laid my gun down and surrendered, but I didn't live in Wichita. I was going home.

I buried the gun in a dirt pile, knowing I would be apprehended and I didn't want anyone to think I was using it. I told you (speaking to his attorney) and you found the dirt pile had been moved.

I've been told Killer's clinic was shut down. My reaction: a sense of relief. I don't regret what I did. (He attempted to explain why, but was prevented by objections.)

Nola Foulston 2:10pm, Cross Examination: Yes, I changed my coffee-stained shirt. The deputy asked, where is your gun? (Mark Rudy objected, but so quietly that Scott probably couldn't hear, so he kept answering, for which the judge admonished him.)

I never told officers where the gun was. The gun wasn't where children would go. It was very remote.

In 1992 I was saved. I had a strong abortion interest. (Scott was asked about his association with the Freemen. There was an objection from the public defender, followed by a "sidebar". The objection was sustained; questions about the Freemen were not pursued.)

I was thinking about tilling Killer long before Kline came on the scene. [Ed: Foulston appeared to be pumping Scott for evidence of some conspiracy.]

The Freemen were not involved in force to stop abortion.

Well before 2008, way back in 2002, I was at Reformation Lutheran. I was hiding why I was there. I said I was moving to Wichita.

(Nola is spending several minutes establishing the obvious – that he lied about his intent, and planned to succeed. When she objected to questions on the ground of relevance, Judge Wilbert sustained her. But when Mark Rudy, the public defender, objected to her questions on the ground of relevance, he was overruled.)

Foulston spent a lot of time on an SKS Scott owned. Relevance? A sidebar stopped it.

I would have come back as long as necessary.

I didn't target practice immediately after buying the Taurus.

Foulston spent a lot of time re-asking the same questions Scott had already answered, but there was no "asked and answered" objection. At 3 pm it was still going.

The Friday before the shooting, Scott saw his son, and took him to a movie.

More redundancy.

I was not excited about having this weapon.

3:34 pm Foulston

Still going on, establishing the obvious, besides going over previously tediously established undisputed facts.

I felt some adrenalin during the act, and relief afterwards. I was hungry. I got a pizza. I was not fearful of Killer or of being stopped. I felt my arrest was imminent.

Killer stood, after he was shot, a couple of seconds before he fell.

The knife under the seat of my car, I kept for protection. The knife was NOT to cut off Killer's hands.

There was a trace of doubt in my mind whether I had gotten the right man.

Somebody had to do it if he was going to be stopped.

Is this the Re-Cross? Mark Rudy.

There was no window of opportunity. There was one and only and the last opportunity. Other places he wore body armor and had a bodyguard.

**Rudy: Foulston asked you, two hours ago, HOW you did it, but not one question about WHY you did it. Is that correct?**

Scott: Yes.

Defense rested. 4:05pm

4:42pm Jury Instructions debate.

#7 was about premeditation. #10 was about separating the crimes. #11 was an “Allen instruction”. #12 was about the necessity of the jury’s verdict being unanimous.

Mark Rudy withdrew his request for an instruction that the jury should have the option of a less serious alternative to the Aggravated Assault charge. Or, that the lesser charge should be a “lesser included” charge in the Aggravated Assault charge.

Cases were discussed which should define “imminence” Ordway. Rudy said Scott honestly believed he had to do what he did, when he did it. Mark added, [I’m going from memory now, not from my notes; maybe he said this at another time] Obviously his belief wasn’t reasonable; but it was honest. [Since Wilbert had ruled Defense of Others inapplicable, which requires reasonable belief, but had left the door open to Voluntary Manslaughter which requires only honest belief, Mark sounded like he was insulting Scott, which he was because Mark also personally believed Scott was unreasonable according to his statements to the press; but he was also simply stating a defense consistent with the Judge’s parameters.]

White, another Kansas case, says imminence is subjective. It’s what the defendant believes.

But Wilbert strictly disagreed.

As he disagreed, God orchestrated a “slip of the tongue” or a “coincidence”: at 4:55 pm, he called the deceased “George Killer”.

Ordway and White reaffirm imminence. A grandson was abused by a son in law of the defendant, who shot and killed the son in law. The Court said that was not imminence, since the next abuse was not in the next few minutes. But that was wrong, because imminence really meant lack of alternatives when the shooting stopped. (That last sentence is what my notes say but I can’t remember its meaning. I’ve lost track of who said it.)

5:05pm Wilbert admitted that in Hernandez the 2 hours was not imminent enough because there was time to call police or other alternatives. [Ed: this is a point worth emphasizing in an amicus, since it is out of Wilbert’s mouth that imminence is defined, not as minutes away, but as lack of alternatives. But at the time the defense did not pick up on this and underline it. And emphasize that imminence does NOT mean “minutes away”. Wilbert must have gotten this concept from my brief, because my brief suggested this logical solution to what would otherwise be an absurd Court precedent.

This interpretation is NOT explicit in the Hernandez decision.

5:06pm There is no objective evidence of unlawfulness, said (I think) Wilbert – though Wilbert had prohibited objective evidence of unlawfulness, saying it was unnecessary, because Voluntary Manslaughter called only for Scott’s SUBJECTIVE belief to be established.

Friday Morning, 9:10. Instructions delivered to the jury.

1. Your duty to follow instructions. Don’t concern yourself with the reasons for my rulings. Disregard testimony not supported by the evidence.

2. Don’t be prejudiced.

5 The burden is on the state to prove Scott’s guilt. You must believe he is guilty beyond a reasonable doubt.

6 To find Scott guilty, you must find that the killing was intentional, and he acted with premeditation.

7 list of the elements of the crime.

8 description of the assault charge

9 elements of assault.

10 consider the crimes separately.

11 description of a hung jury. Don’t surrender your convictions, but respectfully listen to each other

12 the verdict must be unanimous.

9:18 Prosecutor Ann Swagle, closing argument. An elementary definition of legal concepts. “I’ve never seen a case where there is no fact dispute! Where the facts so neatly dovetail.”

Her voice became quieter and slower as she listed the emotions felt by witnesses. She described the train of events, and how Scott proudly affirmed each detail. There was 10 years of premeditation. He considered cutting off Killer’s hands, and felt relief when he did. He attacked Killer at church because it was INCONVENIENT to attack him at home.

9:36 Mark Rudy, closing statement. I sympathize with the burden on the jury. There is no doubt about the facts. Scott’s intent was not to hurt anyone else. Killer was no ordinary church member. No one else at the church wore a bullet proof vest, drove an armored car, etc.

Scott told you WHY he did it. He had a conversion, as so many people do.

There have been many purges in history like abortion is today. There were the Stalinist purges, the Jews in Germany, prejudice here, Native American purges. What seemed legal at the time was not legal later, and it deserved to be opposed. They did not deserve to be supported because they were legal.

You don't have to check your conscience at the door.  
Wichita changed on May 31, 2009. The state indeed proved Scott killed Dr. Tiller [as if they should take credit for what Scott admitted before the trial began!] Only you can decide if he MURDERED Killer. We ask you to acquit Scott of 1st Degree murder.

9:50 am, Kim Parker, final closing argument.

While Deacon Ron Scott greeted Roeder with an open heart and mind at that door, but Roeder schemed.

While Keith Martin watched Roeder laugh during children's sermon, and felt guilty for judging Roeder too soon, Roeder was writing notes of judgment.

While Jeanne Killer sang in the choir, Roeder placed a gun against her husbands head. (There was a long list of "whiles".]

It sends chills down the back of conscientious people. He claims justification. A justified man has no need to (long list of things Scott did).

With each of these points, Kim looked at Scott in rage.

9:58 end of trial. Jury sent into deliberations.sss

# Kansas Supreme Court Sample Request Motion

## IN THE SUPREME COURT OF THE STATE OF KANSAS

Scott P. Roeder

Appellant,

vs.

State of Kansas,

Appellee.

Except that the bottom 4 lines should be double spaced,  
here is how your request for permission to submit your  
amicus should begin.

Docket #104520

### MOTION FOR PERMISSION TO FILE *AMICUS* BRIEF

COMES NOW (your name), pro se, and respectfully applies to the Court for an order allowing him to participate as *amicus curiae* in the above-captioned action. In support of his application, (your name) states as follows:

If you want to represent the voiceless Unborn before the Kansas Supreme Court, you have to submit a motion requesting permission to do so. The preceding shows the heading you should use. After the heading, here is the sample content given by the Court - except that the sample is double spaced:

COMES NOW the Kansas Bankers Association, by and through its counsel, and respectfully applies to the Court for an order allowing it to participate as *amicus curiae* in the above-captioned action. In support of its application, the Kansas Bankers Association states as follows:

1. The Kansas Bankers Association is a Kansas not-for-profit corporation, and the primary trade association for the Kansas Commercial Banking Industry. It has as members 60 of the 62 state and national

commercial banks in the State.

2. This appeal involves the interpretation and application of K.S.A. 16-205 concerning interest rates on promissory notes. It also presents the question of whether the parties to a commercial transaction may provide for an increased interest rate upon occurrence of a non-monetary event of default. Both of these matters are of interest to Kansas banks.

The decision in this appeal will affect not only the parties to this action, but the commercial loans of all Kansas banks.

□ The Kansas Bankers Association requests an order pursuant to Rule 6.06 of the Rules of the Supreme Court allowing it to file its brief as an *amicus curiae*.

## Here is the content of the motion I sent:

COMES NOW Dave Leach, pro se, and respectfully applies to the Court for an order allowing him to participate as *amicus curiae* in the above-captioned action. In support of his application, Dave Leach states as follows:

1. Dave Leach is a candidate for Iowa Senate, publisher of Prayer & Action News, webmaster of www.Saltshaker.US, and host of the Uncle Ed. Show, a cable access program in central Iowa. The show is widely watched, and Prayer & Action News is read by some of the proliferers in the nation most concerned with this trial.

2. This appeal involves the interpretation and application of K.S.A. 21-3211(a) and its relationship to what *City of Wichita v. Tilson*, 855 P.2d 911 (Kan.) called “the Necessity Defense”, which *Tilson* treats as an umbrella term covering all similar versions of the defense found in all states. I will argue that the Court should update its 17-year-old precedent to bring it into conformity with recent Kansas and Federal law. This case has received wide publicity, and since its holding may be cited by courts in other states, it is important that the law be thoroughly argued.

Perhaps more critically, this case creates uncertainty about K.S.A. 21-3403(b), voluntary manslaughter, invoked by an “honest belief that circumstances existed that justified deadly force under K.S.A. 21-3211....” Judge Wilbert's uncertainty over whether to allow the necessity defense in the context of an abortion case raises concerns that the wrong outcome of this

appeal could become a precedent encouraging more violence outside the womb, which could prompt the Iowa legislature to revisit Iowa 704.1 and 704.10. This concern was taken so seriously by the ACLU and the National Abortion Federation that they submitted an amicus brief to the trial court.

It is because of my perception of this case as vital to the future of America that I have spent many unpaid hours every week for a year researching this case, communicating with Scott Roeder, writing the brief which Scott submitted and was received into the record January 8, and taking exhaustive notes at his trial and sentencing. I am deeply committed to a bright, peaceful future for America.

I hope that in this case, which is under such high nationwide pressure that the ACLU and the National Abortion Federation successfully added their amicus to this court record months before court rules permitted them, that you will ease some of the pressure with a liberal policy towards amici who wait upon your permission.

Dave Leach requests an order pursuant to Rule 6.06 of the Rules of the Supreme Court allowing it to file its brief as an *amicus curiae*.

## The Close of your Motion

After you have had your say, you have to end your motion with a “proof of service”, it’s called: a statement that besides your 9 copies to the Kansas Supreme court, you have mailed a copy to the Appellate Defender and to the Attorney General. Actually it doesn’t prove you mailed them a thing; but at least it proves you know you were supposed to, and you know their address. Here is the content of the Proof of service - and this time you even get to single space!

(Your name), Pro Se

BY \_\_\_(your signature) \_\_\_\_\_

(Your address)

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Permission to File Amicus Brief was furnished, by United States Mail, postage prepaid, this X<sup>th</sup> day of July, 2010 AD, to:

Appellate Defender Office  
700 SW Jackson St, #900  
Topeka, KS 66603

Kansas Attorney General Steve Six  
Memorial Hall, 2nd Floor  
120 SW 10th St.  
Topeka, KS 66612

## How NOT to Persuade the Kansas Supreme Court to Permit you to Submit a Friend of Court Brief

This hilarious approach to buttering up the KS justices was sent to me by Eureka California of Hawaii, who wrote that my application was all wrong, so he rewrote it for me. He suggests I appeal to the good will of the Supremes by explaining that it is a free speech issue: I publish the P&A News, and instead of just sticking up for Justifiable Homicide “abstractly”, I would like the freedom to explain, concretely, how to go about killing abortionists justifiably! That is why I need to be able to persuade the court to produce a ruling that will enable me to do that!

COME NOW I, Dave Leach, on behalf of myself, in support of the defendant-appellant, Mr. Roeder, and respectfully apply to the Court for an order allowing me to participate as *amicus curiae* in the above-captioned action. In support of my application, I state as follows:

1. My interest is that of a newsletter publisher. My newsletter *Prayer & Action News* is a leading forum for abstract advocacy of justifiable homicide to protect children during gestation and birth.

2. This appeal involves an interpretation of the rights of children to be saved by a necessity defense during gestation and birth. A favorable ruling would give publishers like me the freedom to print matter that goes beyond mere abstract advocacy, so as to educate the public in more concrete and specific terms about the justifiable actions that are needed to defend children from the legal harm or evil of homicide.

3. The decision in this appeal will affect not only the parties to this action, but all advocates of justifiable homicide to protect children during gestation and birth. A ruling in favor of a necessity defense for protecting these children would increase the journalistic freedom of justifiable homicide advocates in Kansas and other states.

4. I request an order pursuant to Rule 6.06 of the Rules of the Supreme Court allowing me to file my brief as *amicus curiae*.

### “Reasons of Substance”

A “Practice Note” from the KS Supreme Court says what persuades the Court to give you permission to file your Friend of Court (*amicus curiae*) brief is a “reason of substance”, but I have not found a definition of that phrase. From context, I guess it means you have to explain how the outcome of this case will affect you, even though you are not a party to this case.

I would think that any serious opponent of infanticide need simply describe his commitment to saving pre-born lives - the cost you have paid for their sake. Perhaps you could talk about the investment you have in saving them by the least violent means possible, and therefore your investment in creating means of saving them that are less violent than the only means which the law leaves available, now.

The court rules are found at:

<http://www.kscourts.org/pdf/Chapter9.pdf>

Here is the rule governing these applications, with the “practice note” about “reasons of substance”:  
: “§ 9.6 Briefs of Amicus Curiae—Rule 6.06

Amicus briefs may be filed only after an order of the appellate court granting an application which has

been served on all counsel of record.

Amicus briefs must be filed not less than 30 days prior to oral argument. Any party to the appeal may respond to an amicus brief within 20 days after service of the amicus brief.

An amicus is not permitted to orally argue the case.

PRACTICE NOTE: Application to file an amicus brief should be made as early as possible and must state some reasons of substance. An application not stating those reasons of substance is likely to be denied. These applications are not granted automatically.

## More Kansas Court Rules For Amicus Curiae (Friend of Court) Briefs

The first step is to request permission to file an amicus. "There is no requirement that an amicus be an attorney. There is also no particular format for the motion. It should contain the case caption and number and then explain why an amicus brief would be helpful to the court." So explains Carol Green, Clerk of Court, Kansas Supreme Court.

The docketing statement was finally filed Thursday, June 24, 2010, 3 months minus 2 days past the official deadline given in the KS court rules. As of Thursday, therefore, the case had an appeal number, and motions requesting permission to submit a Friend of Court brief could finally be sent in.

Until now, the transcript of the trial hasn't even been ordered. Sheila, the court reporter in Judge Wilbert's office who transcribed the trial, told me she will need "several months" to finish the transcript, once she receives the order. Although I have not yet seen the docketing statement, I was told it would contain that order, so I assume reducing the record to a readable transcript has now begun.

The court takes 4-6 weeks to get back to you whether you may submit a Friend of Court brief. Although you can submit your brief as soon as you get permission, the usual advice is to at least wait until Scott's attorney files his brief, so you can see what's in it; you might want to respond to it, or leave out stuff it already says so you have room for what it doesn't say. (You only get 15 pages.)

That means if you wait till then, you will have a month or two, from the time permission is granted, until Scott's brief is submitted, to write your rough draft.

The only fixed deadline is that you have to submit your brief at least 30 days before oral arguments are scheduled. I don't know how soon that date will be known. Theoretically, it could occur as soon as 4 months from the submission of Scott's brief.

By the way, court rules also permit Scott to submit a "supplemental brief", pro se, in addition to the brief submitted by his attorney!

Clerk of Court Green explains further, "It is a good idea to file the motion early in the appeal process although you might want to see the appellant's brief first. [We already have the ACLU/NAF brief!] There is no set length of time for the Court's consideration, but they usually rule on these motions within three to four weeks. Acceptance is not routine."

"File stamped copies will be returned to you if additional copies and a self-addressed, stamped envelope are included with your filing."

### Format of your Friend of Court Brief:

FORMAT: use a conventional typeface no smaller than 12 point, with no more than 12 characters per inch. Left margin, 1.5 inches, other margins 1 inch (excluding page numbers). Avoid footnotes. Double space; indented quotes may be single spaced.

COVER PAGE: Green paper. Top: "No. (docket number, which won't be known till the case is docketed)".

Next line (put space between lines): "IN THE SUPREME COURT OF THE STATE OF KANSAS."

Next: “State of Kansas v. Scott Roeder.”

Next: “Brief of Amicus Curiae”      Next:  
“Appeal from the District Court of Sedgwick County,  
Honorable Warren Wilbert, Judge, District Court Case  
No. 09CR1462-FE”

Finally: “(yourname), Amicus Curiae.”

PROOF OF SERVICE: State on the last page  
that you have mailed 16 copies to the Clerk of Court,  
one copy to the Attorney General, and one copy to  
Roeder’s attorney for the appeal. Include the addresses  
where you mailed them.

PAGE LIMIT: 15 pages. You can staple each set  
in the usual manner, in the upper left hand corner.

CD’S: It is optional but recommended, to add to  
your paper copies a CD with an electronic copy of your  
brief. You will need to look up the rules to make sure  
you submit the correct file type.

Rulse 6.08 says you can refer to Scott as defen-  
dant, or you can use his name. But be consistent.

These rules are summarized from rules 6.01-6.09  
on the Kansas Supreme Court website.

## § 9.11 Some Tips for Effective Brief Writing

From <http://www.kscourts.org/pdf/Chapter9.pdf>

This advice from the Kansas Supreme Court begs  
readers to stop writing like lawyers, and treat justices like  
ordinary readers! This is from a chapter on Brief Writing  
posted by the Kansas Supreme Court:

Writing briefs is a peculiarly individual institution.  
No two people write exactly alike, nor should they attempt  
to. Try to find a style with which you are comfortable, and  
stick with it.

The following general comments are based mostly  
on common sense. Use them to the extent they may prove  
helpful to your individual purposes.

Chief Judge Alex Sanders of the South Carolina  
Court of Appeals observed there is no Nobel prize for  
law, because law is the only human endeavor that does not  
reward original thought. Perhaps that’s why Professor  
Rodell of Yale remarked that there are only two things  
wrong with legal writing: style and content.

Remember the purpose of the brief: bluntly put,  
the purpose of the brief is to convince the court your posi-  
tion is correct. Period. The brief is your first contact with  
the appellate court. In order to convince the court of the  
correctness of your position, you must first obtain and  
hold the court’s attention.

To the end of convincing the court of the correct-  
ness of your position, give the court all the help you can.  
The brief should contain all the court needs to know in  
order to decide the case (hopefully, in your favor) and  
should be capable of serving as the basis for the opinion.

The ultimate purpose of the brief is to make it easy  
for the court to want to decide the case in your favor. Ac-  
cordingly, no independent research should be necessary by  
the court or its staff if you file an adequate brief.

Please remember, briefs have replaced old style,  
leisurely oral arguments as the primary means of commu-  
nicating with the appellate court. Briefs have become the  
roadmap.

So focus on: *what* you want the court to do; *why* it  
should do it; and *how* it can do it within the limits of the  
language of the law, precedent, and policy.

If a politician’s first obligation is to get elected,  
then the first obligation of an appellate brief writer is to  
get read. And in this regard, a good brief is short. Why?  
Because the easier it is to read, the better the chances are  
of grabbing and holding the court’s attention. The longer  
the brief, the greater the risk that the reader will lose inter-  
est. Consider, for example, the reaction of a judge who has  
been reading for several hours preparing for a docket  
when that judge comes to your brief which takes fifty pag-  
es to say what could be better said in twenty pages. That  
judge will be less than impressed.

A basic rule: to be persuasive, your writing must be  
understandable. The difficulty is not just words. Before  
you can explain a point to someone, you must understand  
the point yourself.

Therefore, a good argument is little more than a  
good explanation. Lawyers and judges seem incapable or  
unwilling to write plain, simple English. We tend to use  
fourteen words to say what should be done in two. In our  
attempt to be cautious, we simply become verbose.

Unlike the novelist searching for an unknown au-  
dience, you have the luxury of usually knowing your audi-  
ence: the appellate judges who are professional buyers of  
ideas. So use that knowledge.

Use space intelligently: Wide margins, short sen-  
tences, short paragraphs, subheadings to break up the sto-  
ry line. Nothing is more discouraging to the judicial eye  
than a great expanse of black print with no guideposts and  
little paragraphing.

First impressions are important. So don’t forget  
the simple things likespelling and grammar. The judge  
whose attention you are trying to grab won’t pay much  
attention to your brilliant argument if every other word is  
misspelled and every other sentence is not one. Simply do  
everything you can to make the judges *want* to read your  
brief. Remember, to convince the court, you must *help* the  
court—educate the court on what it may not  
know.

The front end of the brief—nature of the case,  
issues, facts—is of vital importance. To the extent that  
appellate judges tend to be result oriented, they want to do  
justice. And that is hard to do without knowing what the

case is about. Marshal your best facts in a story line that becomes both compelling and interesting. If the court can be persuaded to take your particular view of the facts, the legal conclusions follow almost automatically.

Do not shortchange the facts. Huge bodies of favorable law are of little help unless the court is convinced the fact pattern of *this* case demands the application of those legal principles. But do not editorialize. Candor and accuracy are uncompromising absolutes.

The statement of facts is important because you get to work on the reader's mind a bit. If you write only of rules and never of facts and never of people, your brief will not be very convincing.

So try to arrange an interesting story line. Put the facts together so they make sense. There is no single correct way to tell a story. You can start where you want and end where you want. You can be short and quick or slow and long. But if you are confusing, your case is in trouble. Part of the problem is language and part of the problem is organization. Tell your story so the reader will instinctively feel your client is right, *assuming there were no law at all*.

When the court finishes reading your statement of facts, you want the court to think, "Wow, if there is *any* justice in the world, this party should win. Let's see if we can scare up some law permitting us to rule that way."

Do not be afraid to present material in bite-sized chunks—you really are trying to spoon feed the judges.

The questions presented section of the brief is largely overlooked, although it is of vital importance. Why? Because it sets the agenda for the reader and also forces you to frame/clarify the real questions you want the court to decide.

Phrase the issues strongly but objectively—perhaps in question form that can only be reasonably answered one way: yours. A good example of this can be found in *Jones v. Thigpen*, 741 F.2d 805, 811 (5th Cir. 1984), *cert. denied*, 479 U.S. 1087 (1987). The prisoner's attorney stated the issue thus: "Should *Edmund* be applied retroactively, or should the State be permitted one last cruel and unusual punishment before *Edmund* takes effect?"

Appellants should not simply reargue what lost the case in the trial court. Try for a fresh approach, a fresh emphasis. Appellees should not be content to simply refute appellant's arguments; appellees must affirmatively establish the value of their position.

Avoid long string cites and long quotations. If the quote is that great, you may assume the court may want to read the entire case. The point is: merely citing

and quoting cases without giving logical reasons why they apply to your case will not convince anyone. Long string cites and long quotes make it easier for the reader's concentration to wane, if not disappear altogether.

Likewise, it is not necessary to go into minute detail of the facts of cases cited. Discuss only enough of the facts to demonstrate the relevance of the cases cited.

Convenience of your reader should be your guiding principle. Try to minimize legalese—it does little more than hide the weakness of your position behind cosmetics. Remember, the simpler the language, the easier it is to get and hold the court's attention; therefore, the easier it is to explain; and therefore, the easier it is to convince your known audiences.

It is a waste of time, for example, to say a car is green in color—that merely distinguishes it from a car green in size.

Repetition is not the best way to convince. Most appellate judges will catch on the first time. So repeating the same argument a second or third time is unnecessary. Make it easy for the court to *want* to read your brief.

If you want the court to reject an existing rule, make sure you understand and convey to the court the *reasons* for the existing rule. Only then can you explain why the rule needs changing. Then show the court in some detail the direction you want it to take and why the court should follow your roadmap.

Always remember what standard of review applies to a given issue (See Chapter 8, *supra*). The problem to avoid: You might find yourself trying to play one game when the rules for an entirely different game are in force. And the rules require the citation to the appropriate standard of review.

Finally, make time to read and edit your brief. The attention of your known audience is precious; don't waste it by creating distractions that can only be detrimental to your task. Look for redundancies, consistent style and above all, look for simplicity and readability. Ask someone else to read and comment on your brief. If they can't figure out which side of the case you are on after reading your brief, neither will the court. And that spells trouble.

The court must *understand and remember* your position before it can agree with it. And a stylish, easy-to-read brief is usually more *understandable* and, therefore, much more *memorable*.

Please remember the bottom line: your job is to make the decision makers happy. How do you do that? Well, mostly the decision makers are happy when your brief:

- Complies with the rules;
- Actually explains issues;
- Refrains from personal attacks on opposing counsel; and
- Contains arguments that are cogent, clear and understandable.

Candor and credibility are your only assets as an appellate advocate. So please try not to unduly bankrupt yourself.

Never allow the appellate court to say to you what Justice Fontron said in a criminal case: “[W]e are constrained to comment briefly on the state’s scant brief. Its two and one-half pages are without a single citation of authority. We suggest that the brief would have been of greater assistance to the court had the author, in preparing it, touched on the law.” *State v. Law*, 203 Kan. 89, 92-93, 452 P.2d 862 (1969).

## Resources we will make available to you, should you decide to be a voice for the unborn in this forum.

Several supporters of Scott’s trial have formed a Just Appeal Team, both to help Scott prepare a pro se supplemental brief, and to help any Amici (folks willing to file Friend of Court briefs) who will accept our help.

I wish I could tell you their identities, but all of them but me, for a variety of reasons, cannot have their names publicly associated with this project. But for those of you who know I am the farthest thing from a liar, I assure you our team has a wide variety of legal training, like any law office, and rather a good law office.

This team stands ready to help you polish your Amicus Curiae brief.

We can help by

- \* Editing your rough draft, including suggesting case citations that support the points you want to make.

- \* Suggesting to you issues to raise, if you need ideas.

- \* Providing copies of the court record, including, when it is finished, a copy of the transcript (a several hundred dollar value).

- \* Before the transcript is ready, we can send you a DVD of over half the trial. You can compare that with the trial notes that open this issue.

- \* Talking with you by phone, email, or mail, to answer your questions and respond to your suggestions.

- \* We are also interested in suggestions you may have for Scott’s brief.

- \* If you are a prisoner without a typewriter, we can type up your handwritten notes and send you the 16 copies you need to submit.

- \* Keep you updated on breaking relevant news, such as when various briefs are filed, which will affect your deadline.

- \* Give you suggestions how to do your own research.

The mailed version of this June 2010 issue contained, at this point, the prison diary of Rachelle Shannon. But Shelley does not want her diary available on the web.

## FBI INTERVIEW

I meant to write down notes when it happened, and let people know. But I got so busy with other things.

You see, I had an interview with an FBI agent. I just now remembered, after reading Shelley’s notes about Amanda Robb’s conspiracy fantasies.

Yeah, I know. You’re not supposed to let them talk to you. You’re supposed to slam the door in their face while you call your lawyer, as soon as you see them coming your way.

But this agent didn't come my way. I went to him. Does that count?

It was June 7, 2010 AD. FBI Special Agent David Larson, of the FBI Terrorist Task Force based in Des Moines, spoke at the 96th Annual Meeting of the Jewish Federation of Greater Des Moines at Caspe Terrace. Members of ACT, an anti-IslamoFascist organization founded by Bridgette Gabriel, were invited. Which is how I came to be there.

The speech was generally boring - the technical aspects of investigating the scene of a car bombing, for example. Bloody boring.

Somehow the subject came up of listing terrorist organizations. I think he listed ELF, a liberal violent animal loving organization; and then the Army of God. At this I think his eyes got as big as flying saucers as he said there are members of the Army of God right here in Des Moines! However, he brought it up to say the AOG is not listed by the FBI as a terrorist organization.

Dorothy and I were in the second row.

Well, during thye Q & A afterwards, the ACLU lawyer in the third row, and as usual, on my left, asked why the AOG wasn't listed as a terrorist organization?

He said he didn't know.

I'm thinking to myself, this guy has to know who I am, if he thinks there are members of the AOG here in Des Moines, and so far as I know I'm the only one who so self identifies myself. The lawyer has got to know too.

So, I felt "called out". Like a Christian in a Moslem country, challenged to admit he is a Christian. Or something like that. Anyway, I walked up to him afterwards, as most of the crowd scattered for cookies, and got in line to talk to him.

I said to him, "I would like to suggest a reason the FBI doesn't classify the AOG as a terrorist organization."

"Oh? What's that?"

"It's not an organization. It's not an entity. It's a Biblical concept. It's the vision painted by dozens of hymns like 'Onward Christian Soldiers'. There aren't two or more people conspiring to commit illegal acts, like the ELF. When its people getting together at all, it's to study, and then to proclaim, what the Bible says."

He reacted as if these were not just new information, but new concepts.

He said something about people who (Continued in Overflow Section, OF 1) (Continued from Page 35) have self identified themselves as members of the Army of God. I said the meaning is sometimes like, "Look, Christians, I'm in God's Army as much as you." Other times the meaning is like "I foresee, by Faith, that God will send other laborers into this harvest", not, "and

I know them by name!"

I explained that I am involved in Scott Roeder's legal defense, and I know that right after his arrest he foretold of further actions by the Army of God, but that I know he doesn't know of anyone ready or willing to carry out further violent action. A couple of others have made statements like that too, years ago, and perhaps their motive was to intimidate, or to scare abortionists into quitting. But there is not human organization. There is no legal entity.

The Members of the Army of God, also called the Church Triumphant, have always been understood through the ages by Christians to refer to an "army" whose members are fully known only to their Commander, God.

I told how the current issue of Ms. Magazine has a cover story alleging I am the Secretary General of the Army of God. I explained how that was based on a 10 year old joke. Don Spitz had been called its General by various reporters, so when Don got tired of responding to hostile emails, I volunteered to respond to them. So, I thought, if I am acting as a secretary to a general, does that make me a secretary general? So that joke is on my website, and Amanda finds it and reports it as an official title!

## Anatomy of an Infanticidist

"Critical Comment" Review of "Not a Lone Wolf", by Amanda Robb, Ms. Magazine, Summer 2010

By Dave Leach

Amanda Robb is the sweetest enemy I ever met. She's a good writer, writing for Oprah, Ms., Newsweek, and others.

Her latest article about me and my friends complains that Obama's Justice Department lacks her vision for rounding us up and throwing us in jail for conspiring to support "illegal activities".

But her smile is like sunshine on butterflies.

On May 31, 2009, Scott Roeder tilled George Killer, the infamous late-term abortionist. His trial began on January 23, the 37th anniversary of Roe v. Wade. During that trial, which concluded with a guilty verdict from a jury that deliberated 37 minutes, Amanda Robb hung around me and my friends instead of the National Abortion Federation crowd, as friendly as fresh daisies.

Two other reporters warned me that Amanda had been denied access to the reporter's pool for misrepresenting herself to the pool coordinator. She said

she wrote for Oprah, which was true, but she was in fact on assignment by Ms. to do an article about our “conspiracy”, and was not there to cover the trial at all.

Before I knew that, Amanda had asked me if Scott had any help pulling off his killing. I told her what I honestly believe, that so far as I can determine there never has been any such help, for that or any prior abortion-preventing action, except of course after the fact such as when the Malvasi’s helped James Kopp flee.

So it was with special interest that I went to the library to see what Amanda had written about me.

### **How I Learned About Amanda’s Article**

Don Spitz, webmaster of [www.ArmyOfGod.com](http://www.ArmyOfGod.com) and generous \$10 donor to my campaign for state senate in Iowa, had emailed me about it. All he said was that he was glad he had not let Amanda interview him. He said nothing else about the article. I asked him, “Are you going to make us all go buy Ms. Magazine just to see what it says? Aren’t you going to give us a clue whether it is worth it?”

He wrote back that he had just skimmed it, but that it does not have a picture of me.

So of course I wrote back, “Well, if it has no picture of me, then forget it!”

But with tender eloquence he mollified me with “Amanda Robb probably was concerned if the feminazis saw a picture of you they would flip to the other side and become pro-life.”

Understanding, finally, I dutifully fetched the article with my trusty digital camera, and was suddenly grateful that libraries buy mostly liberal resources. That saves conservatives having to support them, while in order to acquire conservative wisdom, conservatives must be paid.

### **The Content of Amanda’s Article**

Now, patient reader, you may be wondering how long you must wait to learn something of Amanda’s message. But I am giving you an idea of how long you must sit through her article to learn the same thing. After promising fresh insights from her many conversations with us, her first half of her 6 pages were simply rehashed facts of our history which have been covered in numerous prior articles over the years.

But I will not require you to suffer as long as she does. She begins, “Lone abortion terrorist? ...for loners, these guys have a lot of friends. A lot of the same ones, in fact.”

See, she is building towards accusing us all of being accessories to crime, or co-conspirators. If she can’t make that charge stick, maybe she can get us prosecuted for being friends.

Amanda says Roeder was caught thrice by Tiller’s security cameras super gluing locks. Maybe I remember hearing that alleged at trial. He was never charged for it.

Amanda has a nice quote of Scott quoting Troy Newman as not bothered at the thought of killing Tiller. She also reports Troy’s denial of ever meeting Scott. Scott told me about this, wondering why Troy lied? He wondered if it was linked to donations. I can’t remember the exact figure he said Troy receives, but it’s over half a million a year in donations. He claims to take “only” \$60,000 of that for himself.

### **Factual Errors**

Amanda says of me “he calls himself the secretary general of the army of god”. Amazing! I said that in one article many years ago, as a joke, since Don Spitz was being called by reporters “general” of the AOG, and since I was, for about a month, volunteering to respond to his hate mail, I was acting as “secretary”, so maybe that makes me “secretary general of the army of God”! So Amanda turns this joke into a lifelong commission! Oh well.

Amidst her history, she ground out the standard line that Shelley “tried to murder Dr. George Tiller, succeeding only in...wounding...” I marvel at the determination of liberals to believe a small caliber weapon, which is not the weapon of choice for killing someone, fired at point blank range at each arm, obviously was aimed for the heart but just missed both times. I would have thought her time with us would clarify the obvious for her, but oh well.

Amanda says the AOG manual tells how to remove the hands of abortionists! I would have thought I would remember that! Is that really in there? She quotes “disarming the persons perpetrating the [abortions] by removing their hands.” I wonder where it says that? I suppose I’ll have to read the whole thing again to see if I can find it.

Amanda says “Eugene Frye...had been arrested in 1990 for attempting to reinsert the feeding tube of a Missouri woman in a persistent vegetative state. Frye had also been arrested for blockading abortion clinics during the 1991 Summer of Mercy in Wichita...” Gene tells me the “woman in a persistent vegetative state” actually had a name: Nancy Cruzan, and the ability to participate intelligently in conversations through nodding and turning her head and moving her eyes! And that it was not in 1990 but 1992. And that Gene was not arrested, although those with him were. As for the Summer of Mercy arrests, yes, he was arrested twice, but never taken to jail or to a court hearing. He and others were just taken to a school and released. “It was almost a fun time.”

## Amanda's Stillborn Curiosity

Now for the interesting part. Amanda says "I really need to understand how someone could be moved to murder to stop abortion. I feel that I now understand. Circles that overlap."

Huh?! That's "understanding"?

She defines a terrorist "cell" as where "two or more are joined in common unlawful purpose", which is vague enough to possibly mean "joined in their theology that there is Biblical support for what some prosecutors call an unlawful purpose", (not her words, but her implied application), and struggles to equate that with the more specific "when two or more people enter into an agreement to commit an unlawful act" which is grounds for a "conspiracy" charge. This has never happened among those I know, to my knowledge.

She writes "The government only has to prove beyond a reasonable doubt that the members of a conspiracy, in some implied way, came to mutually understand they would attempt to accomplish a common and unlawful plan."

Huh?! What does THAT mean? When you parse it, it sounds like the same criteria as above. But by repeating the criteria with different, more ambiguous verbiage, Amanda seems to wish the criteria has more wiggle room, so that mere moral support might satisfy the law's interest in material support. So that God Himself, Who wrote the especially terroristic Genesis 9:6, might be brought before Judge Wilbert on conspiracy charges.

So after moaning a few paragraphs that Obama's justice department doesn't love abortion like she does or it would prosecute us all, she sort of returns to the promise she left hanging a couple of pages before, to tell us what she now understands about why we stand behind stopping infanticide.

"Circles that overlap. In other words, wolves run in packs."

That is the triumphant exclamation point that concludes her article!

That's it? She finally "understands" that we are not Bible-believing, life-reverencing human beings after all, but animals, (or at least our motivation is no more complicated or reasoned than animal instincts), and THAT finally satisfies her curiosity about what motivates us?!

## My Own Curiosity about Amanda

I have a very deep curiosity about what motivates people like Amanda, to dehumanize babies to the point of condemning their saviors, which will not be satisfied by dehumanizing her.

Of course, it's not just about Amanda. I would like to understand the majority of Americans, who seem to think like Amanda. Along with a sizable population of my own family!

So if any of my criticism strikes you as harsher than friendly teasing, I assure you, that is not the spirit in which I offer it.

I like Amanda. She is no animal. There must be some flaw in either her reasoning or her conscience, but hey, some of that goes with being human.

She seemed to so thoroughly enjoy our company, that I cannot believe it was all a pretense, even if some of it was. She did not interact with us as if we were animals, or driven by animal instincts undisciplined by human religious principles.

I theorize, rather, that her curiosity was never satisfied by what she passed off as her conclusion - it couldn't have been - but she had to close her article with SOMETHING, and preferably a strong, memorable statement, and she knew a little dehumanization goes a long way in Ms. Magazine.

Gene Frye agrees with me, that at least most of Amanda's friendliness was real. He was never ignorant of Amanda's writing goals, and normally wants nothing to do with reporters even when he *doesn't* know for sure they are out to trash him and the unborn, but he willingly spent several hours with her because he sensed she was torn between two worlds. The world dedicated to death, and the worldview dedicated to life.

She once asked Gene, "How come you guys have such composure, and are so confident in your positions?" Gene answered, because they are based on Biblical principles, and we have confidence in God.

"There is a battle going on within her. She is really seeking peace and happiness." Gene said.

But what if Amanda's question was sarcastic? That is, "How come you guys with such outrageous, weird, dangerous beliefs can have such composure and confidence in your irrational, cultish, animalistic positions?"

Or even, "How can you, who are obviously wrong, maintain the same composure as we, who are of course right?"

If that was how she felt, her deception was so brilliant that I am willing to have been deceived as the cost of basking in such brilliance. And if her intent were to deceive, sarcasm that deep with the hope it would not be detected would seem an unnecessary risk. Another risk that seems an unlikely choice of a deceiver is that we might tell the world what she said, and her liberal infanticidist friends might interpret her words the way we do, and shun her. For these reasons, I agree with Gene. I think Amanda's friendship was genuine.

One thing Amanda said is so encouraging, yet possibly embarrassing for her among her liberal friends, that I am torn whether to report it. I don't want to hurt Amanda. I will be thrilled to have her join our side, but if bridges are to be burned I want her to light the match, not me. But I think I will tell it for these reasons:

1. It is true.
2. This information will probably be published only in Covenant News, besides my own website, so her liberal friends may not find it anyway. At least we can hope.
3. It will encourage Christians to pray for her.
4. It may give her more access to prolife Christians, which she can tell her liberal friends better enables her to "get the story" on us.
5. It is always a good spiritual education, to have done to you what you routinely do to others. Amanda's job is to report publicly what people say, often in unguarded moments.
6. The very thought of it opens my heart with love for her.
7. I am terrible with secrets anyway. I would never be able to sustain it, so I might as well just give in to it.

So here's what Amanda told Gene, not just once but twice that he remembers: "I've been abandoned a few times in my life. Don't abandon me now!"

Even though she has abandoned God, telling me she doesn't believe unborn babies are quite human or that the Scriptures that say they are were authored by God, God has never abandoned her, and her "prayer" impels me to "agree in prayer" that she will never be abandoned by God's people.

I confessed to her that without belief in Scripture, there is indeed no reason I know of to assume a human soul is joined to the body from the time of conception.

Especially when the B'hagavad Gita, the New Testament of Hinduism, makes birth not a blessing but an "evil" to be eventually escaped, anyway, and "nonattachment to children" is a virtue! (13:8-12)

And when the Talmud, the Jews' official Bible Commentary on the First Testament of the Bible, interprets Exodus 21:22 the way Roe v. Wade did, as treating the killing of an unborn baby less seriously than killing a born human. (A short Bible study about that concludes this article.)

In fact, did you know the Talmud says children who die before a certain age have no afterlife? That's right: even though the Talmud alleges there are 12 heavens, (the Bible mentions only three), children below a certain age cannot enter a single one of them! The Talmud is uncertain only what that age is: somewhere be-

tween birth, and when a child can speak! I'm not making this up:

It was taught: From what age has a minor a share in the world to come? R. Hyya and R. Simeon b. Rabbi differ. According to one, immediately after birth, and according to the other, from the time he commences to speak. The former infers it from [Ps. xxii. 32]: "Will tell his righteousness to a people just born," and the latter infers it from the previous, "Sera (children) shall serve him; there shall be related of the Lord unto future generations." Chapter 11, p. 364, Tract sanhedrin

So I confessed to Amanda that if she believes this Jewish tradition and not the Bible, then approval of abortion logically follows. God is watching to see if she cares enough about the truth about Him to investigate the evidence for the Bible, but until she does, abortion is logically consistent with rejection of the bible.

Actually I was wrong. I have rethought that. There is nothing logical about abortion. Abortion is so demonstrably illogical, that logic about it becomes one more proof of the accuracy of the Bible. But more about that later.

Indeed, she told both me and Gene that Jewish Scripture treats a child not yet born with less protection than an adult born.

When she told that to Gene, it was her response to his question how she justified the abortions done by her uncle, Bart Slepian, during the considerable time they were together, before James Kopp shot and killed him. Yes, he explained what he did. She knew. But Jewish theology approved.

Of course, that was the only thing she agrees with about Jewish theology. Other than that, she said "I don't adhere to my forefather's Jewish traditions at all." Meaning, not even the Jewish feasts.

But, you have been patiently waiting to ask, what about her attempt to get us all thrown in jail for supporting each other in "illegal activities"? Doesn't that at least dampen my affection for her a little bit?

Nah. As a legal strategy, I feel as threatened as by a gnat circumnavigating my ear. When the day comes that it is a crime to declare what God wrote about sin, in America, then that is the ideal "crime" to have to defend myself against in court, and then if so be it, to go to jail for, or lose my head over, if it is that prophecy's time.

But Amanda did not even make her proposal seriously. Had she been serious, she would have quoted law professors in support of her theories. As a mainstream, big name reporter, she has her pick of law professors who will talk to her. Or at least ACLU lawyers. But she quoted no authority whatsoever, except for a definition or two that she loosely characterized. Just enough to make Ms. readers slobber down their chin fuzz. Not enough to stir a snoring prosecutor.

I suspect Amanda knows that.

Matthew 5:43-48 appeals to us to love our enemies. Amanda's friendliness, which I hope will continue, makes the passage easy to obey. But even if it did not, it is the example of Jesus Himself and of myriads who took up their cross after Him, to offer friendship even to those from whom hiding or running would be safer.

I hope she will take my criticisms not as a withering blast, but as affectionate teasing, which is the spirit in which I offer it. But even if she does not, I have appreciated meeting her, and I do not want to abandon her. Although I realize that after she reads this, if I catch her in a bad mood, she may insist.

She didn't answer my last email. I hope it wasn't because she doesn't want to face us after we find out what she wrote about us. If so, then praise God, what I write here will even things up enough that her guilt will no longer divide us!

## What Makes Amanda Apathetic?

I am curious about what makes Amanda care so little about babies that our express longing to save them does not even occur to her as worth mentioning during her inquiry into what motivates us to justify killing their murderers.

It would have the appearance of logic if she were a believing Jew. But she rejects any spiritual authority for the Talmud which salves Jewish consciences.

Amanda's curiosity supposedly ended with a specious dehumanization which, in ordinary human relationships, would spell the end of mutual communication. My curiosity is deeper, driving me to beg her for clarification.

I told Scott Roeder a little about the article. He responded with a few questions he and I both would love to hear Amanda answer. And as I said before, it's not just Amanda: I would love to hear any one of the majority of Americans who think like her answer these questions.

Amanda, do you think it would be right to place an 8-year-old child on a table before us, and proceed to cut off his arms and legs? That is, provided the mother would prefer doing that, than allowing the child to leave the room in safety?

How about if the government licenses murderers to do that? Would that make it acceptable to you, so that your condemnation would rest upon any Christian who dares stop such legalized madness?

Hoping your answer is "no", then how about a 7-year-old? How about 5? 3? At what age DO you think it would be right, and that stopping it would be "terrorism" because "we are a nation of laws", under a "rule of law", and murder is the law?

You tell the world you think it is right, right up until birth, which is where the law draws the line. But "we the people" ultimately decide our own laws, and several voices are already seriously arguing for the right to slay babies well after they are born. If you could set the law where you wished, where would your line be? Why?

Perhaps you think seeing no harm in infanticide is reasonable. Rational. Intelligent.

## Exodus 21:22-23: Roe v. Wade said it dehumanizes the unborn No! Says letter to Editor of Jewish Magazine *Chronicle*

A Messianic Jewish friend sent me this short Bible study. Turns out the author was known to Scott Roeder, in Kansas! I think Scott said the author is a Rabbi.

### April 2010 **Torah and abortion**

I appreciate the compassionate spirit in Rabbi Arthur Nemitoff's Torah drash in last week's *Chronicle*, but I must disagree. He concludes that the Torah permits abortion. The clear sense of the Hebrew text says emphatically that it does not.

Rabbi Nemitoff quotes Ex. 21.22-23, and adds an explanatory comment — "When men fight and one of them pushes a pregnant woman and a miscarriage results, but no other misfortune follows, the one responsible shall be fined ... the payment to be based on the judge's reckoning. But if other misfortune follows (such as the death of the woman), the penalty shall be life for life ..."

The issue I take is that the Hebrew does not say "miscarriage" but rather "her son depart." That is, the clear sense of the passage is that if her son or daughter is prematurely born, but no further injury takes place to the child or

the mother, then the one responsible shall be fined. But if the mother or child dies, there is the penalty of life for life...”

The Hebrew there is v'yats-oo y'la-de-ha, literally, “her son exit.” Yeled always means son, child. If the Torah meant to say that there was just an accident without a child, a real human child, involved, this word would not have been used.

I substantiate this from the following.

- Keil and Delitzsch commentary: Yeled only denotes a child, as a fully developed human being, and not the fruit of the womb before it has assumed a human form. [written in 1866]

- <http://morfix.mako.co.il>: Yeled son, boy ; child ; (slang) child, kid

- BDB lexicon: Yeled child, son, boy, youth

The omission of lah, to her, as in a-son lah, “injury to her,” renders it impracticable to refer the words to injury done to the woman only.

Please note that I am not contending for vigilante responses to those who cause sons in the womb to “exit” and suffer misfortune, fatal injury, a-son. I am pleading that we view the life of the unborn as legally and Toraically subject to judicial and legal protection, and that the laws be construed so that such offenders suffer consequences. In this pasuk of Torah, punishments were described with about the same force that the images of aborted babies seem to evoke, “life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound and bruise for bruise.” Ex 21.24-25.

I would be very content with a simple rendering, that the fatal injury, a-son, to a yeled son, boy; child; kid, be viewed as a criminal offense.

*Shmuel Wolkenfeld, Overland Park, Kan.*

# Just In

Clayton Waagner sent this in just as printing was already begun:

Monday - June 28, 2010

Saturday night I called my wife's cell phone and caught her at the Akron Children's Hospital just before they took Clay into the Intensive Care Unit. Unknowing to me, Mary had taken Clay to the local Western Pennsylvania hospital Thursday night. Clay had gained considerable water weight and his heart was beating irregularly (meaning not normal for him, and there is nothing normal about his heart). From there the "life-flighted" Clay to Akron Children's Hospital, who has a cardiologist on staff who has worked with the Mayo Clinic and knows Clay's condition. They treated Clay as best they could, then on Saturday, just as I called, they moved him to ICU. Mary was worried, which is never a good sign. I also talked to Clay, who seemed strained but unconcerned.

OF Front

I then called Drew Heiss and asked him to email everyone with an urgent request for prayer. Drew prayed with me for my son on the spot, then sent the prayer request. The next news I received was Sunday evening when I learned from a daughter that Clay had been released from the hospital and he and Mary were on their way home. She had just received a text message to this affect, and had no further news. As if this writing, Monday morning, that is all I know as I've been unable to reach anyone since. This lack of information is frustrating, but not uncommon given my circumstances.

Regardless of today's circumstances, Clay is in need of your prayer support. Clay was born with half of a normal heart. He has two chambers in his heart, not the normal four chambers. It is a "birth defect", and as birth defects go, Clay's is listed as the rarest of all birth defects. I don't know the numbers, but this is a very rare condition. Most born with this birth defect die as infants. Some make it to pre-teen years. Other than my son, the longest survivor with this condition died at fifteen years old. At twenty-eight years old Clay has survived this dangerous birth defect far longer than anyone ever has. Even the Doctors at Mayo Clinic, where he is treated, call Clay a medical miracle. If you spoke to a doctor who works with either heart defects or birth defects, odds are he would know of my son and his rare case of survival.

Clay has had five heart surgeries, the first when he was ten days old. We've been told he wouldn't make it through the night more times than either Mary or I care to remember. Yet our Son defies all predictions and survives. Many well intended people have told all in our family to "be thankful for the time we've had with him". Meaning, don't be unthankful if Clay dies. It is a sentiment that none of us have ever accepted. We have seen too many miracles in Clay's life to believe that God is not going to perform the ultimate miracle with his poorly formed and weakening heart. We have always believed that God is going to completely heal Clay by making his heart complete and normal. All the scar tissue he has prohibits further surgery, and prevents any consideration of a heart transplant, so the only treatment he can receive today is medication to ease the strain of his failing heart, but that is becoming less and less effective. My son's only hope of surviving much further is through God's healing.

I ask that you pray for my Son. I ask that you beseech God for a complete healing of his failing heart. Since Clay was a toddler Mary and I have believed that God would completely heal our son as a testimony to His power. Between Clay's standing as a "Medical Miracle" and his dad's notoriety as a pro-life extremist, I can not imagine that his healing would go unnoticed by the world. Please join our family in asking for a complete healing of Clayton Lee Waagner, Jr.'s heart. Stand with Mary and I in this as if Clay were your own beloved son. And because I am totally convinced of the power of corporate prayer, I ask you to pass this message on to everyone you know who prays and believes in God's ability to answer our prayer. I also ask that you remember Mary in your prayers as my wife has been through a great deal of difficulties lately, to which Clay's medical problems are adding additional strain.

With all my heart I thank you for your prayer support, Clay

Clay Waagner

(I can't print Clay's address here because one prison will not deliver this if it contains the address of another prisoner. His address is available at [www.ArmyofGod.com](http://www.ArmyofGod.com), under the list of prisoners.)