The Dog Murderer

Press Release by Dave Leach, candidate for IA Senate, Dist 31, against incumbent Matt McCoy

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I would like to suggest the following legal defense, in court, for Bernard Lear, arrested June 23 for shooting his dog in its face. He apparently failed to kill it, and then tried to drown it, but failed that also, and left the dog to die. (News articles: Appendix 2.)

This proposed defense assumes the dog was Lear's, and Lear was not destroying another person's property. This assumption was implied in news reports.

Proposed legal defense:

I challenge the constitutionality of the laws under which I am arrested, on the ground that they fail the Supreme Court's "Absurd Result" test. (See appendix 1 for a court's explanation)

They give a dog a greater right to life than a human being, which is clearly absurd.

Laci and Conner's Law establishes all unborn babies as human beings.

> 18 U.S.C. 1841(d) "the term 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species Homo Sapiens, at any stage of development, who is carried in the womb."

Our courts could not more vigorously insist that mothers have the legal right to hire their own babies euthanized by methods far more cruel, causing their babies far more suffering, than the suffering I caused my dog.

> **Vacuum Abortion:** pulls baby's body apart, removing the body in pieces. **D&E:** uses suction combined with knives and forceps to crush and slice. **D&C:** the womb is scraped with a knife shaped into a loop; the experience, for the baby, would be like you sitting in your living room, and blind terrorists invade, swinging machetes at random. The baby's body is removed in sliced up pieces. **Saline** burns the skin, mouth, throat and lungs with a deadly acid. **Partial Birth, or D&X,** sucks out the brains after the entire living baby has been delivered feet first, up to the neck, with the head still inside the mother. After the brains are sucked out, the head is crushed. **Lethal Injection to the Heart:** From the 20th to 23rd week, or 5-6 months, the infanticidist injects poison directly into the baby's heart as he begins his "abortion", so that the baby will be dead before he reaches this world. The needle must be quite large, to reach that far without the danger of breaking if pressure were on it. **Neglect:** If the infanticidist "fails" to murder the baby before the baby reaches this world, he simply leaves the living baby to die of neglect in his office, before discarding him with the trash. (For details with all the sanitized names, see "Abortion", at Wikipedia. Copied in Appendix 3 below.)

Some of these cruel methods cause suffering that lasts as long as my dog suffered. Besides which, our courts and laws do not punish a hired baby killer who intends his victim to die in minutes, but fails so that the baby dies over agonizing hours; or even lives, and grows up permanently crippled. There are no arrests for doing that to a human being. No rewards are posted for information leading to the baby killer's arrest. Everyone knows who he is, and no one lifts a finger to restrain him.

Can it be a valid distinction, that my crime was not what I did to my dog, but that I was not licensed to do it by being a veterinarian? That is the implication of the fact that I was a wanted man for *trying* to kill my dog, but the vet who *succeeded* in killing my dog is a hero who told TV13 news there was no excuse for what *I* did!

That, likewise, fails the "absurd result" test. There is no reasoning in Roe that makes any distinction between who kills a baby, whether the mother, a stranger, or a doctor; the reasoning in the case focuses on the alleged uncertainty whether the baby is a human. It makes no difference to the baby who kills him. Bolton came along with Roe to undermine any attempt to regulate baby killers. Baby

killing officers clearly are exempt from the kinds of medical regulations and laws that restrain legitimate medical offices.

"Due Process" is a 5th and 14th Amendment requirement that I should be treated by the same rules others are treated by. To give a dog a greater Right to Life than the most innocent human beings, to then criminally charge me for not honoring a dog's Right to Life more than doctors honor the Right to Life of a human being, to post a reward for my capture for hurting a dog *only once* while sending police to defend a "doctor" who is far more brutal to thousands of human beings, and then to jail me for *trying* to do what a vet *actually* did and for which he was honored as "compassionate", is a denial of my Due Process Rights.

But the most egregious violation of my Due Process rights is by the court system. The Federal law, Laci and Conner's Law, enacted on April Fool's Day, 2004, precisely meets the conditions in Roe v. Wade's "collapse clause", which stated that if it is established that babies are human, then infanticide's fragile legality must "collapse". It has been erroneously assumed that a disclaimer in the law prevents it from "collapsing" legal infanticide. (See Appendix 4.) It does not, and courts should know it. Yet while courts flout their duty to officially recognize the "collapse" of Roe v. Wade, their hands permanently stained by the blood of 50 million of our most innocent citizens, for them to throw the book at me for attempting to euthanize one single dog is the most bizarre flouting of my Due Process Rights under the 5th and 14th Amendments of the Constitution of the United States.

Appendix 1: The Absurd Result Test

Copied from page 34, "Legal Brief", at www.Saltshaker.US/Scott-Roeder-Resources.htm)

State v. Kirkpatrick, No. 93,465, May 30, 2008:

In reaching my conclusions, I acknowledge that where the language of a statute is clear, our normal rule is that we are bound by it. A legitimate exception exists, however, when that language leads to absurd results. The United States Supreme Court agrees. See *Public Citizen v. Department of Justice,* 491 U.S. 440, 453, 454 n.9, 455, 105 L. Ed. 2d 377, 109 S. Ct. 2558 (1989) (despite a "straightforward reading" of statutory language, absurd "that Members of Congress would vote for a bill subjecting their own political parties to bureaucratic intrusion and public oversight when a President or Cabinet officer consults with party committees concerning political appointments . . ."); *Green v. Bock Laundry Machine Co.*, 490 U.S. 504, 510-11, 104 L. Ed. 2d 557, 109 S. Ct. 1981 (1989) (no matter how plain the text of Federal Rule of Evidence 609[a][1] may be, it "can't mean what it says"); *United States v. Brown,* 333 U.S. 18, 27, 92 L. Ed. 442, 68 S. Ct. 376 (1948) ("No rule of construction necessitates our acceptance of an interpretation resulting in patently absurd consequences.").

Nor is the "absurd result" rule applied by only a few justices belonging to a particular school of thought. Even a "textualist" jurist like Justice Scalia has done so. See *Green v. Bock Laundry Machine Co.*, 490 U.S. at 527 ("statute, if interpreted literally, produced an absurd result," thus justifying departure from the "ordinary meaning" of word "defendant" in Federal Rule of Evidence 609[a][1]) (Scalia, J., concurring).

Justice Kennedy has addressed potential critics who might argue that this exception could constitute inappropriate judicial activity:

"[T]his narrow exception to our normal rule of statutory construction does not intrude upon the lawmaking powers of the Congress, but rather demonstrates a respect for the coequal Legislative Branch, *which we assume would not act in an absurd way*." (Emphasis added.) *Public Citizen v. Department of Justice,* 491 U.S. at 470 (Kennedy, J., concurring).

Like the United States Supreme Court, the Kansas Supreme Court has applied the "absurd result" rule for many years. See, *e.g.*, *State v. Le,* 260 Kan. 845, 850, 926 P.2d 638 (1996) ("The legislature is presumed to intend that a statue be given a reasonable construction so as to avoid

unreasonable or absurd results."); *Todd v. Kelly,* 251 Kan. 512, 520, 837 P.2d 381 (1992) (same); *State ex rel Beck v. Gleason,* 148 Kan. 1, 79 P.2d 911 (1938) (well-settled rule of construction that the letter of a statute will not be followed when it leads to an absurd conclusion).

Kansas has also applied the "contravention of the manifest purpose of the legislature" exception to plain language when, as here, the statutes are construed in pari materia. As we stated in *Todd v. Kelly,* 251 Kan. at 516,

"'[I]n order to ascertain the legislative intent, courts are not permitted to consider only a certain isolated part or parts of an act, but are required to consider and construe together all parts thereof *in pari materia.* When the interpretation of some one section of an act according to the exact and literal import of its words would contravene the manifest purpose of the legislature, *the entire act should be construed according to its spirit and reason, disregarding so far as may be necessary the strict letter of the law.*' *Kansas Commission on Civil Rights v. Howard,* 218 Kan. 248, Syl. ¶ 2, 544 P.2d 791 (1975) (Emphasis added.)."

We construed several criminal statutes in pari materia in *State v. Le,* 260 Kan. at 850, and concluded: "Surely the legislature did not intend that recklessly causing the *death* of a law enforcement officer, would have a lesser penalty than reckless *aggravated battery* against a law enforcement officer." (Emphasis added.) (Dissent in State v. Kirkpatrick, No. 93,465, May 30, 2008)

Appendix 2: News Articles

Dog that was shot has to be put down

June 23, 2010 Des Moines Register

An English bulldog had to be put down after it was found severely injured Saturday, Polk County sheriff's officials said Tuesday.

Callers told authorities they had found the male dog in a wooded area at Northwest 26th Street and Interstate Highway 80 north of Des Moines just after 6 p.m. The dog had been shot.

A man and woman had been seen just before the dog was found, along with a rusty 1970s or 1980s green pickup truck parked close to the woods. The truck may have a cage in the back, authorities said.

A likely charge in the incident would be animal abuse, authorities said.

Anyone with more information should call 223-1400.

Altoona man charged in dog shooting

Indianola Record-herald June 24

An Altoona man has been arrested in connection with the shooting of an English Bulldog last weekend.

Bernard Lear, 49, of Altoona was arrested at about 11 p.m. June 23. He's being held on $6,300 bond for charges of felon in possession of a weapon, animal abuse and a warrant for failure to pay child support. He will have an initial appearance at the Polk County Jail this morning.

Authorities found the dog severely injured in a wooded area at Northwest 26th Street and Interstate Highway 80 north of Des Moines just after 6 p.m. Saturday. It had to be put down due to its injuries.

Polk County Sheriff's Deputy Jana Rooker said the dog was staying with a family member of Lear's in Des Moines but did not know if it was registered.

Appendix 3: Wikipedia, on Types of Abortions

Types of abortions, from Wikipedia, under "abortion" and subheading "Surgical":

In the first 12 weeks, suction-aspiration or vacuum abortion is the most common method.[19] Manual Vacuum aspiration(MVA) abortion consists of removing the fetus or embryo, placenta and membranes by suction using a manual syringe, while electric vacuum aspiration (EVA) abortion uses an electric pump. These techniques are comparable, and differ in the mechanism used to apply suction, how early in pregnancy they can be used, and whether cervical dilation is necessary. MVA, also known as "mini-suction" and "menstrual extraction", can be used in very early pregnancy, and does not require cervical dilation. Surgical techniques are sometimes referred to as 'Suction (or surgical) Termination Of Pregnancy' (STOP). From the 15th week until approximately the 26th, dilation and evacuation (D&E) is used. D&E consists of opening the cervix of the uterus and emptying it using surgical instruments and suction.

Dilation and curettage (D&C), the second most common method of abortion, is a standard gynecological procedure performed for a variety of reasons, including examination of the uterine lining for possible malignancy, investigation of abnormal bleeding, and abortion. Curettage refers to cleaning the walls of the uterus with a curette. The World Health Organization recommends this procedure, also called sharp curettage, only when MVA is unavailable.[20]

Other techniques must be used to induce abortion in the second trimester. Premature delivery can be induced withprostaglandin; this can be coupled with injecting the amniotic fluid with hypertonic solutions containing saline or urea. After the 16th week of gestation, abortions can be induced by intact dilation and extraction (IDX) (also called intrauterine cranial decompression), which requires surgical decompression of the fetus's head before evacuation. IDX is sometimes called "partial-birth abortion," which has been federally banned in the United States. A hysterotomy abortion is a procedure similar to a caesarean section and is performed under general anesthesia. It requires a smaller incision than a caesarean section and is used during later stages of pregnancy.[21]

From the 20th to 23rd week of gestation, an injection to stop the fetal heart can be used as the first phase of the surgical abortion procedure[22][23][24][25][26] to ensure that the fetus is not born alive.[27]

Appendix 4: Roe has Already “Collapsed”

This is a joint resolution I am asking candidates to support, which lays out the arguments that “legal abortion” has already “collapsed” so that lawmakers already have a legal right, and duty, to again criminalize infanticide. This resolution is posted at www.Saltshaker.US/SLIC

SLIC Model Joint Resolution

Whereas, Federal law has protected unborn children as human beings since April 1, 2004, stating: **“ ‘unborn child’ means** a child in utero, and the term ‘child in utero’ or ‘child, who is in utero’ means **a member of the species Homo Sapiens, at any stage of development, who is carried in the womb.”** (18 U.S.C. § 1841(d)) and criminalizes “intentionally killing or attempting to kill a human being” (18 U.S.C. § 1841(a)(c) – popularly known as “Laci and Conner’s Law”). “Child,” “Homo sapiens”, “who,” (not “what” or “which”) “carried in the womb” are all words which apply solely to human beings. This definition of the unborn as human beings is absolute, applying to all unborn children, even those not directly protected by this law. And

Whereas, *Roe v. Wade* 410 U.S. 113 (1973) equates the time an unborn child becomes “human”

with the time the child becomes a "person", to wit: "These disciplines variously approached the question in terms of the point at which the embryo or fetus became 'formed' or recognizably human, or in terms of when a 'person' came into being, that is, infused with a 'soul' or 'animated.' " And

Whereas, *Roe v. Wade* spells out the conditions for *Roe's* own "collapse", to wit: "[Texas argues] that the 'fetus' is a person. **If this suggestion of personhood is established, the [legal-abortion] case, of course, collapses, for the right to life would then be guaranteed specifically by the [Constitution]**... [but] the unborn have never been recognized in the law as persons in the whole sense." And

Whereas, 18 U.S.C. § 1841(c) does not "permit the prosecution of any person for...an abortion for which the consent of the pregnant woman...has been obtained...." And

Whereas, there is no inconsistency between the "collapse" of *Roe* caused by 18 U.S.C. § 1841(d) and the fact that 18 U.S.C. § 1841(c) does not "permit the prosecution" of elective abortions, since the repeal of *Roe's* ban on states criminalizing abortion does not criminalize abortion. Roe's collapse merely returns the choice to states whether to "permit prosecution" of abortion by enacting their own laws against it. The "collapse" of Roe does not outlaw abortion; it frees *states* to outlaw abortion. Outlawing abortion is clearly a process with two distinct steps, and 18 U.S.C. § 1841 clearly takes only the first, without hindering the second. And

Whereas, the authority of U.S. law is superior to the authority of the U.S. Supreme Court, in the sense that up until such time as courts declare laws unconstitutional, courts must conform their rulings to them. No court has declared 18 U.S.C. § 1841 unconstitutional. To so find would require the Court to positively affirm that human life does not begin until birth, a position which no legal authority has ever taken, even though a number of the highest legal authorities have taken the position that human life begins at conception (See Missouri #1.205, R.S.Mo.1986, Louisiana LSA-R.S. 40:1299,35.0, Nebraska 28-325. R.R.S. 1943, besides various proclamations of Presidents and Governors). And

Whereas, "(I)f the law recognizes that a fetus is a legal person from the moment of conception.....then the law must recognize and protect the rights of that person on a legal basis with the rights of the adult pregnant woman. If our laws recognize that, then there can be no right to choose, because, logically, terminating a pregnancy even in its earliest stages would be killing a fully legal person." (Mr. Nadler, opposing the law, *UNBORN VICTIMS OF VIOLENCE ACT OF 2003 150 Cong. Rec. H637-05, *H640).* And

Whereas, [the consequence of 18 U.S.C. § 1841 is that] "....unborn children whether viable or not, will be considered as human beings, and therefore, whole as persons as victims of crime.... [Laci's Law's] extension of legal personhood to a[n] [unborn child] is entirely unprecedented in the history of federal law... .[The Supreme Court] could be forced to do what it has avoided for over thirty years: determine the ultimate value of the life interest and decide when that life begins." (Amanda Bruchs, *Clash of Competing Interests: Can the Unborn Victims of Violence Act and Over Thirty Years of Settled Abortion Law Co-Exist Peacefully?*, 55 Syracuse L. Rev. 133 (2004). See also: Wilmering, R.R., Note, *Federalism, The Commerce* Clause 80 Tns . L_J. 1989 (2005); Speizer, E., *Recent Developments in Reproduction Health Law....*41 Cal. W.L. Rev. 507 (2005); Kole, T. and Kadetsky, L., *Recent Developments,* 39 Harvard Journal Legislation 215 (2002))]. And

Whereas, there is no conflict between 18 U.S.C. § 1841 and 18 U.S.C. §248 (FACE, Freedom of Access to Clinic Entrances, 1992). 18 U.S.C. §248 merely prevents individuals from saving the lives of the unborn; it asserts no jurisdiction over states, to prevent states from protecting the unborn in compliance with 18 U.S.C. § 1841;

Therefore, be it resolved, that:

Legal Abortion technically and legally "collapsed" on April Fool's Day, 2004. 18 U.S.C. § 1841 precisely meets the conditions laid out in Roe's "collapse" clause. 18 U.S.C. § 1841 is a doe in estrus, and Roe's "collapse" clause is a 20 point buck; AND

This state has no further legal obligation to refrain from criminalizing abortion, or to support or protect abortion in any way; AND

After 18. U.S.C. §1841 it is impossible to treat ex-utero and intra-utero children differently without violating the XIV Amendment rights of one or the other: therefore this state is legally obligated to protect unborn children with the same criminal laws that protect born children; AND

Criminal laws against abortion by this state, or a Personhood Amendment in this state defining the unborn as "persons", or amending this state's Necessity Defense law to clarify that abortion is a "harm" to which it applies and "imminence" means "nearness in time to the closing of the window of opportunity to prevent harm", are not bold, legally dubious attempts by one state to rewrite the legal landscape for the entire nation, but will merely bring state law into conformity with federal law; AND

Any federal court which attempts to block this state's effort to bring its laws into conformity with these federal laws will, in so doing, violate Roe v. Wade.