

Justifying Infanticide

excerpts from court testimony on partial-birth abortion

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After President Bush signed a law banning partial-birth abortion last year, Planned Parenthood and the rest of the abortion industry sued to have the law overturned. This past spring, several doctors who have performed such abortions testified before judges in various parts of the nation. The following is an excerpt of their remarks.

The Procedure

April 5, 2004: Excerpts from cross-examination of Dr. Carolyn Westhoff:

Q. And at that point the fetus' body is below the cervix and the neck is in the cervix with the head still in the uterus, right?

A. Yes.

Q. And it's at that point that you take a scissors and insert it into the woman and place an incision in the base of the fetus' skull, right?

A. Yes.

Q. Now the contents of the fetus' skull, just like the contents of my skull and your skull is liquid, right?

A. That's right.

Q. And sometimes after you've made the incision the fetus' brain will drain out on its own, right?

A. That's right.

Q. Other times you must insert a suction tube to drain the skull, right?

A. That's right.

Q. And then the skull will collapse immediately after its liquid contents have been removed and the head will pass

easily through the dilated cervix, right?

A. That's right.

April 2, 2004: Testimony of Dr. Carolyn Westhoff:

Q. Do you tell her [the mother] that you are going to then, ultimately, suck the brain out of the skull?

A. In all of our D&E's the head is collapsed or crushed and the brains are definitely out of the skull but those are—

Q. Do you tell them that?

A. Those are details that would be distressing to my patients and would not—information about that is not directly relevant to their safety.

April 1, 2004: Judge Richard C. Casey and Dr. Timothy Johnson, plaintiff:

Casey asked Johnson if doctors tell a woman that an abortion procedure they might use includes “sucking the brain out of the skull.”

“I don't think we would use those terms,” Johnson said. “I think we would probably use a term like ‘decompression of the skull’ or ‘reducing the contents of the skull.’”

The judge responded, “Make it nice and palatable so that they wouldn't understand what it's all about?”

“We try to do it in a way that's not offensive or gruesome or overly graphic for patients,” Johnson said.

The Goal

April 6, 2004: Excerpts from Government's cross-examination of Dr. Mitchell Creinin:

Q. If the fetus were close to 24 weeks, and you were performing a transvaginal surgical abortion, you would be concerned about delivering the fetus entirely intact because that might result in a live baby that may survive, correct?

A. You said I was performing an abortion, so since the objective of an abortion is to not have a live fetus, then that would be correct.

Q. In your opinion, if you were performing a surgical abortion at 23 or 24 weeks and the cervix was so dilated that the head could pass through without compression, you would do whatever you needed to do in order to make sure that the live baby was not delivered, wouldn't you?

A. Whatever I needed, meaning whatever surgical procedure I needed to do as part of the procedure? Yes. Then, the answer would be: Yes.

Q. And one step you would take to avoid delivery of a live baby would be to deliver or hold the fetus' head on the internal side of the cervical os in order to collapse the skull; is that right?

A. Yes, because the objective of my procedure is to perform an abortion.

Q. And that would ensure you did not deliver a live baby?

A. Correct.

How the Baby Reacts

April 5, 2004: Excerpts from direct examination of Dr. Marilyn Fredriksen:

The Court: Do you tell [the woman] whether or not it will hurt the fetus?

Fredriksen: The intent of an [abortion is] that the fetus will die during the process of uterine evacuation.

The Court: Ma'am, I didn't ask you that. Very simply I asked you whether or not do you tell the mother that one of the ways she may do this is that you will deliver the baby partially and then insert a pair of scissors in the base of the fetus' skull?

Fredriksen: I have not done that.

The Court: Do you ever tell them that after that is done you are going to suction or suck the brain out of the skull?

Fredriksen: I don't use suction.

The Court: Then how do you remove the brain from the skull?

Fredriksen: I use my finger to disrupt the central nervous system, thereby the skull collapses and I can easily deliver the remainder of the fetus through the cervix.

The Court: Do you tell them that you are going to collapse a skull?

Fredriksen: No.

The Court: The mother?

Fredriksen: No.

The Court: Do you tell them whether or not that hurts the fetus?

Fredriksen: I have never talked to a fetus about whether or not they experience pain.

April 1, 2004: Judge Richard C. Casey, Dr. Timothy Johnson, plaintiff:

“Does the fetus feel pain?” Judge Richard C. Casey asked Johnson, saying he had been told that studies of a type of abortion usually performed in the second trimester had concluded they do.

Johnson said he did not know, adding he knew of no scientific research on the subject.

The judge then pressed Johnson on whether he ever thought about fetal pain while he performs the abortion procedure that involves dismemberment. Another doctor a day earlier had testified that a fetus sometimes does not immediately die after limbs are pulled off.

“I guess whenever I...” Johnson began before the judge interrupted.

“Simple question, doctor. Does it cross your mind?” Casey pressed.

Johnson said that it did not.

“Never crossed your mind?” the judge asked again.

“No,” Johnson answered.

Proof that the Baby is Alive

March 29, 2004: Testimony of Dr. Maureen Paul:

Q. And when you begin the evacuation, is the fetus ever alive?

A. Yes.

Q. How do you know that?

A. Because I do many of my procedures especially at 16 weeks under an ultrasound guidance, so I will see a heartbeat.

Q. Do you pay attention to that while you are doing the abortion?

A. Not particularly. I just notice sometimes.

April 2, 2004: Testimony of Dr. Cassing Hammond:

Q. And you have observed signs of life in the fetus, didn't you?

A. That is correct.

Q. You have seen spontaneous respiratory activity, right?

A. Yes.

Q. Heartbeat?

A. Yes

Q. Spontaneous movements?

A. Yes.

The Burial

March 31, 2004: Dr. Amos Grunebaum:

Grunebaum said doctors used to hide the fetus from women after an abortion before studies in the late 1970s and early 1980s showed that women grieved less after a failed pregnancy if they get to see the fetus.

"It is the same as any baby dying. People want to hold the fetus," he said, adding that he goes so far as to put a cap on the head of the fetus just as he would for a newborn.

April 5, 2004: Excerpts from cross-examination of Dr. Fredrik Broekhuizen:

Q. Doctor, you testified earlier that sometimes parents want an intact fetus for blessing or burial. Have you ever had the parent express that desire where you had compressed the head of the fetus to complete the delivery?

A. Yes.

Q. Was anything done in those instances, doctor, to improve the appearance of the fetus' head after decompression?

A. Yes.

Q. What was done?

A. The fetus was—just like a newborn—it was dressed and kind of had a little hat placed on it so only the face was visible.

Q. You have seen the fetus' leg move before crushing the head, haven't you?

A. I have seen that before compressing/decompressing the head.

April 2, 2004: Testimony of Dr. Carolyn Westhoff:

A. Because it is the back of the skull that collapsed, since this is not disfiguring, and the face, for instance, is intact. Several of my patients have wished to hold the fetus after the procedure and have expressed gratitude that they were able to do so... We have arrangements to permit burial of the fetus if the patients want... Because the hospital also has small coffins present, both for stillbirths or for fetuses after a termination, and in the case of our D&E patients we actually have little hats available so we could in fact cover the back of the head where the incision had been made.