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Walter M. Weber

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An Abortionist's Right to Deceive Women

Ruling against choice.

By Walter M. Weber

New Jersey's supreme court has just decided that, as far as state law is concerned, an abortionist can give false information to a woman trying to decide whether to have an abortion.

Is there a "baby in there"? That's what Rose Acuna wanted to know from her obstetrician-gynecologist. She was six to eight weeks along at the time. "Don't be stupid. It's only blood," the physician, Sheldon Turkish, allegedly replied. (Turkish argues that he probably said, "It's just tissue.") So, three days later, Acuna went ahead with the abortion.

Acuna then suffered complications. She'd had an "incomplete abortion," and a hospital nurse informed her that "the doctor had left parts of the baby inside of you."

Baby? What baby? Didn't the doctor say "just blood" (or "just tissue")?

Acuna started looking for answers. What she found out about the medical realities of human development and abortion was emotionally

devastating. Now, she would carry a burden of guilt and grief for the rest of her life.

Rose Acuna sued the doctor, saying she'd been lied to and misled. The case wound its way through the New Jersey legal system until, on September 12, the state supreme court ordered her case dismissed.

"We are sympathetic to the deep pain the plaintiff has suffered," Justice Barry Albin wrote for a unanimous court. However, the court was decidedly *not* sympathetic to Mrs. Acuna's legal claims.

The court did not even try to defend Turkish's embarrassingly inaccurate response to Acuna's question. Instead, the court said it didn't matter. "Despite defendant's 'don't-be-stupid-it's only blood' remark in describing the developmental stage of her embryo, [Acuna] understood that without [an abortion or] miscarriage, she would give birth to a child in seven more months." In other words, so long as the woman is told she's pregnant, the would-be abortionist can feed her the most preposterous nonsense about what's actually going on in her womb. And if that nonsense induces the woman to abort the baby in ignorance, too bad.

So much for "informed choice."

Acuna pressed a second argument as well. Even apart from Dr. Turkish's affirmative misinformation, Acuna argued, the physician had an obligation at least to inform Mrs. Acuna that, as a matter of pure biological fact, she carried an embryo that was "a member of the species *Homo sapiens*."

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Again, the state supreme court disagreed. The court declared that there was “clearly no consensus” on whether an embryo is, as matter of “biological fact” a “human being”. Why? Because there is “moral, theological, [and] ideological” disagreement over the status of unborn children.

But Acuna wasn’t asking the doctor for “moral, theological, or ideological” information. She wanted the cold, hard, medical facts. Then she could apply *her own* value system in responding to those facts.

The state supreme court admitted that its decision ultimately represented a “value judgment” by the court. One shudders to think what “value” justifies subordinating a woman’s supposed right to “choice” to an abortionist’s callous and patronizing deception.

Acuna v. Turkish is the case of an abortionist who badly, tragically, failed his patient. Now that the state supreme court has immunized his malpractice, this is also a case of a state supreme court that has badly, tragically failed its citizenry.

— *Walter M. Weber is senior litigation counsel for the American Center for Law and Justice.*

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