



Saint Thomas More  
1478-1535

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June 21, 2000  
St. Aloysius Gonzaga

Dear Fellow Catholic:

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A few days ago I stayed up until 4 a.m. to put the finishing touches on a critical legal brief on behalf of a group of pro-life activists we are defending in the federal district court in Portland, Oregon.

The brief I have just filed in Oregon is but the latest skirmish in a five-year running battle with Planned Parenthood and its high-powered law firm---a battle which has exhausted our tiny staff, and threatens to deplete what is left of our rapidly dwindling bank account.

Ten years ago we founded this organization to provide free legal assistance to Catholics who are suffering persecution because of their Faith.

Now, as I write this letter to you, the Association is facing some very serious choices about whether, and to what extent, it can continue to battle on against anti-life and secularist forces with huge material advantages in every department.

The costs in this one case alone could easily destroy us, but we simply cannot give up. We cannot just "cut and run" like the other lawyers who refused to take this case when they saw who they would have to oppose and how much it would cost.

No, we cannot give up. Because what is at stake in this case is nothing less than the very existence of the activist pro-life movement.

If we lose this case, then any pro-life activist can be hauled into federal court and saddled with a multi-million dollar damage award and a permanent injunction which could land him or

her in jail merely for saying the "wrong" things about abortionists.

You may have read about this case in the newspapers, or seen the feature about it on Sixty Minutes a couple of months ago. Quite simply, this case represents the greatest threat to the pro-life movement in the past 30 years.

The result in this case is so frightening that even some pro-abortion commentators have said "Wait a minute, that's going too far!"

Let me explain

#### A Dangerous Theory

In February of 1999 a federal jury in Portland awarded a local affiliate of Planned Parenthood and a group of abortionists the preposterous sum of \$109 million dollars, based on nothing more than two pro-life posters and a pro-life Web site alleged to be "threats."

There is not a single threatening word in the posters or the Web site---not one threatening word! Yet these two posters and the Web site were the entire basis for Planned Parenthood's unprecedented federal lawsuit against the pro-lifers who published the posters and whose organization merely lent its name to the Web site for about two weeks.

The posters and the Web site do nothing more than condemn abortionists as being guilty of crimes against humanity---which, of course, they are---provide readily available public information about particular abortionists, and call for peaceful protest against their killing.

Amazingly, neither the trial judge nor Planned Parenthood's lawyers ever identified any actual threats in the posters or the Web site. Yet our motion to dismiss the case was denied, Planned Parenthood was allowed to go to trial based on the claim that non-threatening communications were "threats" in violation of RICO, the federal anti-racketeering statute, and FACE, the Freedom of Access to Clinic Entrances Act.

That's right: the Catholic pro-lifers we are defending were forced to go to trial on federal racketeering charges based on nothing more than two non-threatening posters and a Web site.

How did this happen? It happened because the trial judge accepted what we view as one of the most dangerous theories of liability for pure speech ever invented.

You see, according to Planned Parenthood's lawyers, the alleged "threats" supposedly arose, not from the actual language of the posters or the Web site, but from the "context" in which they were published.

According to Planned Parenthood's novel legal "theory," the posters in this case were "threats" when viewed in "context" merely because "similar" posters naming other abortionists happened to exist at the time those abortionists were shot in 1993 and 1994.

Of course, these other posters had absolutely nothing to do with violence against abortionists. One might as well say that the rising sun is a "threat" because the sun rose on the very day those abortionists were shot.

Now, according to Planned Parenthood, the pro-life defendants in this case "should have known" that because of violence against abortionists in 1993 and 1994, their own later posters of abortionists would be "perceived" or "interpreted" as threats by the named abortionists.

Do you realize what this theory means? It means that any and all posters or Web sites which condemn abortionists by name are "threats" in violation of RICO if the named abortionists merely claim they "feel" threatened because their names are mentioned.

And it doesn't matter what the poster or Web site actually says! Nor does it matter that these communications have absolutely nothing to do with the shooting of abortionists. The mere existence of the posters or the Web site is deemed a "threat"

And not just posters or Web sites would become "racketeering" under this dangerous theory. Virtually any form of pro-life speech which mentions any abortionist by name is a potential "threat" in violation of RICO and FACE!

No wonder even liberal commentators have expressed alarm about this case!

## A Three-Ring Circus of a Trial

The trial of this case was a three-ring circus of unfair prejudice. Hundreds of objections by our defense team were overruled, and the jury was barraged with an incredible array of inflammatory material having absolutely nothing to do with our clients' posters or the Web site:

---The 3,000-page trial transcript contains nearly 700 references by Planned Parenthood's lawyers and their witnesses to shootings, bombings and other violent acts our Catholic pro-life clients had nothing to do with. It's all part of the "context," you see.

---FBI agents and federal marshals were allowed to testify about how they told the abortionist plaintiffs that the posters were very, very "threatening." The U.S. marshal who handled security for the very courtroom in which the trial took place was allowed to tell the jury about how he considered one of the posters to be "threatening."

---The jury was told about every controversial thing any of the pro-life defendants had ever said about abortion or abortionists at any time or at any place, and the statements and opinions of one defendant were held against all the other defendants. Even the defendants' condemnation of birth control was brought to the jury's attention.

Amazingly, about the only thing Planned Parenthood's lawyers didn't mention during the three-week trial was the actual language of the posters and the Web site.

~~And then there was the jury charge:~~ Over repeated defense objections, the trial judge instructed the jury that they must find the pro-life defendants guilty of threats even if the jury believed they had no intention to threaten-so long as it was "foreseeable" that the abortionist plaintiffs would "interpret" the posters as threats in their total "context."

In short, the pro-life defendants didn't have a chance of a fair trial. They were found guilty based on what they believed, and based on the violent acts of other people in other times and

places, not because of what their posters and the Web site actually said.

But it is still worse

### An Astounding Injunction

After the jury verdict, the trial judge granted Planned Parenthood and the abortionists an injunction which would punish with fines and a prison sentence any of the defendants or their associates who publish any poster or Web site "equivalent" to the posters or Web site at issue during the trial.

What does "equivalent" mean? Who knows? The defendants will either have to play Russian roulette with their liberty or cease publishing anything which is critical of Planned Parenthood or the abortionist plaintiffs.

### The Battle Rages On

And now the case is on appeal in the U.S. 9<sup>th</sup> Circuit Court of Appeals, in San Francisco, where we are hoping and praying for a reversal of this atrocious verdict on First Amendment grounds, or at least a new trial. To prepare and file the appeal our tiny staff worked throughout the summer of 1999--no vacations for us--poring over the massive trial record, page by page, and preparing an appellate brief and other submissions which had to be mailed to San Francisco in banker's boxes.

Having been strained to our financial, emotional and physical limits by this appeal, imagine how we felt when we realized that our clients' troubles were only beginning!

You see, Planned Parenthood's lawyers aren't satisfied with the verdict which was handed to them on a silver platter. Now Planned Parenthood is demanding that some of the pro-life defendants we represent be found in contempt of court and thrown in jail for publishing a pro-life magazine and receiving poverty-level wages from their pro-life organization.

Planned Parenthood claims that this was a "violation" of the injunction's restraint on "transfer of assets" by any of the defendants.

Incredibly, Planned Parenthood is even claiming that the wife of one of the pro-life defendants in the case is in contempt

of court because she loaned \$564 to another defendant to fix her broken-down car. Yes, they want to put a wife and mother in jail until she returns the \$564 she loaned a pro-lifer to fix her car!

### We Cannot Go On Much Longer

It seems clear to us that Planned Parenthood and its lawyers are determined to crush our resistance to their lawsuit by filing one post-trial proceeding after another in order to inflict as much damage as they can before our appeal is heard and their ridiculous \$109 million verdict is set aside.

In many of these post trial proceedings we have been forced to hire and pay local counsel out of our own treasury because our pro-life clients simply cannot afford to hire lawyers. These costs, and the general costs of operating this apostolate, are consuming our remaining funds at an alarming rate.

Planned Parenthood also knows that if we do not prevail in the 9<sup>th</sup> Circuit we will have to undertake the daunting expense of an appeal to the United States Supreme Court. Indeed, this case is a perfect opportunity for the Supreme Court to put a stop to the insane use of RICO and FACE to intimidate, silence and even imprison members of the pro-life movement. But where will the funding for this appeal come from?

### Other Matters Are Just As Crucial

And this is only one of the cases we are being called upon to handle on a pro bono basis, defending the rights of Catholics who otherwise would be completely defenseless.

As I write this letter we are also battling to preserve a major victory for parental rights which we won against an out-of-control public school district in Westchester County, New York in which impressionable children were being forced to engage in such things as Earth-worship and making images of a Hindu god in the classroom. A federal judge ruled in our favor, striking down several of the School District's outrageous practices.

Now we are fighting to preserve our victory in the Second Circuit Court of Appeals. If necessary, we will also to seek review of this case in the United States Supreme Court.



Just as in the Oregon case, our opponents are heavily funded and staffed. The entire educational establishment is on the School District's side and clamoring for a reversal of our victory at trial.

But where will we obtain the funding for an appeal to the U.S. Supreme Court if we have to go there?

In short, we cannot continue these battles much longer without a major outpouring of assistance from the good people on our side.

### **Only You Can Keep Us Going!**

There is only so much that is humanly possible with our limited staff and resources. We are barely able to keep up with the cases we have, let alone take on new battles in defense of the rights of Catholics.

Our financial advisor tells us that we need to raise at least \$500,000 almost immediately in order to pay for our continued operation and an absolutely vital expansion of our staffing.

To put it simply, we are undermanned, underfunded and exhausted. We need reinforcements and we need them in a hurry

Now, we all know that the enemies of life and the persecutors of Catholics are lavishly funded. Foundation grants in the millions of dollars are theirs for the asking. Platoons of lawyers are at their command.

For us, however, it is a constant struggle to survive. Not that we are complaining. On the contrary, we love the work that we do, and we consider it a great blessing to be able to do it.

But there is only so much further we can go with the little we have at our disposal.

To keep going, and to reach the next level in our defense of the rights of Catholics, we need your helping hand.

-Won't you help us win our First Amendment pro-life appeal in the 9<sup>th</sup> Circuit, and vindicate the right of pro-life activists everywhere to identify and condemn the perpetrators of the abortion holocaust without fear of huge damage awards and jail sentences?

-Won't you help us defend our victory for parental rights in the 2<sup>nd</sup> Circuit, so that Catholic children in public schools will no longer be subjected to inculcation into non-Christian religions?

-Won't you help us go all way to the United States Supreme Court if necessary to defend the rights of Catholics?

-Won't you help us to hire and pay legal and support staff we need to do battle on equal terms with the well-financed and abundantly staffed enemies of Christian liberty?

-Won't you help us go on providing free legal assistance to Catholics who would otherwise be defenseless?

Only you, as the instruments of God's providence, have made it possible for us to endure this long. Whether we continue to endure depends entirely upon you.

Please, send us your tax-deductible donation today. And may God bless you for your generosity.

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



Christopher A. Ferrara  
President and General Counsel



Yes! I would like to help the American Catholic Lawyers Association continue to fight the forces of secularism by providing free legal services to Catholics under fire. Here is my tax-deductible gift to help the ACLA defend pro-lifers and other faithful Catholics who urgently need free legal assistance.

\_\_\_\_\_ \$1,000      \_\_\_\_\_ \$500      \_\_\_\_\_ \$100  
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There is no need to acknowledge my gift,  
I know that it is appreciated.

*Thanks! With your help, we'll continue to  
fight for the rights of Catholics in America.*

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