

MANSLAUGHTER TRIAL OF ARIZONA ABORTION DOCTOR

Emotions run high over abortion death

Reluctant witness testifies

Carol Sowers and Senta Scarborough

The Arizona Republic
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Protesters carried rosary beads and prayed outside a Phoenix courtroom Wednesday as an abortion doctor was forced to testify even though he feared for his safety.



Mark Henle/The Arizona Republic
Dr. John Biskind listens to testimony Wednesday.

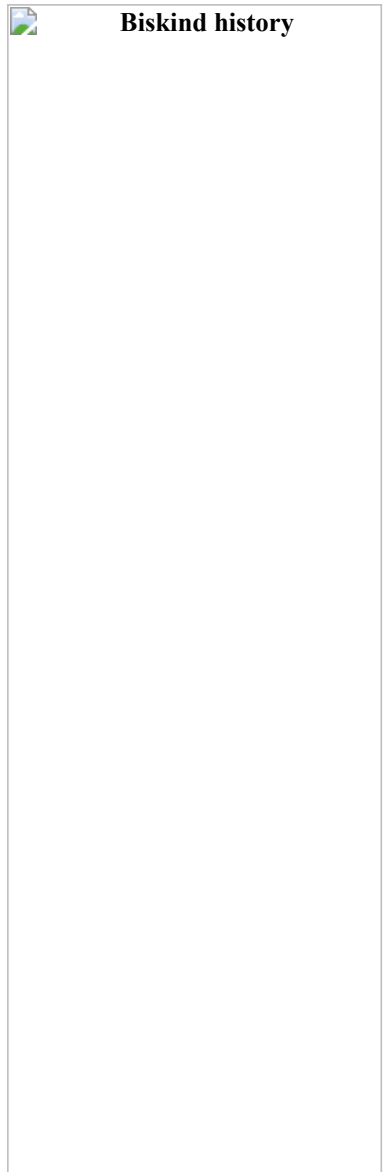
Dr. Moshe Hachamovitch of New York, who said he has performed "hundreds of thousands" of late-term abortions, repeatedly told jurors he does not recall details about a patient's death in 1998 at his Phoenix clinic, the A-Z Women's Center in Phoenix.

Hachamovitch had fought a subpoena from Maricopa County prosecutors to testify in the manslaughter trial of his employees, Dr. John Biskind, 75, and Carol Stuart-Schadoff, 63, in the death of LouAnne Herron. Hachamovitch had received threats that caused him to fear for his safety, said J.W. Brown, a Maricopa County Superior Court spokeswoman.

The 25 protesters who marched in front of the Superior Court building in downtown Phoenix prayed for Biskind and for women who use abortion clinics. They also carried signs saying, "Convict Biskind. A baby killed. A mother left to die," and, "Stop abortion now."

New York courts allowed Hachamovitch to testify only after court officials here guaranteed that photographers would not take pictures of him. In a rare move, courthouse security required spectators, family members and reporters attending the trial to pass through a metal detector to get inside the courtroom of Superior Judge Michael O. Wilkinson.

<http://www.arizonarepublic.com/news/articles/0201BISKIND01.html>



Tiny feet 10 weeks after conception

Warning: very graphical pictures of aborted babies

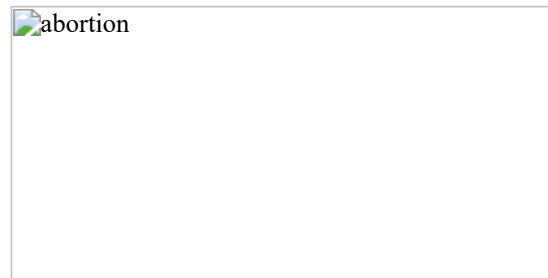
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Clinics still unlicensed, despite law

Carol Sowers
The Arizona Republic
Feb. 01, 2001

Women in Arizona still receive abortions in unlicensed clinics, despite pledges made after a highly publicized death three years ago.

State lawmakers reacted to the 1998 death of abortion patient LouAnne Herron by passing a law that for the first time would have



Mark Henle/The Arizona Republic

Valley residents Jim Arnone (left) and Ed Knecht add their voices to an abortion protest Wednesday outside Superior Court.

required state licensing of doctors offices where abortions are performed.

But the regulations have become a political and legal train wreck.

First, a New York reproductive rights group filed suit, derailing the law's implementation. The group argued that licensure is a poorly cloaked effort to put abortion doctors out of business in Arizona and that it is unnecessary because doctors who perform abortions follow accepted standards of care.

Even proponents of the law were troubled, saying they were wooed with false promises that all doctors performing outpatient surgery, such as vasectomies or liposuction, would be licensed by the state.

"It may be that some of those people who made those promises were lying, and this, for them, was about limiting abortion access," said Bryan Howard, president and chief executive officer of the Phoenix-based Planned Parenthood of Central and Northern Arizona, which helped craft the legislation.

The law, hammered out in the waning days of the 1998-99 legislative session, was prompted by Herron's death on April 17, 1998. The 33-year-old mother of two bled to death in the A-Z Women's Center in Phoenix after a doctor punctured her uterus during a late-term abortion.

Maricopa County prosecutors charged Dr. John Biskind, 75, and Carol Stuart-Schadoff, 63, his administrator, with manslaughter, alleging that they ignored Herron's worsening condition and allowed her to bleed to death. Their lawyers say that the allegations are false and that the two followed standard medical practices.

The long-anticipated trial has packed Superior Court Judge Michael O. Wilkinson's courtroom and stirred emotional testimony about Herron's last three hours of life on a gurney at the Women's Center. But the legal drama over licensure has unfolded quietly in the background.

Under the regulations, clinics owned by doctors or a group of doctors that perform five or more first-trimester abortions per month or any late-term abortions would be licensed by the state. Doctors also would have to state in writing the reasons for abortions and techniques used.

Clinics would be required to send ultrasound images of fetuses to a state laboratory to certify fetal age. In Arizona, a physician can decide when a fetus is able to live outside the womb, but the standard is generally 24 weeks.

Last March 1, less than two years after Herron died, the Center for Reproductive Law & Public Policy of New York, filed suit in U.S. District Court in Tucson against the state Department of Health Services.

"LouAnne Herron's death is a complete tragedy," said Bonnie Scott Jones, a center lawyer. "I found it completely heartbreaking because he let her bleed to death. But putting rules on the clinic wouldn't have changed anything. The principle of standard of care already is in place. He (Biskind) ignored those standards. No amount of regulation is going to make a bad doctor stop being a bad doctor."

Kevin Ray, an assistant state attorney general, said the rules are "reasonable and conform to national guidelines."

One in particular would have helped in the Biskind case, he said. It requires a physician to be immediately available until all patients' conditions are stable. If the

physician can't be there, a physician's assistant or a licensed nurse must be at the clinic until a doctor signs discharge orders.

Prosecutors say Biskind left the clinic even though he knew no registered nurse was on duty and that Herron was in trouble.

Federal Judge Raner Collins in late March temporarily blocked the state's new licensing rules. He is expected in the next few months to either uphold or ban the licensure or set a trial date.

Like Howard, Jones argues that the licensure of abortion doctors ignores other unlicensed doctors offices that do outpatient surgery. She says if lawmakers had forced licensure on other doctors, "the outrage from doctors would have been incredible."

Patti Caldwell, president and chief executive officer of Planned Parenthood of Southern Arizona, said she worries that doctors who also do other procedures "could stop providing abortions."

While the lawsuit over the licensure meanders through the courts, women continue to seek abortions in 10 facilities that do not have state licenses. Ten other clinics are licensed by the state because they are owned by non-doctors. Planned Parenthood clinics fall under those licensing rules.

Planned Parenthood's Howard is disappointed that lawmakers didn't force DHS licensure on other outpatient procedures. The department licenses other medical facilities, including hospitals, outpatient treatment centers, dialysis units and home health agencies.

Howard said his agency provided its medical procedures as a blueprint for the regulations because he was promised that other outpatient clinics would be licensed.

"The Legislature has never followed through on that piece, and you still have foot and cosmetic surgery done in an entirely unlicensed facility," he said, adding, "People ought to be concerned about that."

But Sen. Sue Gerard, a Phoenix Republican, and chairwoman of the Senate Health Committee, said that promise was made by Jeff Groscost, former speaker of the House, who resigned last year in the wake of the alternative-fuels fiasco.

"There is no question they are right," Gerard said of Planned Parenthood. "But they need to tell me how they can get a handle on regulating the dozens of medical procedures. Where do they draw the line on what is major surgery? It would be a monstrous regulatory process."

<http://www.arizonarepublic.com/news/articles/0201abortion01.html>

Doctor guilty in abortion death

Wednesday, 21-Feb-01 16:03:02

24.14.28.77 writes:

Doctor guilty in abortion death

<http://www.azcentral.com/news/0221biskind21.html>

**Jurors convict Biskind,
assistant**

**Carol Sowers
The Arizona Republic
Feb. 21, 2001**

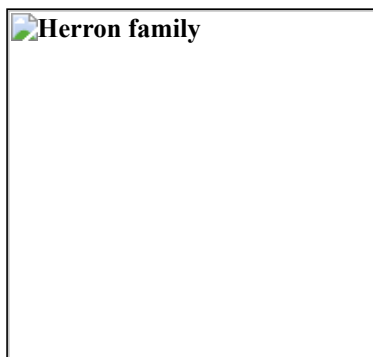


In what is believed to be the first time a doctor has ever been found guilty of killing a patient in Arizona, a jury on Tuesday convicted Dr. John Biskind of manslaughter and his assistant of negligent homicide.

Jurors concluded that Biskind's patient, LouAnne Herron, would still be alive if not for her botched abortion in 1998 at the A-Z Women's Center in Phoenix.

The verdict came shortly before noon in Maricopa County Superior Court after jurors had listened to a month of sometimes disturbing, sometimes tedious testimony. During a press conference two hours later, Maricopa County Attorney Richard Romley described the case as the first time in Arizona that a doctor has been convicted in the death of a patient.

Jurors concluded that Biskind, 75, demonstrated a "reckless disregard" for Herron's life, and that the clinic administrator, Carol Stuart-Schadoff, 63, also could have prevented her death, said Russell Craig of Phoenix, jury foreman.



Jurors made up their minds to convict Biskind and Stuart-Schadoff immediately upon beginning deliberations Thursday, he said. But they spent three hours Thursday and an hour Tuesday deliberating the precise nature of the crimes.

"The evidence kind of spoke for itself," Craig, 56, observed.

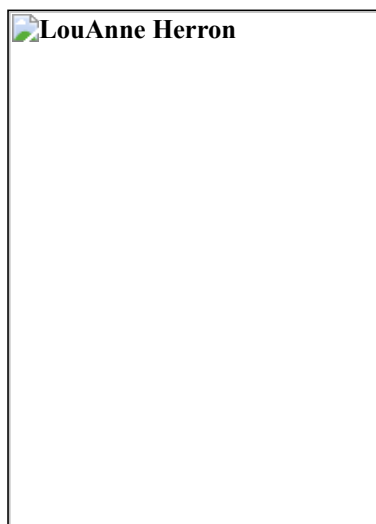
Superior Court Judge Michael

Wilkinson set sentencing for March 20. The defendants remain free on \$32,000 bail. Biskind could receive a sentence ranging from probation to 12* years in prison. Stuart-Schadoff could get probation or a prison term of up to 3* years.

Evidence showed that Herron, 33, bled to death after Biskind punctured her uterus during the late-term abortion in April 1998 at the A-Z Women's Center. At one point, Biskind testified that he left the clinic to go to his tailor as Herron lay bleeding. He also testified, however, that he could not have prevented Herron's death and that he did not realize the serious nature of her condition.

Craig said the seven-woman, one-man jury was offended by Biskind's smiling arrogance on the stand and his testimony that he left the clinic while Herron was bleeding. And jurors were concerned about Stuart-Schadoff's failure to act on Herron's behalf.

"If she had, LouAnne Herron



would be alive today," Craig said.

LouAnne Herron

As the verdict was read, members of Herron's family gasped and cried softly. Jay Schadoff, Stuart-Schadoff's husband, would not comment, but whispered the word "travesty" after the jury left the courtroom. Neither of the defendants commented on the outcome of the case.

Michael Gibbs, Herron's father, called the verdict "just step one" in the family's search for justice. With tears welling up in his eyes, he said family members did not want to talk about the criminal case because they worried it would endanger their civil suit against Biskind, Stuart-Schadoff and Dr. Moshe Hachamovitch, owner of the A-Z

Women's Center. The suit is expected to go to trial in June.

Prosecutors Paul Ahler and Susan Brnovich told jurors Biskind should be convicted of manslaughter because he acted recklessly, leaving the clinic although he knew she had spent too many hours in the recovery room and declining to return even after being told she had trouble breathing and had no pulse.

The prosecutors said Stuart-Schadoff arranged the abortion and failed to schedule a registered nurse in the recovery room the day Herron died.

Ahler, who hugged each of Herron's family members as the jury filed out of the courtroom, said he was surprised at the speed of the jury's decision.

"I thought it would be a bit longer," he said, "but I am gratified by the way it came out."

Attorneys for Biskind and Stuart-Schadoff said they will appeal.

Herron, the mother of two boys, had been separated from her husband of 15 years when she went to the clinic because it was the only one in the Valley advertising that it would do abortions up to 24 weeks. She knew it was a late-stage abortion and was desperate to have it done because she and her husband had separated and she was a single working mother who already had two children.

Even before Herron came to the clinic, Biskind had a long history of problems with abortions, including the death of another patient in 1995. The previous troubles, however, were not admitted as evidence.

Within hours after the verdict, County Attorney Romley called for tougher laws forcing doctors to do a better job of regulating themselves. He vowed to go to the state Legislature next year to demand stiffer rules if the state Board of Medical Examiners "doesn't make some changes" first.

Romley said he will ask for a pre-sentence hearing where he will present evidence of Biskind's other mishandled abortions, including the death of the other woman and his delivery of a full-term baby that he intended to abort.

Told of the previous cases, Craig, the jury foreman, said it "makes me feel better about my decision."

Biskind will join a handful of doctors across the country who face prison time because of their medical care.

Their legal fates may provide a clue into what Biskind may face. In California last year, a doctor pleaded guilty to involuntary manslaughter and was sentenced to one year in jail and 1,000 hours of community service.

In 1995, a New York doctor was found guilty of murder and sentenced 25 years to life. The case is similar to Biskind's. A woman went to Dr. David Benjamin for a late-term abortion. He lacerated her uterus and did not return when his staff called saying that she was in danger.

Lawrence Kazan, Biskind's attorney, would say only that he was disappointed with the verdict. Cameron Morgan, Stuart-Schadoff's attorney, said the defense plans to appeal.

He said the appeal will be based in part on the introduction of an ultrasound of Herron's fetus even though it was described as useless by one of the prosecutor's key witnesses. The prosecutor's case was based heavily on the theory that Biskind chose the ultrasound that showed the fetus to be 23 weeks old, but rejected other ultrasounds that suggested the fetus was 26 weeks, putting it close to gestational age when it could have survived outside the womb.

Kazan also said his client was not kept informed by medical assistants of Herron's condition and left the clinic that day believing she was ready to be discharged.

Dr. Brian Finkel, a longtime abortion doctor, on Tuesday called Biskind an incompetent doctor who deserves to pay for his mishandling of Herron's abortion. But he said the verdict will fuel the fire of abortion opponents who want to prevent women from "getting the services they have a right to."

John Jakubczyk, a prominent attorney who opposes abortion, said he was pleased with the victory and believes Biskind should be sent to prison.

"Biskind seems oblivious that a woman is dead because of him," he said. "I don't think he knows the value of life and maybe he needs to spend the next 10 years in prison thinking about it."

Reporters Senta Scarborough and Jodie Snyder contributed to this report.

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