

ACLU Back in Court Against Big Abortion

Just over three years ago, the Center for Medical Progress (CMP) released a series of videos that shocked the conscience of the American public, showing senior abortion providers openly discussing illegal practices such as profiting from the sale of the body parts of aborted babies and altering abortion methods to procure fetal specimens.

Following in the tradition of other investigative journalists, CMP conducted a two-year undercover investigation of fetal tissue procurement companies and abortion providers, which included the use of hidden cameras and microphones at abortion industry conferences and informal meetings.

Big abortion and its media allies immediately went on a public relations offensive, seeking to discredit CMP and its work in order to preserve the myth that no one has ever profited from the sale of fetal organs. Within a few weeks of the first CMP video being released, the National Abortion Federation (NAF) sued CMP and two of its board members, and obtained an injunction that prohibited CMP and individuals associated with it from releasing any footage recorded at NAF's annual meetings.

Several months later, Planned Parenthood Federation of America and several of its affiliates also filed a similar lawsuit. The ACLU represents Troy Newman, a former CMP board member, in both lawsuits.

Despite the injunction and favorable media coverage, big abortion has failed to keep all evidence of illegal activities within the abortion and fetal tissue procurement industries under wraps. The United States Senate and House of Representatives each launched their own investigations into

those industries due to the disturbing evidence uncovered by CMP.

The Congressional investigators held hearings, reviewed thousands of pages of documents, reviewed many hours of CMP's public and non-public video footage, and conducted witness interviews.

The resulting House Report and Senate Report contain significant, first-hand evidence of shocking and unconscionable criminal and illegal actions by abortion providers and fetal tissue procurement companies. For instance, the Congressional reports detail evidence of profiting from the sale of fetal organs—including through the use of a disgusting bonus structure under which employees were paid more money depending on which types of intact fetal organs they could sell to researchers—altering abortion procedures for financial gain, performing illegal partial-birth abortions, killing newborns who survived attempted abortions, failing to obtain informed consent for fetal tissue donations and fraudulent overbilling practices.

Both Congressional investigative bodies requested that various law enforcement and regulatory bodies investigate the offending organizations for possible criminal prosecution. As a result, the United States Department of Justice is currently investigating Planned Parenthood Federation of America and several other abortion providers and fetal tissue procurement companies.

Additionally, in Dec. 2017, a \$7.8 million court settlement was filed in California under which DaVinci Biosciences, LLC and DV Biologics, LLC admitted liability for their role in the unlawful sale of fetal tissue and stem cells for profit. The companies must permanently close and cease all business operations in the State of California. The District Attorney's investigation into their unlawful practices was opened after a complaint was submitted by CMP.

Nevertheless, the lawsuits against CMP, Newman, and others are moving forward. We recently filed a motion to dismiss the NAF lawsuit. Among other things, the motion refutes the notion that investigative journalists are no different than an organized crime family or other criminal enterprise.

As the motion explains, “creating an investigative journalism organization for the purpose of exposing illegal activities is far from an ‘unlawful purpose’ giving rise to wide-ranging conspiracy liability. To the contrary, ... undercover journalism ... is an important, constitutionally protected activity. ... Organizing and carrying out an investigative journalism project for the purpose of shedding light on possible illegal activities is, under both common sense and binding precedent, a lawful (and even laudable) purpose.” {eo}

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