

Louisiana court overturns abortion restriction

By Patricia Zapor
Catholic News Service

WASHINGTON — Pro-life activists expressed disappointment but not surprise at the Louisiana federal appeals court's Sept. 22 decision to overturn a state statute outlawing most abortions.

The ruling by the 5th U.S. Circuit Court of Appeals was one of the first since the Supreme Court upheld most of Pennsylvania's abortion law June 29.

Peg Kenny, executive director of the Louisiana Pro-Life Council, said the U.S. Supreme Court's ruling in the Pennsylvania case gave her hope that the appeals court might go a step further and support her state's law.

But in a 3-0 ruling, Judge E. Grady Jolly said the Supreme Court's decision in *Casey vs. Planned Parenthood* made it clear the state's interest in protecting life is not strong enough to support an outright ban on abortion prior to fetal viability.

U.S. District Judge Adrian Duplantier ruled the law unconstitutional in August, 1991, just weeks after the state Legislature approved it over the veto of then-Gov. Buddy Roemer.

The Louisiana law prohibits abortions except to save the mother's life and in some cases of rape or incest. It includes prison terms of up to 10 years and fines up to \$100,000 for doctors who perform illegal abortions. It has never been enforced pending court challenges.

At a press conference soon after the ruling was released, Louisiana Attorney General Richard P. Ieyoub said he would wait before deciding to appeal to the Supreme Court.

A 9th U.S. Circuit Court ruling overturning a similar statute in Guam already has been appealed. An announcement about whether the jus-

tices will hear the case is expected soon after the Supreme Court session opens Oct. 5.

Ieyoub has 30 working days after the ruling to file an appeal.

Guam's appeal was filed in July. The 9th Circuit ruling was handed down in April and, therefore, was not influenced by the *Casey* opinion.

Statements from the American Life League and the National Right to Life Committee noted that use of *Casey* to overturn an abortion law contradicts what advocates of legalized abortion claimed would happen.

"The failure of the U.S. Supreme Court to define the 'undue burden' test it created in the *Casey* ruling is having its intended effect," said Judie Brown, president of the American Life League.

"The lower courts are at liberty to strike down any state abortion-control law by merely finding within it some undefined burden."

The *Casey* ruling upheld the state's requirements for parental notification, a 24-hour waiting period and informed consent before abortions may be obtained. But it also explicitly stated that the right to abortion from the 1973 *Roe vs. Wade* ruling remained in force and said regulations could not impose an "undue burden" on that right.

"This decision, though disappointing, certainly strikes a blow at the credibility of pro-abortion leaders who claimed that *Casey* would allow protection of unborn children," said Wanda Franz, president of the National Right to Life Committee.

Kenny noted that the concurring opinion of Circuit Judge Emilio M. Garza holds some hope for future legislation.

Garza said the Louisiana statute is clearly unconstitutional under *Casey*, but that he wasn't satisfied.

"*Casey*, nonetheless, causes me concern," he wrote. Quoting from Supreme Court Justice Antonin Scalia's dissenting *Casey* opinion, Garza noted that the Constitution says nothing about abortion, while U.S. tradition has been to allow laws against it.

"Because the decision to permit or proscribe abortion is a political choice, I would allow the people of the state of Louisiana to decide this issue for themselves," he wrote. "Nonetheless, I acknowledge that *Casey* controls, and therefore, I concur."

"I am delighted with Judge Garza's special concurrence," Kenny said. "That's an important part of the decision."

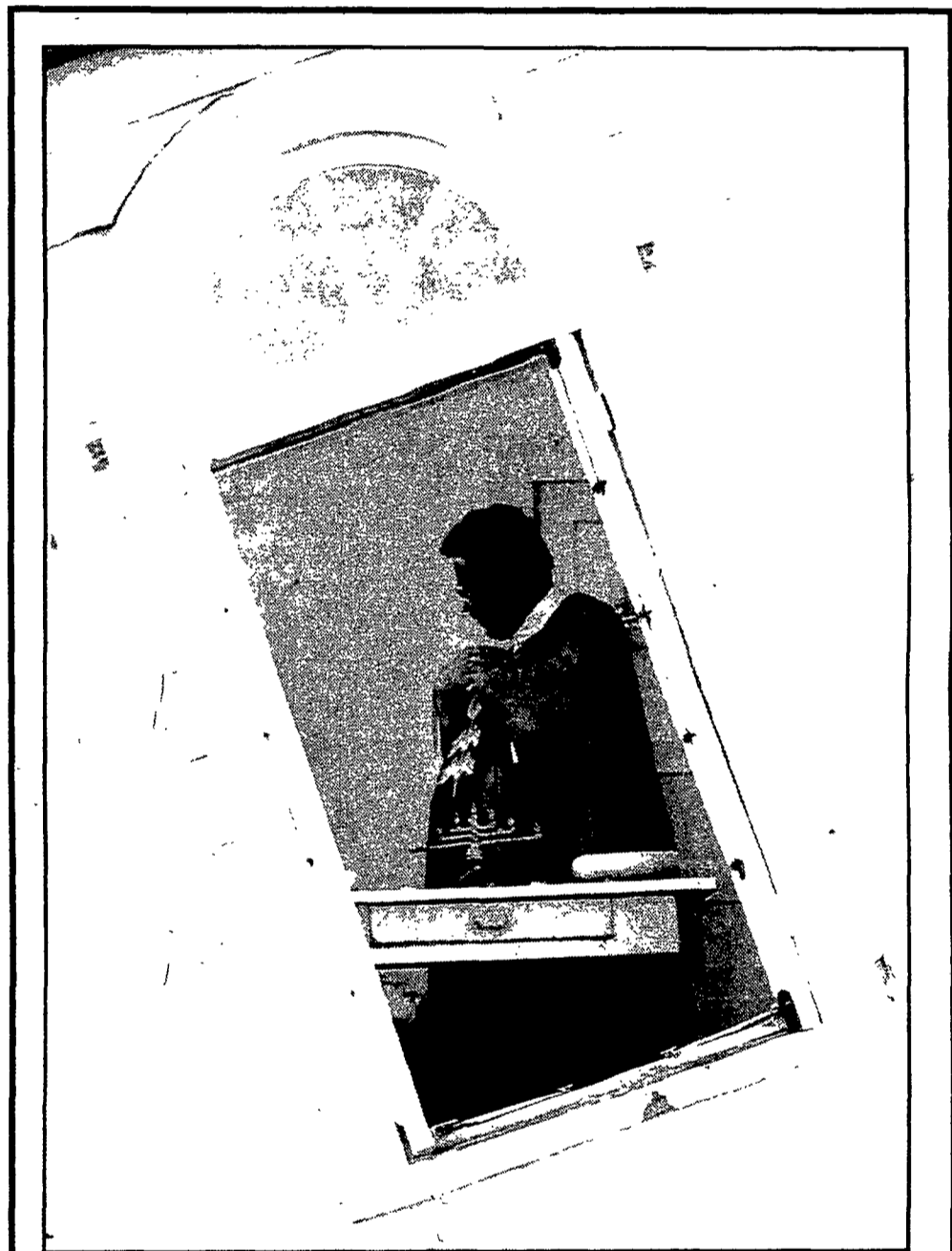
While the Pennsylvania case revolved around state prerequisites for

obtaining an abortion, the laws in Louisiana and Guam explicitly prohibit abortions except under a few circumstances.

The *Casey* ruling also was cited in a Sept. 14 court order on Arizona's 1989 parental-consent law.

U.S. District Judge Alfredo C. Marquez called Arizona's law "unconstitutionally vague" and imposed a permanent injunction. He said definitions in the Arizona statute were too narrow and unclear.

The law had been under a temporary injunction. After the *Casey* ruling, Pima County Attorney Stephen Neely asked Marquez to lift the restraining order, arguing that the statute was less restrictive than the Pennsylvania code that had just been upheld.



AP/Wide World Photos

At an angle

Father Gordy Carvalho is seen through a tilted window in the bell room of Holy Cross Catholic Church in Kalaheo, Hawaii, following Mass on Saturday, Sept. 20. Despite severe damage from Hurricane Iniki, the church continues to be a refuge for parishioners on the island of Kauai. Catholic Charities USA's Disaster Response Office has processed 10,000 donations totaling \$1 million in contributions for victims of Iniki and Hurricane Andrew, which struck Louisiana and Florida last month. Donations for victims of both disasters may be sent to Catholic Charities USA, 1731 King St., Suite 200, Alexandria, Va. 22314.

Former priest enters plea to charges of child abuse

NEW BEDFORD, Mass. (CNS) — A former Catholic priest accused of abusing children in three states over the past 30 years pleaded innocent Sept. 23 to 46 criminal charges brought against him in Massachusetts.

James R. Porter, who resigned as a priest of the Diocese of Fall River, Massachusetts, in 1974, now lives in Minnesota with his wife and four children. The Massachusetts charges accuse him of indecent assault, sodomy or unnatural acts involving 32 children.

Porter also faces criminal charges in Washington County, Minn., in connection with a 1987 incident involving his children's 15-year-old baby sitter. Civil charges have been filed against him in New Mexico and Minnesota as well.

"This is not an indictment of the Catholic Church," said Bristol County District Attorney Paul Walsh Jr. "This is a 46-count indictment against one named individual."

"The behavior of one person is not the behavior of others, and it would not be fair or fitting to taint the rest of the clergy of all faiths with these cases," Walsh added. "These individuals who do such fine work in our communities should not be painted with the same brush as James Porter."

Bishop Sean O'Malley of Fall River, who took over the diocese in August, said in a Sept. 22 statement that the Porter case "has been a source of profound sadness for all involved." He expressed hope "for a just and timely resolution of this difficult matter."

"As a church, we continue to pray for those who have been harmed by James Porter, and for their families," the bishop said. "We pray for the family of James Porter, as well, that God comfort them in their suffering. And finally, we pray for all of the church that God's merciful love guide us in confronting the tragic realities of child abuse."

Renee Dupuis, Bristol County assistant district attorney, said in court Sept. 23 that Porter abused the children, ages 10 to 14, "in the parish, in the sacristy, in their own homes, in his vehicle and in assorted other places."

He threatened his victims "by telling them that God would get them and their families," she said. "He also told them that what they had just done was wrong, and that God would punish them."

Porter, who made no statement during the hearing except to enter an innocent plea to each charge, said in July in a statement released by his attorney that he was a "sick man" during the 1960s and sought help for his illness several times.

"When I finally realized that I could not control my behavior while remaining a priest, I left the priesthood," he said in the statement.

After the hearing, Porter posted \$20,000 cash bail and was given 48 hours to return to Minnesota. He was ordered not to have contact with his accusers or with any children other than his own.

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