

# Social

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Mugavero, parochial vicar of St. Theodore's Church in Gates, claims his free-speech rights were violated when he was arrested on harassment charges in Brighton earlier this year.

The priest maintains that he was trying to peacefully persuade Monroe County jail inmate Michelle Andrews from going through with an abortion, but the jail counselor accompanying the inmate testified at the priest's trial that he had verbally and physically harassed her and the inmate.

Although the inmate corroborated Father Mugavero's testimony, he was convicted by Judge James E. Morris, in a non-jury trial. Declaring the priest guilty, the judge stated at the trial's end:

"(T)here is ... a line that was crossed between the First Amendment right of speech and violation of the statute of harassment. I think that line was crossed ... after the woman, Michelle (Andrews) indicated her desire to go ahead with the abortion, and I believe made an attempt."

Because the case is being appealed, Judge Morris declined to discuss its specifics with the *Catholic Courier*. But Father Mugavero's lawyer, John J. LaDuca, claimed that the whole case, from arrest to conviction, continues to "baffle" him because Judge Morris found the priest guilty in spite of contradictory testimony from the two prosecution witnesses.

LaDuca said the prosecution has not yet produced a subpoena for Michelle Andrews, who was brought to the court on the day of the trial by Brighton police. He also noted that he felt Judge Morris — who imposed a 15-day jail sentence on Father Mugavero for the violation — had been excessive in his sentencing.

"To the most rigid judge, even a week-end in jail might be excessive," the lawyer said, acknowledging that Father Mugavero may have received the stiff sentence because of his previous convictions stemming from other anti-abortion activity.

Indeed, as long as some pro-lifers continue to break the law, what alternative do the courts have than to exact punishment?

Some pro-life activists would argue that there is an alternative — that the court should allow them to voice their feasons for breaking the law.

Pro-lifers who engage in civil disobedience explain that they are violating such minor laws as bans against trespassing in order to enforce a higher, moral law against murder. This argument, known as the "necessity defense," might be used by

any defendant claiming that he was compelled to break the law to prevent a greater evil from occurring.

Attorneys for Crawford and Long, wanted to present the necessity defense to the jury in Judge Ark's court when the pair was tried for a 1988 rescue. But the judge told the *Courier* such an argument can only be admissible if presented in a provable manner.

"(Crawford and Long) never even offered to prove that the doctors performed abortion," said Ark, who remarked during sentencing that the defendants only proved "that you were prohibiting women from seeking medical attention."

Judge Morris also commented to the *Catholic Courier* that "there is no statutory or case law to indicate that abortion in the law is a death." Hence, he continued, judges must continue to preside over cases involving pro-life civil disobedience based on the laws currently on the books.

Although pro-lifers report that the necessity defense is rarely allowed anywhere in the nation, judges in the states of Nebraska and Missouri recently have permitted pro-life defendants to use the argument. Thus Omaha attorney Peter Battalion and two other defense lawyers may set pro-life legal history if the case they recently won becomes a precedent for other Nebraska cases.

Battalion told the *Catholic Courier* that the Nebraska legislature — through its statutory law — had noted its resentment of *Roe vs. Wade* as an intrusion on state affairs. Such a notation served as the backbone of Battalion's contention before a judge that a group of 17 rescue participants had protected human life by breaking trespass laws at an abortion clinic.

The defendants' arguments were but-

tressed by a videotape produced by Omaha's Pope Paul VI Institute for the Study of Human Reproduction. The videotape, detailing the growth of the unborn child from its earliest stages, was shown to the jury, which eventually acquitted the defendants on the necessity defense.

Battalion pointed out that few judges would have allowed the defense argument. "You don't find very many mavericks in the judicial system for going against the grain, and that's what we need," he said.

Yet whether the courts become more open to their arguments, it's doubtful that die-hard pro-life activists will stop breaking the law.

"I'm positive that the (abortion) laws are unjust and that we're not obliged to obey them," remarked Father Edward Markley, OSB, pastor of St. Margaret's Church in Fully, Ala.

Father Markley practiced what he preached in 1984 by taking a small sledge hammer — which he had concealed under his coat — to the suction machine used in a doctor's office where abortions were performed.

Although sentenced only to probation for destroying the machine, Father Markley eventually spent 13 months in jail after violating the terms of his sentence, which ordered him to stay at least 500 yards away from any abortion clinic.

In an interview with the *Catholic Courier*, the priest expressed no regrets about his actions, and noted that his deeds simply embodied a logical conclusion about his pro-life stance.

"It seemed to me that we kept talking about human lives, but we weren't taking the actions one would take to defend human lives," he added.

## Single-parent family camp applications being accepted

ROCHESTER — Applications are now being accepted for the Christian-Family Camp, single-parent session, scheduled for Aug. 26-Sept. 1.

The week will include workshops for adults, children's programs and activities, sports, fishing, boating, swimming, arts and crafts, and daily Mass.

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