# District Attorney Dillon Asks For Policemen's "Conscience Clause"

*Reprinted from The Wanderer, 10-11-90*

**Mineola, NY**—Following Corpus Christi Bishop Rene Gracida's statement that police officers in his diocese who arrest abortion clinic rescuers "become a party to the horrible act about to be committed," pro-life Nassau County District Attorney Denis Dillon has urged police unions to adopt a "conscience clause" permitting policemen to refuse that type of assignment.

Dillon, in his fifth term as district attorney of one of New York's most populous counties, made national news in 1988 when he refused to prosecute 375 rescuers because of his conviction that "peaceful, nonviolent acts which might constitute such offenses as trespass and disorderly conduct are morally justified when done to interfere with and prevent the imminent killing of human life by abortion."

Dillon stipulated that he was not asking police officers to disobey orders to arrest rescuers, but was asking expressly "for an effort by police officers to have their line organizations, such as the Policemen's Benevolent Association, try to have clauses inserted in their contracts allowing them to be excused from assignments that conflict with their consciences."

Reacting to a statement by Msgr. John Alesandro, chancellor of the diocese of Rockville Centre, who had publicly dismissed Bishop Gracida's statement as "very torturous reasoning," Dillon distinguished between demonstrations and prayer vigils and an Operation Rescue:

"In Operation Rescue, those men and women are there to save lives that are scheduled for execution that very day. No police officer should be compelled or coerced to arrest these people against his properly formed conscience."

Dillon compared the rescuers to those persons in Nazi Germany who might have stopped death trains from transporting Jews to death camps.

Earlier, District Attorney Dillon told a pro-life prayer rally of more than 500 persons, along with some 200 Suffolk County police officers, in Coram, N.Y., that policemen are obliged to follow their properly formed consciences regarding persons blocking abortion facilities. ■

# Medical Center Charged With Illegal Abortions

*Reprinted from The Wanderer, 11-22-90*

**Mineola, NY**—Charging that the Nassau County Medical Center is performing illegal Medicaid abortions, Comptroller Peter T. King on November 8th released the finding of his audit of the Medical Center. In releasing his report, King also requested District Attorney Denis Dillon to determine whether the actions of the Medical Center constitute criminal fraud.

"It is settled law in this state," King said, "that an abortion is not eligible for Medicaid funding unless the abortion is 'medically necessary.' Law is expressed in language and language has meaning," King continued. "The clear meaning of the law in this state is that it is illegal to seek Medicaid reimbursement for abortions which are not medically necessary. Furthermore, the term 'medically necessary' cannot be dismissed as a mere technicality. As the court stated in *City of New York v. Wyman*:

"'The medical care to be afforded is that which is "necessary" to effect a cure. Pregnancy is not an abnormal condition, and abortion is not a cure any more than decapitation is a cure for a headache. Both will terminate the condition but neither is necessary for that purpose. To say that an elective abortion is mandated by [the Social Services Law] is to torture both the words and the sense.'"

The comptroller's audit covered 63 case files randomly selected from the 317 Medicaid abortions performed at the Medical Center during the one-year period of July 1, 1989-June 30, 1990.

"The conclusion of our investigation," said King, "is that the law regarding Medicaid abortions is not being observed at the Medical Center." ■

# Rescuers Appeal Racketeering Judgment

*Reprinted from Action, 12-90*

**Greenville, SC**--Forty-seven pro-lifers appealed a federal court's verdict that they were guilty of "racketeering" for participating in three civil-disobedience protests at an abortion clinic.

The Palmetto State Medical Center, an abortion clinic, sued the pro-lifers last year along with the national prolife group Operation Rescue and a Greenville pro-life group called Operation Lifeline.

The lawsuit was filed in U.S. District Court in Greenville after three "rescues" were conducted at the clinic in which pro-lifers blocked the clinic's entrance for about 15 minutes.

In the federal complaint, the pro-lifers were accused, among other things, of conspiring to violate the civil rights of a class of women seeking abortions and "racketeering" in violation of the Racketeer Influenced and Corrupt Organizations Act (RICO), a federal law designed to fight organized crime.

U.S. District Judge G. Ross Anderson Jr. issued a temporary restraining order prohibiting further demonstrations.

Judge Anderson also dismissed the civil rights claim, but upheld the RICO charge, and the pro-lifers were assessed more than $120,000 in damages.

Rutherford Institute attorney David Holmes helped the pro-lifers appeal the judgment to the 4th U.S. Circuit Court of Appeals.

In the appeal, Holmes challenged the constitutionality of applying RICO to civil-disobedience protesters. He also charged Judge Anderson with making several procedural errors during the one-day jury trial, including instructing jurors about factual matters.

Holmes said the appeals court probably won't use the case to address the constitutionality of RICO.

"I really don't believe this is the case the court is looking for to overturn the RICO statute," Homes said. "This is a case where the clinic simply failed to prove anything, and the appeals court could reverse the judgment on that basis."

A decision is not expected for months. ■



*Commentary:*

# The Abuse of Adam

## This is the short, horrific life story of Adam.

*by Sherman R. Frederick*

Adam (a pseudonym) is one of a sub-class of beings born in Clark County [Nevada] whose existence tests the bounds of humanity. A "fetus-baby," if you will, Adam came from an abortion gone wrong. Now, his three hours of life on this earth not only highlight the difficult ethical and medical issues that surround abortion, but also raise monumental legal questions.

The Clark County district attorney's office began a quiet inquiry into Adam's life and death two weeks ago. Late last week it was elevated to an official investigation. Here is the story the DA's office is trying to confirm:

In September, a teen-age girl checked into a local hospital for a prostaglandin abortion—a procedure that produces violent labor and premature birth.

When the initial dose of medication failed, a second one was administered. Later nurses heard a shriek, entered the room and found the girl screaming. She had given birth to Adam, a 1-pound, 4-ounce, crying, arm-waving fetus-baby.

In the absence of the doctor, nurses rushed him to a specialized care unit for babies, and oxygen was administered.

Returning, the doctor discovered what had happened and, according to witnesses, turned pale. He left the floor and a short time later, nurses received a call from neonatal telling them that "doctor's orders" were to remove Adam from specialized care, take him off oxygen and send him back to his original ward.

***Returning, the doctor discovered what had happened and, according to witnesses, turned pale. He left the floor and a short time later, nurses received a call from neonatal ward telling them that "doctor's orders" were to remove Adam from specialized care, take him off oxygen and send him back to his original ward.***

One nurse, who had previously lost a baby, became emotionally distraught and incapable of following the instructions. Another nurse did as she was told, taking Adam off the oxygen in the baby-care area and placing him in a "treatment room" where nurses were instructed to leave him until he died.

From birth to death, Adam lived about three hours. He spent more than an hour dying in the "treatment room."

Adam was issued a birth certificate and a death certificate. His mother was required to sign a body release form before leaving the hospital.

Besides the heart-wrenching question of whether it is ethical behavior to let life cry away in a "treatment room," Adam's story raises significant legal questions:

What was Adam? Was he a live baby and therefore under the law's protection? If not, just when does life and legal protection begin under Nevada's abortion laws?

Was Adam allowed to die because he was unsalvageable or just unwanted? His birth weight suggests fetal development of 21 to 25 weeks. Neonatologists routinely save "premies" as young as 24 weeks and, on occasion, younger.

Nevada law requires doctors to try to save any newborn infant that shows signs of life outside the womb. If the doctor failed to do that, is he now legally answerable for Adam's suffering and death? Do Nevada's child-abuse laws apply?

The last question may distinguish Adam's birth from similar births in Clark County. Official; health statistics say fetus-babies happen "less than once a month." Abortion foes contend fetus-babies are dramatically under-reported.

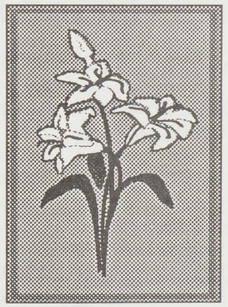
Whatever the number, Adam's case stands out because he was initially deemed viable and sent for specialized care. It was only later that he was removed from oxygen and left to die. In the language of the ongoing debate on abortion, he went from an aborted fetus, to a baby and then to a non-viable fetus-baby.

Whatever Adam was, you can bet this won't be the last time you hear his name. ■

Reprinted from the Review-Journal, 10-28-90

## Maternal Death File

### Erna Fisher



This 18-year-old girl died shortly after undergoing an abortion at the hands of Kansas City abortion provider Dennis W. Miller on March 10, 1988. According to a newspaper article, Erna jerked upright during the abortion, then went rigid from an apparent seizure, and started vomiting. The article noted Miller continued the abortion, unaware that Erna was choking to death on her own vomit. The article also noted Miller didn't clear Erna's airway between the time she vomited and the time an ambulance arrived to take her to a hospital. Kansas authorities prohibited Miller from doing abortions in his office but he could continue to do them at a facility named Comprehensive Health for Women in nearby Overland Park.

The article noted Miller settled six malpractice cases in the Kansas City area in the 1980s with women or their survivors. It also noted he flunked the Missouri state medical exam three times and gave up his license in that state; it said he took nine tries to pass the medical exam in Kansas. The source for this summary is a 6/3/90 article from the Kansas City Star. A 6/4/90 article in the Topeka Capital-Journal with an AP byline from Kansas City contains some of the same information. ■