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## Abortion Practitioner Not Negligent for Failure to Say Unborn is Human

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STEVEN ERTOLT JAN 1, 2004 | 9:00AM WASHINGTON, DC

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### Abortion Practitioner Not Negligent for Failure to Say Unborn is Human

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by **Steven Ertelt**

*LifeNews.com Editor*

*January 1, 2004*

**Trenton, NJ (LifeNews.com)** — A New Jersey OBGYN, who also performs abortions, has been found not to be negligent for failing to tell a patient that an unborn child is a living human being and not explaining the emotional and psychological risks of having an abortion.

Rosa Acuna says she was incorrectly told by Dr. Sheldon Turkish that she was not aborting a human life when she had an abortion in 1996, according to court papers.

Turkish had told Acuna that her pregnancy was causing damage to her kidneys and an immediate abortion was needed. She then asked if "the baby was already there" and Turkish replied that its "nothing but some blood."

In a deposition, Turkish admitted he routinely tells pregnant mothers that unborn children early on in pregnancy are "nothing but some tissue."

Acuna sued Turkish, saying the abortion caused psychological traumas including depression, post-traumatic stress disorder and psychosexual dysfunction.

However, New Jersey Superior Court Judge Amy Chambers ruled in November that Turkish was not required to tell Acuna, 36, that the unborn child was a human being.

"When plaintiff insists that the doctor should have told her that she would be terminating the life of a living human being, she is asking for more than impartial medical information," Chambers wrote in her decision.

Chambers said Acuna was asking Turkish to subscribe to the pro-life belief that, from conception, an unborn child is "a person born and alive." She claimed such a statement was a value judgment, not a medical fact.

Acuna's attorney has filed a motion for reconsideration in Chambers' court.

"The law requires the doctor to explain the procedure, to explain the risks," Harold Cassidy, Acuna's attorney told the AMA News. "She is entitled to be told of a risk of significant psychological harm that could be lasting."

An appeals court previously ruled that Acuna's argument that her doctor did not give her enough details before the abortion is a question of medical malpractice.

"Based on the circumstances, background and beliefs of a mother, inducing her to terminate a pregnancy, even at eight weeks, because of the physician's failure to obtain an informed consent may also result in severe distress and mental anguish," that court said.

A trial court dismissed the suit in the first legal hearing in the case, saying that *Roe v. Wade* prohibited the State from recognizing the fact that the child was a human being. The Appellate Court rejected that contention.

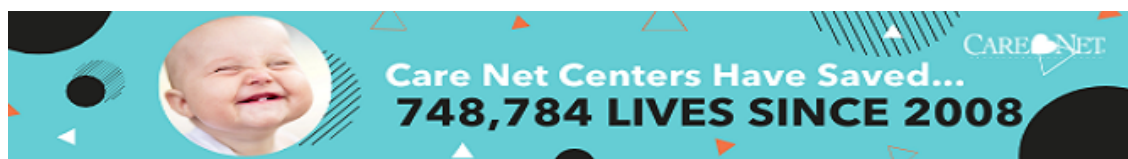
"This case exposes the conflict between a mother's fundamental rights and a conflicting philosophy of an abortion doctor who devalues the mother's interest," Cassidy said.

"This takes back the right of women to litigate their own rights in regard to abortions," Cassidy said. "In the past, that right was taken from women by the American Civil Liberties Union and the abortion industry, such as Planned Parenthood. They contended they represented women in any lawsuit against abortion providers, when in fact, their interest is with the providers."

Pro-life groups say the case points to the need for Right to Know laws that required abortion practitioners to fully inform women of abortion's risks, dangers and alternatives, as well as providing them with complete information about fetal development.

Cassidy, an advocate of the rights of pregnant mothers, first gained national attention when he successfully litigated the Baby M case, which protected mothers' rights by declaring surrogate parenting contracts unenforceable.

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