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Equal rights for children under the law

Pastor and members convicted for church whippings

On October 17, Rev. Arthur Allen and four of his church members were convicted of felony cruelty for whippings of children held at his House of Prayer in Atlanta.

Allen maintains that the Bible requires corporal punishment and that he is saving the children from a life of crime and drugs.

It is not the first time church members have been trouble with the law over corporal punishment. In 1993, Allen and six members were convicted of battery in the beating of a 16-year-old girl. Allen was sent to jail for twenty days in that incident.

The state's recent involvement began in February 2001, when a first grader showed his teacher wounds on his stomach and described the beatings. Children were being taken to the church, suspended in the air, and beaten with belts on their torsos. By May, 49 children of House of Prayer families were placed in foster care.

Conditions for return rejected

At juvenile court hearings Allen and church members rejected state offers setting conditions for the return of their children. State officials wanted them to agree to spank only with the hand, only on the buttocks, and only by the child's biological parents.

Another condition was that Allen agree to stop sending girls under the age of sixteen out of state for arranged marriages. Allen contends the practice is necessary to keep girls from becoming unwed mothers.

In late May, the Georgia Department of Children and Family Services (DCFS) concluded that no more than five of the 49 children had been

physically abused. A judge then sent 34 of them home to their parents. The rest were held for further evaluation of psychological and other problems.

Throughout 2001, DCFS met with the parents of children still in foster care. The parents insisted they would continue to let others hit their children with belts and other instruments even if marks and bruises would likely result.

They and Allen argued that the remaining 15 children in foster care should be returned without conditions as the other 34 had been. "We're not losing. We're winning," said Yolanda Wilson, one of the mothers. "If it hadn't been for the Lord, we wouldn't have come this far. We haven't done anything wrong. We know the Lord's going to work this out."

The judge threatened to bill the parents for the foster care. And in January 2002, DCFS asked the judge to free the children for adoption.

Also that month a Fulton County grand jury indicted Allen and ten House of Prayer members for cruelty to children and aggravated assault.

Parents of nine children later agreed to conditions set by the state for return of their children and had them returned.

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In June the defendants rejected an offer of five years probation. They also insisted on representing themselves at trial.

Trial exhibits included photographs showing deep bruises on boys' backs and chests and wounds on their stomachs.

Two boys confirmed the descriptions of the whippings that investigators gave to the court.

One mother asked her son on the witness stand, "Do you think we're abusive parents?"

The boy replied, "No" and later said, "I feel that you all whup us because you all love us."

Does Bible confer right to hit kids?

Fulton County prosecutor Patricia Jackson delivered her closing argument in front of a red sign saying "Stop the Reign of Terror at The House of Prayer."

"No church, no Bible, no constitution, gives you the right to abuse a child," said Jackson. You are all that these children have to protect them, she told the jury.

In his closing, Allen suggested that the photographs had been doctored as a DCFS vendetta against his church. He cited the Bible as his directive for whipping children. He claimed that crime, disrespectful youth, and other societal ills are caused by failure to use corporal punishment.

Jury must decide what is excessive

Georgia law allows corporal punishment of children, but criminalizes "excessive" corporal punishment without defining what is excessive. Left to its discretion, the jury determined that the whippings were excessive.

Allen was sentenced to 90 days in jail and 9 years 9 months probation. He can be returned to jail if he violates the terms of probation. The other defendants were sentenced to shorter jail terms plus probation.

After pronouncing sentence, Judge Jackson Bedford walked over to Allen's table and said softly, "You do what I tell you to do. Please."

Allen said "O.K." and was also subdued as he left the courtroom. The 70-year-old Allen pointed out to reporters that he has a wife, seven children,

and another on the way, and that he needs to "pay attention to them and their welfare."

Mock whipping performed at church

Three days later in his church, however, Allen returned to a defiant mode. His sermon encouraged House of Prayer members to continue whipping disobedient children. Allen even took off his belt during the service and waved it over a teenaged boy being held by two other men.

"See if he's going to stand up there and let you hit him with a belt and you don't hold him," Allen said. "I can't maintain discipline in my home by just hand-spanking our children."

"Tell the judge to come down and show me how," he continued. The DCFS wants "to make a joke out of disciplining children. . . . I can take criticism, but I can't submit to idiocy."

"Evil forces want me removed from this church. They want to see this church go down," Allen said. "But I . . . can't go against God. I can't bow to the will of man."

Another defendant convicted with him said he would not denounce Allen's teachings if his life depended on it.

Allen has hired a lawyer to appeal the convictions.



Prosecutor Phyllis Clerk shows how House of Prayer punished children
Photo by John Spink used with permission of the *Atlanta Journal Constitution*



Allen told DCFS that black children need to be hit more severely than white children because they have tougher skin, they have not been “free” as long as whites, and have too much “Africanism” in them.

In May 2001, a group of black Georgia state legislators held a hearing on the standoff between DCFS and the House of Prayer that was clearly sympathetic to Allen.

Rev. Arthur Allen, Jr., center, leads his congregation in a walk around the State Capitol
Photo by Kimberly Smith used with permission of the *Atlanta Journal Constitution*

Background and comment

Rev. Arthur Allen founded his church in 1966. He recruited members from some of Atlanta’s toughest public housing projects. Many of those members are still with him.

He takes no salary from his 130-member church, and his lifestyle is modest. He worked as a landscaper and house painter until a few years ago. He has raised money by selling land he inherited. His followers say he has bought several of them houses and cars and helped them keep their marriages together. He encourages the men to get jobs and provide for their families.

While the House of Prayer strenuously defends corporal punishment on biblical grounds, a legacy of racism and social conditions faced by African-Americans may also be factors.

Defendants testified at the trial that whipping the children was intended to save them from ending up in the criminal justice system. White people need to look at the phenomenal rates of violent deaths and incarceration of young African-American males to understand the fear pervading the black community.

Whippings defended as part of black culture

One lawmaker invited Allen’s family to move to the front of the room and sit facing the audience. Allen’s supporters packed the hearing room and often erupted with shouts of “Amen” and “Praise God.”

Several legislators spoke glowingly of the whippings they got when they were children. John H. Lewis, Jr., the pastor of Imani Temple, complained that whites “don’t understand our culture.” He and others said black children need to be disciplined more harshly than white children. Black witnesses accused DCFS workers of being “Nazi police criminals” and their black employees of being “Uncle Toms” and “Aunt Jemammies.”

Some lawmakers proposed rewriting the law to clarify the difference between abuse and discipline.

Based in part on articles in the *Atlanta Journal and Constitution* of May 25, 2001; June 23 and 26, 2001; July 15, 2001; June 25, 2002; and throughout October, 2002.

First-degree murder conviction in baby's starvation death

On June 14, Jacques Robidoux of North Attleboro, Massachusetts, was convicted of first-degree murder for intentionally starving his son Samuel to death. The baby died three days before his first birthday.

Robidoux, 29, was an elder in a religious group calling itself The Body of Christ. Robidoux's father, Roland, founded and led it into isolation from society. He demanded rejection of "Satan's counterfeit systems," including medicine, banking, commerce, education, entertainment, and government. They opposed all medical care, including even eyeglasses.

Leadings must be obeyed

Group members saw themselves as a "holy remnant" of chosen people who got "leadings" from God. The leadings, according to court testimony, "were to be believed and acted on as if they came from St. Paul unless God showed [them] otherwise."

In the fall of 1998, Jacques received a leading that he should quit his job as a window washer. He and his wife Karen gave up their home and decided to move their family into a tent. Other group members, the Hortons, took pity on them, however, and invited the Robidouxes and their four children to move into their home.

In October, Karen became pregnant again. She and her husband thought she was expecting twin boys and named them Caleb and Joshua.

Late in February, 1999, Jacques's sister Michelle Mingo got a leading that Karen was vain and therefore Joshua was going to die. The leading further decreed that Karen's baby Samuel should not eat any solid food, but only Karen's breast milk, and that Karen should take only almond milk for nourishment.

Baby's deterioration visible on first day

Before Mingo's leading, Samuel was, ex-members testified, a healthy, chubby, beautiful, happy baby. He loved to play with toys. He played

pat-a-cake. He pulled himself up on furniture and "cruised" along it.

On March 7, only one day after the Robidouxes began to obey the leading, Jacques wrote in his journal, "Samuel is obviously not being filled. Samuel started only nursing as commanded by God. He was thirsty and hungry. . . . As the night went on, Karen could not take Samuel crying anymore. She decided to go to bed."

Spiritual lessons for parents

The baby slowly starved to death over 51 days while Jacques wrote about the spiritual lessons he and his wife were learning as they watched him die.

In mid-March, Jacques wrote: "Day started strong and positive with a good attitude, but as the day wore on, Satan used the physical sight of Samuel to really get to [Karen]. He was obviously losing much weight and becoming much weaker."

"As the night drew," he continued, "Karen was ready to quit. She (in the flesh) wanted to feed Samuel, but she knew in the spirit she needed to continue."

The same week he wrote, "Karen woke up with questions of doubt. 'What if he does die and I don't have the faith he'll be resurrected?'"

Later in March he wrote, "Presently as I watch Karen nursing Samuel, he is emaciated. Only two and a half weeks ago he was taking his first steps. Now he can barely roll over. But in all this I see through God's eyes. Karen and I are the ones He is concerned with. The Lord sees not physical suffering, but spiritual suffering. And because I know He is merciful and faithful, should Samuel die before Karen receives her milk, I know I will be laying hands on him in the resurrection."

Meaning of rooster's crow

The journal also shows Jacques and Karen taking long walks during those 51 days to discuss the meaning of a rooster's crow in a backyard. They decided the crowing meant that they were using the world's knowledge instead of leaning fully on the Lord and had not searched the Lord out with all their hearts.

Their parents pressured them to continue depriving their baby of food. Karen's mother said on

March 20, “We’re one in giving up Sam together.” Jacques asked his father if they could supplement Samuel’s diet with almond milk. Roland told him that through prayer it had been revealed that Jacques and Karen were the “unfaithful servants” of I Kings 13 in the Bible and almond milk was prohibited.

Sect member Renee Horton, however, argued for giving the baby more food. She told Jacques she didn’t think Michelle’s leading came from God or made sense. Jacques rebuked her in front of the group, saying, “We have to do it. We have to have faith. We can go through this as a group or you can go through this on your own.”

Thereafter, Renee “distanced herself” from Samuel and “tried not to watch him closely,” even though he and his family were living in her home.

Baby’s suffering was test of mom’s faith

God tells Karen in a journal entry that it would please Him if she left Samuel “in the palm of My hand” and reminds the group that Abraham, David, Ezekiel, and even God Himself sacrificed their loved ones.

Karen wanted to give Samuel water, but Jacques had heard “only breast milk” and in his mind water was not an option.

In another journal entry, “Karen struggled to submit, but decided it was in God’s hands.”

A diary of another Body member claimed that Samuel’s “thinness was a physical representation of spiritual problems.”

The sect’s writings report that Karen received her own visions from God to give her baby more to eat, but Jacques and Roland told her she had to carry out Michelle’s leading to prove her faith.

Already thin, Karen had been ordered to consume only broth made from boiled almonds. She was also pregnant. She was nursing another baby named Joey. She simply could not produce enough milk to keep Samuel alive.

Samuel died April 26, 1999.

Bodies buried in Maine wilderness

Robidoux placed Samuel’s remains in a home-made coffin, put it in the cellar, hoped for a resurrection, and waited for God to tell him what to do.

In the fall The Body went to Maine to celebrate the Feast of Tabernacles because they believed God would establish New Jerusalem in Maine. Some of the men hiked for many hours into Maine’s Baxter State Park taking with them Samuel’s coffin and that of another sect baby, Jeremiah Corneau, who died either during birth or hours after it. They buried the babies well off the trail.

Ex-member finds record of deliberate starvation

Also that fall, ex-member Dennis Mingo came back to see how his wife and children were doing. The others ignored him so he wandered into the home-schooling classroom. He saw some hand-written papers, grabbed them, and left.

They were Jacques Robidoux’s journal entries describing the deliberate starvation of Samuel. Mingo turned them over to the police.

The state of Massachusetts then began a frustrating search for the babies’ bodies. None of the group members would tell where they were. All of them lost custody of their children and several were jailed for contempt of court.

“Declaration of Independence” published

Sect member Rebecca Corneau was confined to a prison hospital to protect her unborn child, of whom the state had already petitioned the court to take custody. Finally, in September 2000, her husband agreed to cooperate with investigators in exchange for immunity from prosecution for him and his wife. He led investigators to the babies’ remains.

On June 4, 2002, Jacques went on trial in Taunton, Massachusetts. The day before, he ran a newspaper ad asserting his and Karen’s “declaration of independence” from the “municipal corporation of the District of Columbia.” He also tried to dismiss his attorney and to file a motion that he and Karen be considered expatriates from another realm. Superior Court Judge Elizabeth Donovan rejected both requests.

Dad’s graphic description

At trial Robidoux gave a graphic description of his son’s deterioration. “He began losing weight. His cry wasn’t a normal baby’s cry. He would grind

his teeth. Towards the end he would often bite down on Karen's nipple. Sometimes his eyes would roll to the back of his head. The skin on his chest changed to a dark color. He began getting a white, chalky substance in his diaper," he said.

Other witnesses described Samuel's cry as "hoarse" or like a kitten's mewling. One said his fingernails fell off. Samuel had to be carried everywhere and even to be propped up with towels in his baby carrier.

Dad had to be strong

Karen eventually stopped bathing Samuel because it was too upsetting for her to see him, Robidoux testified.

"Was it too upsetting to you?" asked Bristol County Assistant District Attorney Walter Shea.

"I basically told myself I couldn't allow myself to be upset about it. I couldn't show any emotion about it because that would be a lack of strength in my family," Robidoux replied.

He also said that "it never came to mind" to take his son to a doctor.

He testified that he now feels Samuel's death was due to misunderstandings with his wife and of Michelle's leadings. He now feels he was wrong to deprive his baby of food, but in "the mindset" he was in then, that was "the only decision" he could have made.

When asked if his father or anyone else had forced him to have that mindset, he said, "The buck stops here."

Cold-blooded murder or reasonable behavior "under the circumstances"?

Walter Shea's closing argument was withering. "It was as atrocious an act as you can have when a parent kills their child, not in a drug-induced haze, not in a violent rage, but as coldly as one could commit such a horrendous act—day in, day out, for 51 days."

The defense attorney argued that the legal standard was "what a reasonable person would do in the same circumstances" and the circumstances included the religious pressures Jacques was under. Mostly he pleaded with the jury for conviction on a

lesser charge because of Jacques's honesty and admission of wrongdoing.

With a range of options, however, the jury chose first-degree murder, which carries an automatic life sentence without parole.

Was crime first-degree murder?

Legal commentators disagreed on whether the charge was appropriate. Paul Batista, a defense attorney, claimed that the "case would not have been prosecuted on these facts if the group weren't a cult", or at most, the charge would have been manslaughter. "It's the cult element that fuels this case."

Former prosecutors thought the first-degree murder charge fit. The elements of that crime in Massachusetts law, they pointed out, include "deliberately premeditated malice aforethought" or acting "with extreme atrocity or cruelty." See Mass. Gen. Laws Chapter 264.

"Malice," in a legal sense, they said, does not mean hatred, but rather the intention to carry out the act that caused death and with reasonable cause to know that it would cause death.

Taken in part from the *Boston Globe*, June 5-21, 2002; *Boston Herald*, June 15, 2002; and Court TV coverage. See also the CHILD newsletter #3, 2000.

Sect mother raises battered woman defense

A mother who allowed her son to starve to death has been granted a delay in her trial to prepare a battered woman defense. Karen Robidoux of North Attleboro, Massachusetts, withheld solid food from her baby Samuel in obedience to what her religion said were God's orders (see previous article).

Psychological battering

She was scheduled to go on trial in August for second-degree murder after her husband Jacques was convicted of first-degree murder in June. However, her attorney Joseph Krowski requested a delay to prepare a battered woman defense. Although Karen was never physically struck, Krowski says

she was under duress from a psychological hold her religious sect had on her and was therefore unable to save her son.

Testimony at Jacques's trial indicated that Karen was distraught over her baby's deterioration, that she was ordered by her husband and other sect members to withhold food from him, and that she even brought to the group her own revelation of God ordering more food for the baby, but the sect rejected it as specious.

Will "mind-control" defense work?

Rev. Robert Pardon, director of the New England Institute of Religious Research in Lakeville, Massachusetts, will testify on her behalf. He said the Robidouxes believed their spiritual salvations depended on following the order to withhold food from their baby. He said Karen felt obligated to obey God as well as her husband. Pardon also has temporary custody of the children of the sect members.

The prosecutor offered to reduce the charge to manslaughter, but Robidoux has chosen instead to stand trial with a "mind-control, brainwashing" defense.

Massachusetts attorneys questioned by the press doubted a jury would absolve her of responsibility, given the horrific facts of the child's suffering. One pointed out that state law provides no defense for not having free will.

Apparently, Mrs. Robidoux still believes in the group's teachings more than three years after her baby's death. "I'm trying to break her away," Krowski said.

A third group member, Michelle Mingo, has been charged with assault and battery and as an accessory to the crime of the baby's death.

Domestic violence groups oppose negligence standard

In 1992 Massachusetts domestic violence groups opposed a criminal penalty for caretakers who "negligently [permit] serious physical injury to a child." Eventually the legislature enacted a bill making it a crime for those having care and custody of a child to "wantonly or recklessly [permit] bodily injury" to a child. While a wanton or reckless standard creates a higher burden of proof for prosecu-

tors than does negligence, neither requires evidence that the defendant intended the harm to the child. See the Mass. Gen. Laws Ch. 265, Sec. 13J.

Taken from the *Boston Globe*, Aug. 22, 2002, and *Providence Journal*, Aug. 21, 2002.

Courts uphold state's actions against sect parents

Some civil libertarians and women's organizations have opposed Massachusetts' actions against members of The Body, an isolated religious sect near the Rhode Island border, but appeals courts have upheld most of the state's actions.

State allowed to confine pregnant woman

In 2000, Rebecca Corneau of Seekonk was confined to a prison hospital for nearly two months to protect her unborn child, raising fears of a slippery slope to doing away with abortion rights. Massachusetts has never before used child protection laws to take custody of a pregnant woman for protection of a fetus.

Wendy Murphy, a professor at New England School of Law, filed an emergency appeal to the state Supreme Judicial Court (SJC) on behalf of all pregnant women in the state. The SJC rejected her petition, pointing out that Corneau had not challenged her incarceration and ruling that the other women did not have standing to enter the case.

Rights terminated because of group child's death

David Corneau challenged the termination of his parental rights. He complained that the court should not attribute any responsibility to him for the death of Samuel Robidoux. A Massachusetts appeals court, however, held that all members of The Body shared responsibility for the activities and behavior of their children. "The children ate communally, received care communally, and were disciplined communally," the three-judge panel wrote. *Adoption of Fran*, 766 N.E.2d 91 (Mass. 2002).

And "caretaker or not," they concluded, "the father was in a position to intervene, or cause others to intervene" to save Samuel's life.

Corneau challenged the family court's findings of physical abuse, but the Appeals Court pointed out that "all three children had been spanked with a wooden paddle to the extent that the skin on their buttocks was thickened and calloused. There was also evidence that the mother routinely wore around her waist a wooden paddle she used for spanking. Finally, there was evidence that spanking, with a paddle and otherwise, played a dominant role in the children's toilet training. . . ."

Prospective medical neglect can be considered

Corneau also argued that the court should not terminate his parental rights on grounds of medical neglect because his children were in good health at the time they were removed from his care and custody.

"Apart from the thickened skin observed on their buttocks," wrote the Appeals Court, "that is true. The children, however, had never seen a physician and had not been vaccinated. More important, the father early on told an investigator [Dept. of Social Services] that he and the mother would not procure medical attention for their children even if the children were faced with a life-threatening illness."

The Corneaus' son Jeremiah had died in an unattended breech delivery. The fact that Corneau allowed his own son and Samuel Robidoux to die without medical care "provided an ample basis on which to find that the children had, and were likely to continue to have, deficient medical care," wrote the appeals panel.

"Courts need not wait until they are confronted with a maltreated child before deciding that care and protection are necessary," said the panel, quoting from *Custody of Two Minors*, 487 N.E.2d 1358 (Mass. 1986).

Arizona ruling contrasted

These rulings stand in contrast to the Arizona Supreme Court's ruling that the state could not take custody of siblings whose brother had died of an untreated bowel obstruction and whose mother told a caseworker she would continue to follow her religious beliefs in not getting medical care for them. The Supreme Court ruled that she had an absolute right to express her beliefs and not until the children

actually needed medical care could the state take action. *In the Matter of the Appeal in Cochise County Juvenile Action*, 650 P.2d 467 (Ariz. 1981).

Parents refuse to testify about missing child

In January of this year Rebecca and David Corneau were jailed a second time for contempt of court. Neighbors had seen Mrs. Corneau pregnant and also thought they had seen her in labor and being carried to a van. Afterwards she did not appear to be pregnant.

At three court hearings the Corneaus refused to testify as to the whereabouts of their sixth child, claiming a Fifth Amendment right against self-incrimination. Facing jail, the Corneaus then claimed the mother had suffered a miscarriage and asked the court to dismiss the care and protection petition for lack of jurisdiction.

Miscarriage claimed; details vague

The judge refused to vacate his earlier finding that the mother had given birth to a child who might be in need of care and protection. He ordered them to either produce the child to the court or identify the location of the alleged burial site for the remains.

At three more hearings the parents refused to do either, but did give some details about the miscarriage. They claimed the fetus had died in her uterus, was decomposed, and had a strong odor. Neither could give even an approximate date of the miscarriage. The mother could not remember how long she was in labor or what time of day she delivered. She had not seen the fetus; the father did not know whether it had all of its limbs, fingers, or toes.

They repeatedly refused to testify as to the location of the fetal remains, claiming their Fifth Amendment rights because they could be charged with a misdemeanor for improper burial of human remains.

On June 18 they were released from jail because a Bristol County grand jury had been impaneled to investigate the case. The grand jury decided not to pursue any criminal charges.

Religious discrimination alleged

Civil libertarian Wendy Kaminer wrote a column criticizing the judge's contempt orders. She

contrasted the Commonwealth's treatment of Christian Science parents Ginger and David Twitchell and the much harsher treatment of the Corneaus. "No one has a religious right to harm a child," she wrote. "But no one loses the right to raise children because of an association with a suspect religious group. The Commonwealth of Massachusetts is proceeding as if membership in The Body strips people of the right to parenthood. . . . Rebecca Corneau is being treated like a criminal because she is suspected of having given birth. What can millions of women say but *mea culpa*?" Kaminer, "Sectual discrimination," *American Prospect* 13 (March 11, 2002):9.

The Massachusetts Supreme Judicial Court, however, upheld the judge's rulings. *In the Matter of a Care and Protection Summons*, 770 N.E. 2d 456 (Mass. 2002).

Guardian ad litem should be independent

Another controversial aspect of state action was the court's retention of Rev. Robert Pardon, director of the New England Institute on Religious Research, an anti-cult organization in Lakeville, Massachusetts, to gather information about The Body for assessing whether the Corneaus were fit parents. Pardon was also given guardianship of the children. *Boston Globe* columnist Eileen McNamara dubbed Pardon a "self-styled cult buster committed to luring members away from 'aberrant religious groups.'" "An Investigator on a Mission" (Feb. 3, 2002)

Here the Appeals Court was critical of the state. "It would be far better," the judges wrote, "to appoint an independent [guardian ad litem] who could make assessments about the children's best interests in a manner that took account of the expert's opinions but was not inextricably bound to them."

Judges should not interpret scripture

The Appeals Court also complained that the family court judge mentioned his personal religious beliefs to Mr. Corneau and adopted Pardon's finding that the sect had engaged in "scripture twisting." The federal and state constitutions, wrote the panel, "prohibit our courts from making judgments about the 'true' meaning of scripture."

The Appeals Court did not, however, find reversible error. *Adoption of Fran*, 766 N.E.2d 91 (Mass. 2002)

Does respectability count?

Attorney Rikki Kliemen moderated discussions of the Robidoux trial on her program *Both Sides* on the Court TV channel. In 1990 she defended Christian Science parents Ginger and David Twitchell of Boston when they were tried for manslaughter in the death of their son Robyn due to an untreated bowel obstruction.

Withholding medical care from Christian Science child is not neglect, tv attorney claims

Kliemen repeatedly insisted on her program that the Twitchells' actions had nothing in common with those of Robidoux. Robyn Twitchell's death "was not a case of neglect," she said. "This was a case of a well recognized religion that has all kinds of statutory recognition."

The Body "is just a little group," she said. "It has nothing to do with The First Church of Christ, Scientist. I want to make that really clear."

Manslaughter for members of respectable churches; murder for cultists

Her guest, Bill Fallon, the Essex County prosecutor, agreed, but perhaps took his comments beyond what Kliemen intended: "There's a very different feeling about this case and it's about religions de jour and whether it's a sect and whether it's a cult. People are saying now when you're balancing that with children you better have something like the Christian Scien[tists] had. You better have a lot of good faith. You better be able to show you deserve a manslaughter [charge] or it's a murder."

"Even with the Twitchells." Fallon continued, "if you had not just such wanton and reckless conduct, but when a leader says no more nourishment and everyone says o.k.—this didn't seem like a religious tenet. It seemed like the cult version."

Kliemen thinks Robyn's death was not even neglect, let alone manslaughter, because Christian

Science is a “well recognized religion” with “all kinds of statutory recognition.”

The Christian Science church does have many kinds of statutory recognition, but none of them was a religious defense to a felony crime against Massachusetts children as Kliemen is very aware.

If the Twitchells had belonged to a cult in addition to committing “such wanton and reckless conduct” as letting their son die without medical care, they would have been charged with murder instead of manslaughter, Fallon claimed.

It is a shame to have a Massachusetts prosecutor claim on national television that crimes should be charged according to whether a person belongs to a respectable church or a cult.

The significant differences

There are differences between the deaths of Samuel Robidoux and Robyn Twitchell. The most important is the difference between the 51 days of Samuel’s starvation and the 5 days of Robyn’s suffering. Another difference is that Samuel’s parents affirmatively caused him to starve to death and knew from day one that he was suffering from lack of food whereas the Twitchells did not cause their son’s illness. A third is that the Robidouxes kept long-winded journals about what they saw and thought, making it easier for prosecutors to establish their awareness of their baby’s deterioration.

The church membership of their parents, however, should have nothing to do with what crime is charged in their deaths.

New Zealand parents convicted in faith death

On June 13, New Zealand parents were each sentenced to five years in prison for rejecting medical help for their son. Six-month-old Caleb Moorhead died last year of bronchial pneumonia secondary to severe anemia, vitamin B12 deficiency, and malnutrition. His parents, Deborah and Roby Jan Moorhead of Dargaville, ignored several calls from a physician begging them to bring their son for treatment. They also removed him from a hospital

and went into hiding the last two weeks of Caleb’s life.

Moorhead had once been a prosperous earth-working contractor with no interest in religion. Then he left his wife and daughters, married Deborah, and became a deeply religious vegan. He and Deborah went to the United States and participated in a Tennessee school for “medical evangelism” run by Thomas Jackson, a former NBA basketball player, who preaches that a vegan diet, natural remedies, and prayer are the cure for all illnesses.

Extreme vegan diet of Adventist splinter group

Upon their return they joined the White Horse Ministry of about a dozen members claiming to follow the beliefs of Seventh-Day Adventist founder Ellen White. Natural remedies used by the group include grated potato and cabbage on infected cuts and charcoal for eczema. One member told the press that fruit, grains, and nuts are the only foods the Bible approves of. The Bible mentions vegetables only after man sinned, she said.

The Seventh-Day Adventist denominational leadership considers the White Horse group’s beliefs and practices deviant.

Mom’s notes in “Well Baby Book”

Caleb was described as healthy at birth, but by three months old he had a persistent bad rash and cough. In January 2001, Mrs. Moorhead noted in her journal (ironically titled Caleb’s “Well Baby Book”) that Caleb screamed when he was bathed, slept all the time, and did not smile or play.

In February she noted the rash on his buttocks was critical and bleeding. She also wrote, “No one home” and “Worried, worried, could die.”

Two weeks before his death the Moorheads took Caleb to a chiropractor who urged immediate medical attention. They then took him to Starship Hospital in Auckland where Dr. Patrick Kelly found him very pale, severely anemic, and having the neurological development of a six-week-old. Kelly recommended treatment for anemia and more tests.

Parents remove baby despite warnings

The Moorheads said they wanted to use herbal remedies, but would consider his recommendations.

Minutes later, they took Caleb from the hospital without permission. A nurse followed them out and warned them that Caleb could die without medical care, but the Moorheads said he would be all right.

Kelly left many messages on their answering machine imploring them to return. He told them that the baby's anemia was likely due to dietary deficiency and an infection could cause sudden deterioration. In final calls he offered to forego all tests if they would just consent to a vitamin B12 injection.

A government social worker reached them by phone and warned them they might face criminal charges if Caleb died. Mrs. Moorhead replied that God would provide for his health.

Cayenne pepper and garlic remedies

In the baby's last hours of life, the Moorheads kept up their "natural remedies." They put cayenne pepper up his nose to stimulate his breathing, rubbed garlic on the soles of his feet, and put on poultices.

Herbs and baby's death were God's will

In police interviews after Caleb's death, the Moorheads complained that the proposed medical treatment would put toxins and poisons into their son's body. They affirmed their belief in a creator who gave herbs of the fields for healing his people.

Roby said conventional medicine was "Satan's way" and viewed Caleb's illness as a war between Satan and Jesus. He would not use conventional medicine to save Caleb's life, and, even in hindsight, would not do anything differently, he told police.

He also expressed his grief at the death of his "special wee man," but said God must have had His reasons for taking him. He expects to be re-united with his son for eternity when Jesus comes.

The Moorheads were charged with manslaughter by failing to provide the necessities of life. They refused legal representation, made no opening or closing address, and did not give or call evidence.

Faith not lawful excuse for medical neglect

Kelly testified that Caleb's life could have been saved even thirty minutes before his death if he had been given oxygen until vitamin B12 could be administered.



Roby Jan and Deborah Moorhead

Photo by Glenn Jeffrey used with permission of
New Zealand Herald

Justice Rhys Harrison of the High Court in Auckland told the jury the parents' beliefs in the healing power of alternative remedies or God and their opposition to medicine were not lawful excuses for failing to obtain medical care. He asked the jury to consider whether prudent parents would use such a sick baby as a testing ground for their faith in God.

The jury convicted them of manslaughter.

At sentencing, Harrison said the Moorheads' actions "defied rational belief." They were forcefully told by several people that Caleb would die without treatment, yet were "impossible to penetrate."

"You condemned Caleb to prolonged misery," he said. "If Caleb could have spoken for himself I have no doubt he would have asked for an end to the pain and access to medical treatment."

The parents showed no remorse, accepted no blame for Caleb's death, and said they would not act differently in the future, he pointed out.

Mrs. Moorhead was expecting another baby in September, and Harrison ordered his sentencing comments to be given to officials who would make a decision about custody of the new baby.

The Moorheads said they accept a prison sentence as God's will. They will be separated from their daughters, but say that God has more important work for them to do in jail.

Friends remorseful for medical neglect

Friends of the Moorheads, Tilda and Herman Jongkind, were also convicted in Auckland last year and given a suspended sentence for withholding medical care from their baby Jesse. Reportedly, the Jongkinds believed he would be healed by prayer and that the medical system was evil because some doctors perform abortions. Jesse had meningitis for more than three weeks before his parents took him to Starship Hospital.

He survived and has not shown the disabilities that doctors predicted. The Jongkinds explain his recovery as a divine miracle, but also admit they were wrong to wait so long to get medical help.

In this experience, Mr. Jongkind said, God was teaching them "a lesson" and bringing them "back to society. . . under regulations of people."

He thought sending the Moorheads to jail would never change their attitudes, but would "only confirm that they are fighting a big enemy."

The judge and Dr. Kelly said the purpose of the prison sentence was to show, in some measure, the value that society places on a child's life. Kelly knows of five other recent New Zealand cases of children injured by deficiency of vitamin B12 in vegan diets.

Did doctors have to prove "immediate and serious injury"?

The case raised a debate about how well existing New Zealand laws protect children. After examining Caleb, Kelly had petitioned the court to order medical treatment for the baby, but when the parents suddenly left the hospital with him, the hospital staff did not think they had a legal right to physically stop them.

The Crimes Act states that any person may use "any force as may be necessary" to prevent the com-

mission of an offence which would be likely to cause "immediate and serious injury" to another. Kelly later told the media the key issue was whether "the act of removal from the hospital" would cause immediate and serious injury. In the few minutes the doctors had to decide, they did not think it would.

Caleb was "anaemic and profoundly brain-damaged, but he had been in that state for probably six to eight weeks. . . . We expected [him] to live for a while yet, although he was clearly ill and at risk of getting very ill suddenly," Kelly said.

Legal advice obtained by the Auckland District Health Board after Caleb's death agreed with the doctors' interpretation: they had a legal right to physically stop the parents only if the act of removal itself would cause "immediate and serious injury." For example, the Board said, "if the child was on a ventilator and the act of taking him off would kill him."

Some doctors later said they would stop parents like the Moorheads in the future even if they ran the risk of criminal charges for assault and battery.

Law prof sees basis for stopping parents

Warren Brookbanks, associate professor of law at the University of Auckland, said the law is not completely clear in this area, but felt it likely provided a basis for preventing Caleb's removal from the hospital. The police, he said, have a general duty to prevent the commission of crime. It is a crime for parents to fail to provide medical care when necessary to prevent permanent harm. The Moorheads had, arguably, committed a crime already by allowing the baby to become anemic and brain-damaged, so the police had a right to stop them from leaving.

Brookbanks also felt the doctors had legal authority to stop them. "Although the parents have rights over the child as its legal guardians, they have no right to violate the child's right to life and autonomy as a human being," he wrote. The parents' behavior was restricting, without justification, Caleb's right to life and therefore doctors would be justified in using force to "prevent the inevitable shortening of the child's life, even where there was no prospect of immediate death in a strict temporal sense," he concluded.

NZ parents' rejection of cancer treatment

New Zealand has recently had several confrontations with parents over cancer treatment of children. In 1999 a court ordered chemotherapy for 3-year-old Liam Williams-Holloway. His parents went into hiding and then to an alternative healing clinic in Mexico where the boy died. There was widespread sympathy for the parents.

In 2000 Tovia Laufau died at age 13 from a 15 kg. leg tumor that had spread to his lungs. His parents refused medical care, saying the boy feared it and was old enough to make his own decision. They were convicted of failing to provide necessities. Hospital staff admitted they did not seek a court order for medical care because they did not want to alienate the parents and were worried about fallout after the publicity on the Williams-Holloway case.

Other parents refused radiation on religious grounds and fled the country after their son's brain tumor was surgically removed.

Taken from *New Zealand Herald* articles in May and June, 2002, and from correspondence with Warren Brookbanks.

Florida medical neglect case resolved

Florida's long-running criminal charges against parents who withheld lifesaving medical care on religious grounds were resolved on September 26 when Robert and Rachael Aitchison of Grant pled guilty to abuse of a dead body and failure to report a death. Charges of felony child abuse against them were dropped.

According to a flier they distributed, their one-month-old baby Alexis died in October 1996 from choking on her milk. No birth or death certificate was filed.

The parents belonged to a tiny evangelical group called The Fellowship, which claims they need to obey only laws in the Bible. They oppose medical care because they say the Bible describes doctors as sorcerers.

Investigators got a report of heavy black smoke coming from a burn pit at her uncle's home about

the time of the baby's disappearance. They found a human placenta buried in the uncle's yard and got photographs of a burial service for the placenta. But they never found the baby's remains nor a witness who would discuss what happened to them.

They were sentenced to five years probation. Presumably, the state gave up on the felony child abuse charges because the body was never found. Fellow group members Wylie and Kelly Johnson were charged with failure to report Alexis's death, but a judge dismissed the charges because, without a body, there was no proof death had occurred.

Taken in part from *Florida Today*, Oct. 23, 1997.

Tennessee mom and preacher charged in medical neglect case

This summer Jacqueline Crank and her minister, Ariel Ben Sherman, were charged with aggravated child neglect for the medical neglect of Crank's 15-year-old daughter Jessica.

Sherman, the Cranks, and at least nine other people in Sherman's New Life Tabernacle lived in a home in Lenoir City, Tennessee, near Knoxville.

In February, Sherman brought Jessica to a local chiropractic clinic because of a growth on her shoulder. A doctor told him her condition was serious and needed immediate medical attention. Sherman said he was taking her to a doctor in Boston, so the chiropractor did not follow up.

In May, Crank, who had no health insurance for herself or her daughter, took Jessica to a medical clinic. X-rays were taken and confirmed "a mass of some sort." Crank was advised to take Jessica to the University of Tennessee emergency room immediately, and the clinic called the emergency room to tell them to expect her.

When Crank did not go to the hospital, the police were asked to investigate. It took seven weeks to find them, partly because Crank gave the clinic an Oregon address and phone number.

Water problems blamed for cancer

Sherman told the police there was nothing wrong with Jessica. Other Tabernacle members

told authorities there had been a “problem with the water in Oregon” that had caused strange growths on their members. They claimed the growths later went away and that prayer would help Jessica also.

Jessica was immediately hospitalized under court order. She was diagnosed with Ewing’s sarcoma and was told it was terminal.

When her mother was indicted in June, the press reported that the tumor on Jessica’s shoulder weighed 17 pounds and was the size of a basketball.

Child’s faith no excuse for parental neglect

While the girl fought for her life in the hospital, defense attorneys asked the court for permission to take her deposition to gather evidence that she herself believed in the New Life Tabernacle precepts and wanted to rely exclusively on prayer.

Loudon County Sessions Judge William Russell refused the request as an injustice to a dying child. Loudon County Assistant District Attorney Gary Fox said Jessica’s religious beliefs did not exempt Crank or Sherman from an obligation to get medical care for her.

Jessica died in September. Crank’s attorney said he expected charges of second-degree murder to be filed against his client.

Religious defense in Tenn. law raised

Crank and Sherman have raised a religious defense to the charges currently against them. They cite Tenn. Code Annotated 39-15-402(c):

“Nothing in this chapter shall be construed to mean a child is neglected, abused, or abused or neglected in an aggravated manner for the sole reason the child is being provided treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof in lieu of medical or surgical treatment.”

Child abuse at Sherman’s Oregon commune

Ariel Ben Sherman first organized his sect in Massachusetts and led them to several states as, he says, “a latter-day Moses.” In the 1980s he headed the Good Shepherd Tabernacle commune in West Salem, Oregon. Fifteen children in the commune were taken into state custody because of reported

child abuse. Children told a Polk County court of being confined for extended periods of time in an empty swimming pool, a pumphouse, or a darkened storage room. They were forced to squat in the pool, sometimes in cold and rainy weather, and sprayed with cold water if they soiled themselves. Some children reported being bound with ropes and suspended from the ceiling for hours at a time with their toes barely touching the floor. That punishment, or variations of it, was sometimes imposed for days without a break even to use the toilet. The children said each had been given a peanut butter and jelly sandwich and a half-glass of water once a day while tied up.

Sherman’s control over the adults in his Oregon group was striking. He planned and administered many of the punishments to the children. Also, the Oregon Children’s Services Division had at one point worked out an agreement with the parents for terms of regaining custody of their children but Sherman ordered them to reject it.

Sherman was charged with child abuse. He fled Oregon, but was caught three years later in Indiana.

Charges against a minister for medical neglect of a child are rare, but not unprecedented. In the Tennessee case, prosecutors regard Sherman as having custodial responsibility for Jessica Crank. Sherman and Jessica’s mother both have their names on the lease for the house where the New Life Tabernacle members lived.

Taken in part from *Knoxville News-Sentinel*, July 6, Aug. 6, and Sept. 18, 2002; *The Oregonian*, Nov. 14, 1984; and the *Salem Statesman/Journal*, Apr. 25, 1985.

About CHILD Inc.

CHILD is a national membership organization dedicated to preventing child abuse and neglect related to religion or cultural traditions.

To reach CHILD by mail, phone, fax, or e-mail, see the contact information on page 1. For more information and a membership application form see CHILD’s webpage at www.childrenshealthcare.org.