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Sir:

The unborn may have much to gain, if they are well represented by amici in the case which abortionists say could end legal abortion – and much to lose, if they are not.

Please consider an amicus in the Scott Roeder case, Kansas 2009-CR-1462-FE (09CR1462). Abortionists consider amici so urgent they didn't even wait until court rules permitted them! They submitted theirs in the middle of the trial! (The appeals calendar may start with the April 1 sentencing hearing.)

> "...the result would be utter chaos...undermining the very constitutional right...to abortion...." Amicus brief of the ACLU and National Abortion Federation, January 27, 2010
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> "Today's...decision...allowing...voluntary manslaughter [evidence] could result in 'open season' on doctors across the country." - Katherine Spillar, Executive Vice President of Feminist Majority Foundation, January 8, 2010 press release

The stakes: THE GOOD – ***the end of infanticide,*** if the Necessity Defense can be uncensored for future door blocking cases so that prolifers can block infanticidist doors without fear of arrest. THE BAD – ***A Supreme Court ruling that the unborn are positively NOT human beings,*** if the ACLU and NAF brief succeeds. THE UGLY – ***A lot more vigilante shootings of infanticidists,*** if the Voluntary Manslaughter defense is unleashed to defend future shooters while the Necessity Defense remains closed to future sitters, which is Public Defender Mark Rudy's goal, and was partially approved by Judge Wilbert. (See PS.)

The ACLU, representing the National Abortion Federation, took these possibilities so seriously that by day 4 of the 6 day trial, they had already submitted an Amicus Brief, even though an Amicus in a trial court is so irregular that Judge Wilbert said he knew of no procedures to process it. Vicki Saporta, President of National Abortion Federation, and Saporta supporters, personally attended the trial.

If this case concerned them that much at the trial level, think what resources they plan to expend before the Kansas Supreme Court to snuff out every last molecule of hope for the unborn! Don't count on them to take it for granted that those initial rulings can't be resurrected by the Supreme Court!

Infanticidist Focus. The ACLU/NAF Amicus didn't just seek to block jurors from opting for Voluntary Manslaughter (which would have given Roeder as few as 5 years in jail for shooting infanticidist George Tiller May 31).

ACLU/NAF also targeted the personhood of the unborn, by characterizing a law which proclaims the personhood of *all* unborn as proclaiming the opposite. "Alexi's law" (Kansas, 2007) defines "unborn children" as "persons" and "human beings" but says "this section shall not apply to...abortion". The ACLU concluded, "In Kansas law, a fetus is not a person for purposes of abortion." As this case moves through Federal courts, expect them to similarly spin the federal Laci and Conner's Law.

ACLU/NAF also targeted the Necessity Defense, even though Judge Wilbert had already ruled it inadmissible and no one had requested the defense – except for Roeder's pro se brief docketed January 8. Will they later address other claims in that brief – that Roe v. Wade legally "collapsed" in 2004, that "constitutional protection" of abortion ended in 1992, that the Preamble's Constitutional Protection of "our posterity" has 7 times as much "stare decisis" as Roe, and more? Such arguments, whether sound themselves, lay foundation for any challenge to abortion's fragile "legality". But that means foundation is also laid for infanticidists to create precedent attacking "personhood" at its core.

Trial Issues. Judge Wilbert insisted the ACLU/NAF brief would not affect his decisions, but a few hours later he reversed himself in the direction the brief recommended. On Wednesday he had said the Voluntary Manslaughter defense only required evidence that Roeder subjectively believed, honestly if unreasonably, that "unlawful force" would be imminent unless he acted. Therefore, Wilbert ruled, the jury would not be allowed to hear the powerful testimony of former Kansas Attorney General Phill Kline, that many of Tiller's abortions were *in fact* unlawful, making Roeder's beliefs not merely "honest" but *true*. Wilbert literally ruled that Kline was "exactly the kind of witness" the Court wanted to avoid, because he was "so credible" that the jury would be "prejudiced" to believe Roeder's beliefs were "honest", if not "reasonable"! He said that!

But on Thursday, he said he had cooled off.

That's right, he literally said he should not be held to his Wednesday offer since it was made "in the heat of intense argument"! His Wednesday offer had been to take "judicial notice" of the essence of the testimony which he was ruling inadmissible for being too "credible". In other words he offered to substitute, for the evidence he would not allow, his official acknowledgment of what that evidence would have shown. He directed the defense to prepare a proposed statement of that which they wanted Wilbert to take "judicial notice". With that, the defense ceased their direct examination of Kline, the judge sent him packing, and the defense shifted their eggs to the "judicial notice" basket.

But on Thursday, faced with the proposed statement prepared by the defense, Wilbert reneged, saying since Roeder's testimony need only be subjective, even judicial notice would serve no purpose, so he would not take it after all. In order to make it seem like he wasn't reversing himself, he said Wednesday's ruling "wasn't really a ruling", but rather, he was "just thinking out loud". He was just trying to be helpful, he explained.

And in that same hour that he withdrew his promise to take judicial notice of the facts he had previously ruled inadmissible because Scott needed only "subjective" testimony, Wilbert decided it wasn't enough, after all, that Roeder *subjectively* believed infanticide was unlawful and imminent. It had to be proved by *objective* evidence, after all! And since the defense had failed to put *objective* evidence on the record that many of Tiller's abortions were unlawful (because Wilbert had ruled such evidence inadmissible Wednesday and had reneged on his promise to substitute judicial notice a few minutes earlier), Wilbert would not let the jury opt for Voluntary Manslaughter!

The schizophrenic feel of Wilbert's rulings point to fundamental inconsistency, not in Wilbert's intellect, but in the abortion jurisprudence he struggled to honor. This will be clear to anyone who puts himself in Wilbert's shoes and tries to imagine how to rule any more consistently.

This isn't about Scott Roeder. Representing the unborn does not require anyone to defend Roeder's shocking, outrageous shooting. The trial record lays foundation for any argument you can think of to topple shocking, outrageous infanticide.

The only contested issue of the trial was and is infanticide: its factual nature, legal status, and the law regarding stopping it. No one contested what Roeder did. Although the judge and prosecutor insisted the opposite, that "this is not going to be about abortion", In Session lawyers/anchors concluded Feb 1: "It definitely was for abortion and about abortion...."

Strength from Pressure. For most cases, a few Amicus briefs with irrefutable arguments are enough. But where irrefutable arguments undermining Roe v. Wade are nothing new, but the response of hundreds of judges has been to superglue their fingers in their ears, somehow we need to mount sufficient pressure on the justices to finally address these issues squarely. Luke 18:2-8.

Therefore I appeal to prolife lawyers and groups: 15 pages (Kansas' limit) isn't enough for a comprehensive brief anyway. Just make a simple point or two. Every point will help, I believe, in this case.

Sufficient pressure on the justices to finally address these issues squarely holds the potential to **Stop Legal Infanticide by**...dare I say it? But the ACLU/NAF implied it!...**by Christmas!**

Resources at www.Saltshaker.US/SLIC or http://rasmusen.org/special/roeder/: List of all filings, and the filings themselves; Transcript: Contact us if you desire a copy.

Resources at www.Saltshaker.US/SLIC: Article: The SLIC/Roeder Connection (How Roeder's Shocking, Outrageous Shooting Shakes Outrageous, Shocking Infanticide)

In Jesus' Name (Col 3:17)

Dave Leach

Dave Leach, SLIC (Stop Legal Infanticide by Christmas!)

PS. **How Wilbert's Precedents could Encourage Vigilantes Outside Kansas**

The scenario of the ACLU, National Abortion Federation, and Feminist Majority Foundation, of vigilante shootings outside Kansas, encouraged by Wilbert's precedents, may seem silly since one of the elements of Kansas' Voluntary Manslaughter defense is that the defendant must "honestly believe" his victim was using "unlawful force", and no abortionist in America had such a dark cloud of suspected illegality hanging over his practice as did George "The Killer" Tiller. But:

1. Even in Kansas, the Ordway precedent, argued passionately by Mark Rudy on the record, makes very clear that the elements must only be "sincerely held"; they are SUBJECTIVE:

> With regard to a defense-of-others instruction, this court has stated that the evidence must support affirmative findings by a rational factfinder to the subjective question whether defendant honestly believed his action was necessary to defend others as well as to the objective question whether his belief was reasonable. *State v. Rutter*, 252 Kan. 739, 746, 850 P.2d 899 (1993). In a case such as the present one, however, where the defendant is seeking an instruction on the lesser included offense of voluntary manslaughter rather than asserting the affirmative defense of defense of others, the objective component of defense of others should be immaterial. Both elements in the offense of voluntary manslaughter as defined in 21-3403(b) are subjective. The defendant's belief must be sincerely held, and it must be unreasonable. *State v. Jones*, 257 Kan. 856, 873, 896 P.2d 1077 (1995). For this reason, the "objective elements" of 21-3211--an aggressor, imminence, and unlawful force--would not come in for consideration.

2. A growing number of abortionists are facing court actions for violating laws. Callers to abortion clinics pretending to be prospective patients have shown it is probably universal for abortionists to cover up underage patients whom laws require to be reported to police so they can investigate statutory rape. A recent news article promises that "doctors", plural, are stepping forward to fill Tiller's bloody late term shoes, although all but one are anonymous! But anyone who tries is going to have limited business if he obeys the restriction in the federal law about killing only babies which threaten their mother's health.

3. In several other states, the defense would not be Voluntary Manslaughter which the defendant must believe was to prevent "unlawful force", but a challenge to the Mens Rae of (motive behind) First Degree Murder, where there is no reference to whether the harm prevented was "lawful".

Kansas Court Rules for Amicus Curiae (summary)

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.

It takes about 4 months, from docketing (probably early April) to oral arguments, maximum. Less if the defense and prosecution don't take the maximum time to respond to each other. It takes a month, maybe more, from the time you request permission to file an amicus, until permission is granted. Your deadline will be 30 days before oral arguments. That means that if you put in your request the day Roeder's case is docketed, you will have 2 months, maximum, from the time you get permission to the time you must submit your brief.

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."

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.” (Unless it goes to the Court of Appeals first.) 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.

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