



Saint Thomas More  
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**"I am extremely blessed that God has provided the ACLA as my lawyers."**

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-Lora I. Kelly, Catholic mother and pro-life activist, sued by Planned Parenthood

March 24, 2001

St. Gabriel the Archangel

Dear Fellow Catholic:

I wanted to write you to keep you abreast of some of our activities in defense of the rights of Catholics across the country. As you can see, the assault on Catholic liberty shows no signs of abating.

## **TRESPASSING CHARGE AGAINST CATHOLIC ACTIVIST DISMISSED IN NEW YORK**

Thanks to the able work of New York ACLA affiliate William J. Dowling, Esq., a trespass charge brought against veteran Catholic activist Paul Morrissey, head of the Morality Action Committee, was dismissed on January 17, 2001, following seven court appearances and service of defendant's discovery demands.

Mr. Morrissey appeared to protest a talk at St. Paul the Apostle Church near Columbus Circle by the infamous liberal Auxiliary Bishop Thomas Gumbleton, of Detroit. The parish hall featured a rack of blatantly pro-homosexual literature. Mr. Morrissey was arrested and spent a night in jail after he tried to talk to Gumbleton about his pro-homosexual activities.

Ironically enough, St. Paul the Apostle Church is the site of the tomb of 19<sup>th</sup> century convert Fr. Isaac Hecker, founder of the Paulist Fathers, who sought innovative ways to make America Catholic. Of course, we know what Saint Paul taught about the evil of sodomy. The Association is investigating the possibility of a suit for false arrest and malicious prosecution.

U.S. COURT OF APPEALS ARGUMENT IN ROCHESTER  
PRO-LIFERS' CASE SET MARCH 26

As was reported in the January 2000 issue of *The ACLA Report*, the Association has been vigorously defending Rochester Catholic pro-life sidewalk counselor Mary Melfi in the matter of *People of the State of New York, Planned Parenthood of the Rochester/Syracuse Region, et al., v. Operation Rescue National, Michael Warren, Mary Melfi, et al.* This is the major case brought under former President Bill Clinton's 1994 Freedom of Access to Clinic Entrances Act (FACE) by New York Attorney General Eliot Spitzer and Planned Parenthood to drive Catholic and Protestant anti-abortion protesters and sidewalk counselors as far away as possible from abortion mills in the Buffalo - Rochester region of New York State.

On July 26, 2000, U.S. District Judge Richard J. Arcara issued a Decision and Order granting Planned Parenthood and Mr. Spitzer pretty much what they want: drastically expanded "speech-free buffer zones" at the two main abortuaries in Rochester and Buffalo and new "buffer zones" at every so-called reproductive health clinic in the judicial Western District of New York. At Rochester, this means that Mary Melfi, Michael Warren, and their fellow pro-life activists must stand across a four-lane thoroughfare from that city's University Avenue abortion clinic run by Planned Parenthood. Further, Judge Arcara's new injunction creates "speech-free zones" of more than 50 feet on either side of the clinic, making it impossible for Mrs. Melfi and Mr. Warren to even be heard or for confused and distraught young women to be counseled by them to keep their babies.

The ACLA has appealed from Judge Arcara's ruling to the U.S. Court of Appeals for the Second Circuit, filed two key briefs and an extensive appendix, and is cooperating with Attorney Vincent P. McCarthy, of the American Center for Law & Justice (ACLJ), which has likewise appealed on behalf of Mr. Warren. Our local Rochester affiliate, Mary E. Aramini, Esq., has been of invaluable help to us in perfecting this important appeal.

The injunction at issue here is based on nothing but vague complaints that the pro-lifers were "noisy", "aggressive", and "obstructive". In our appellate brief we demonstrate that despite a 4,000 page hearing transcript, Planned Parenthood produced no real evidence to back up this claim. And, strangely enough, an earlier injunction by Judge Arcara, keeping pro-life protesters 15 feet from Buffalo - Rochester clinic entrances and driveways had already been in place for seven years without any

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complaints of "noise", "aggressiveness", or "obstruction." This prior injunction went all the way to the United States Supreme Court, which struck its "floating bubble zones" around individual people, which would have prevented any pro-life protester from walking within 15-feet of a woman about to destroy her child!

As we argue on this appeal, the only reason Planned Parenthood sought a new and even more restrictive injunction is that it wanted people like Mary Melfi and Michael Warren to be placed so far away that their saving message could not be heard by those who need to hear it. But an injunction which makes it impossible to be heard is unconstitutional, as several U.S. Supreme Court cases have made clear.

Oral argument before the U.S. Second Circuit Court of Appeals is set for March 26, 2001, in New York City. Please pray that this federal appellate tribunal will reverse the U.S. District Court's latest injunction and restore our clients' First Amendment right to effective protest of abortion in Western New York. If need be, we will go to the United States Supreme Court with this appeal.

#### **ASSISTING A BELEAGUERED CATHOLIC JUDGE IN OHIO**

The Association soon expects to serve an *amicus curiae* ("friend of the court") brief before the Ohio Supreme Court in the case of former Judge Patricia A. Cleary, who served on that state's Court of Common Pleas for Cuyahoga County. Judge Cleary, a devout Catholic, came under fire from the ACLU and the Cleveland Bar Association after she sentenced to jail a woman who said she wanted a late-term abortion. The sentence itself (6 months) is neither excessive nor unwarranted, and Judge Cleary staunchly maintains that the sentencing was not a punishment for the contemplated abortion. The Bar cited against Judge Cleary some pro-life remarks she made at a private gathering.

The Cleveland Bar's formal grievance against this Catholic jurist went before the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court in December 2000. The Board recommended to the Supreme Court that Judge Cleary -- who has a sterling record as prosecutor and judge -- be suspended from the practice of law for two years, with one year stayed, plus costs of more than \$7,000! This incredible penalty exceeds even the six-month suspension recommended by the panel which actually heard Judge Cleary's case.

We are entering the case as an *amicus curiae* (friend of the

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court)and will be filing a brief in the Ohio Supreme Court recommending reversal of the penalty and dismissal of the charge. We believe this case presents significant First Amendment questions affecting the rights of Catholic lawyers and jurists everywhere. Please pray that this shocking penalty is overturned, and that our nation might have many more solid Catholic lawyers and jurists who are not afraid to express their pro-life beliefs.

**FEDERAL APPEALS COURT DECISION ON OREGON RICO CASE**  
**EXPECTED ANY DAY**

As this issue of *The ACLA Report* goes to press, we are still anxiously - and prayerfully - awaiting the decision of the U.S. Court of Appeals for the Ninth Circuit, following oral argument of our landmark appeal in the case of *Planned Parenthood of the Columbia/Willamette, Inc., et al., v. American Coalition of Life Activists, Advocates for Life Ministries, Donald Treshman, et al.*, in Portland on September 12, 2000.

As our readers know, this is the highly publicized suit brought in 1995 by Planned Parenthood and several abortion doctors against about 15 Catholic and Protestant anti-abortion groups and individuals under the 1970 Racketeer Influenced & Corrupt Organizations Act (RICO) and the 1994 Freedom of Access to Clinic Entrances Act (FACE).

This Planned Parenthood suit alleged that our clients' two posters condemning the actions of various abortionists, and a Web site not even created or actually controlled by any of the defendants (the celebrated "Nuremberg files" website) were "true threats" to kill or otherwise bodily harm the plaintiffs in violation of FACE and RICO.

Our supporters will also certainly recall that a federal jury in Oregon awarded the Planned Parenthood plaintiffs an astounding \$107 million in punitive and compensatory damages. This was followed by the U.S. District Judge's Amended Order and Injunction, which went so far as to forbid even the attorneys for the various defendants from possessing more than one copy of the posters or website. There is simply no precedent in American law for this kind of restriction on speech.

On September 12th, I, as ACLA chief counsel, orally argued the appeal on behalf of all the defendants before a Ninth Circuit panel of three judges. (We have been joined on this appeal by the very able attorneys of Michigan's Thomas More Center for Law & Justice.) Judging by the sharp questions the appellate judges

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posed to Planned Parenthood's attorney, we are hopeful of a positive outcome. We are expecting a decision literally at any moment. Please continue your prayers for our success in this extremely important case.

#### **ACLA TAKES ON TWO NEW CASES IN PENNSYLVANIA**

The Association is now representing staunch Catholic pro-life activists Mrs. Lora I. Kelly and Donald E. Cummings in two separate and recent cases in the Pennsylvania Court of Common Pleas.

In *Planned Parenthood of Central Pennsylvania, Inc., v. Ed Snell, Fran Wessell, Lora I. Kelly, Helen Kane, and Sherri Sauerhoff*, the plaintiff is asking the Common Pleas Court of York County to grant an order and injunction barring Mrs. Kelly and her co-defendants from doing anti-abortion sidewalk counseling and protesting against abortion at the Planned Parenthood abortion mill in the City of York. The "bubble zone" envisioned by Planned Parenthood's proposed injunction would ban Mrs. Kelly from being within 50 feet of the clinic's front entrance ramp and from coming within 80 feet of the building's sides.

Like Rochester's Mary Melfi (see separate article in this issue), Mrs. Kelly and her friends seem to have had too much success in dissuading young women from aborting their unborn children. This is bad for business in America's abortion industry and so Planned Parenthood just had to run to court again!

We have just completed the first depositions of Planned Parenthood witnesses on March 13, 2001, and have received answers to other discovery demands. We are working closely with the ACLJ's Walter M. Weber and Robert "Skip" Ash, Esqs., lead counsel for defendant Ed Snell, and with local Catholic priest and attorney Father Daniel J. Menniti, J.D., of St. Patrick's Church in Carlisle.

In the other new case, *Commonwealth of Pennsylvania v. Cummings*, veteran Catholic pro-lifer and retired businessman Donald Earl Cummings was hauled into a local district court last year, adjudged guilty of "defiant criminal trespass", and fined. The quasi-criminal charge was brought against him and another pro-lifer after they and others had demonstrated against abortion for some time at the Allentown Women's Center, in Hanover Township.

The Association has retained an expert witness for the case

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and will be assigning counsel to try the appeal in the Court of Common Pleas for Lehigh County. Trial is expected in that forum very soon.

**YOUR SUPPORT IS THE ONLY WAY WE CAN CONTINUE**

The ACLA is always in need of funds to continue litigating its significant cases affecting the rights of Catholics in America.

Unlike the forces of the secular left, we have no foundations to support us. Tax-deductible donations from loyal Roman Catholics like you are what makes it possible for us to provide free legal services to Catholics who otherwise would be without aggressive legal representation in the courts.

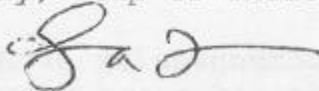
The stock market crash has everyone jittery—especially us! In the best of times we are always operating on a month-by-month basis, totally dependent on your generosity. Without your commitment, we could literally be gone within two or three months – and yet we have been existence for more than ten years! Thanks, of course, to you.

**Please Consider A Bequest or Pledge**

We hope you will consider remembering us in your will by means of a simple clause such as: "I give, devise and bequeath the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) to the **American Catholic Lawyers Association, Inc.**, for purposes of said association's general funds." You might also consider a monthly pledge.

Whatever the form your support, we are deeply grateful for your help in defending the rights of Catholics in America.

*Mary, Help of Christians, Pray for Us!*



Christopher A. Ferrara  
Chief Counsel

P.S. A decision on our appeal of the atrocious \$107 million anti-life verdict in Oregon is expected any day, and may have been rendered by the time you receive this letter. Please redouble your prayers for a pro-life victory.

P.P.S. Donations of \$250 or more will be acknowledged with the late Archbishop Fulton J. Sheen's *A Catholic Catechism* on audiocassette or CD-Rom (please specify which), or his *Family Retreat* on audiocassette.

## LATE BREAKING NEWS!

As this issue of our newsletter went to press we received the wonderful news that the Ninth Circuit Court of Appeals, in a unanimous decision, has *reversed* the atrocious \$107 million verdict against our pro-life clients and their co-defendants! The appellate panel also ordered the trial judge to *dissolve* his injunction prohibiting the pro-life posters and Web site at issue. The appellate court affirmed that the posters and Web site are political speech protected by the First Amendment.

This is a great day for the pro-life movement. *But it is not over yet.* The pro-aborts and their lawyers have a few more procedural steps they can take before the appellate decision becomes final. Stay tuned for further developments.

Meanwhile, thank you and God bless you for your continued support of our work in providing pro bono legal services to Catholics under attack. This victory – and please God let us keep it! – is really *yours*.

Christopher A. Ferrara  
Chief Counsel



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