

RICO laws apply to blockades, court rules

By Patricia Zapor
Catholic News Service

WASHINGTON — Abortion protesters need not have an economic motive to be prosecuted under anti-racketeering laws, the Supreme Court ruled unanimously Jan. 24.

The ruling avoided considering whether First Amendment rights protect abortion clinic protesters from prosecution under racketeering laws. But a separate case the court agreed to take three days earlier questions whether judges may ban protests outright without infringing on those free speech rights.

In the racketeering case, while declining to decide whether the specific case before them otherwise fit under the federal Racketeer Influenced and Corrupt Organizations Act, the court said the law does not require proof of economic gain and therefore could be applied to Operation Rescue and other groups that blockade abortion clinics.

The National Organization for Women sued Joseph Scheidler and his Chicago-based Pro-Life Action Network on behalf of abortion clinics in Delaware and Illinois. The suit alleged that anti-abortion blockades constitute an organized, nationwide effort to drive clinics out of business.

NOW said Scheidler, the Pro-Life Action Network, Operation Rescue and their followers illegally conspired to close abortion clinics and benefited financially from doing so. NOW seeks prosecution of the protesters under laws intended to control organized crime.

Scheidler and his supporters contended that in order to be prosecuted under the anti-racketeering statutes,

there had to be proof of economic gain.

But the court disagreed, saying that nowhere in the RICO statute is there any indication that an economic motive is required.

Lower courts that ruled in favor of Scheidler overlooked the fact that while certain activities may not benefit the protesters financially, they still may drain money from businesses like the clinics, said the opinion written by Chief Justice William Rehnquist.

In a separate concurring opinion, Justices David Souter and Anthony Kennedy said the ruling does not bar First Amendment challenges to the application of RICO.

Proving economic motive is unnecessary "because legitimate free-speech claims may be raised and addressed in individual RICO cases as they arise," wrote Souter. "Accordingly, it is important to stress that nothing in the court's opinion precludes a RICO defendant from raising the First Amendment in its defense in a particular case."

Souter went on to say conduct that otherwise might amount to extortion under RICO may well be fully protected under the First Amendment. Souter added that he had no view on the possibility of a First Amendment claim by Scheidler and his co-respondents, but warned courts that apply RICO to bear in mind that First Amendment interests could be at stake.

Just three days before the *NOW vs. Scheidler* ruling the court agreed to take a case in which pro-life protesters challenged a judge's order prohibiting demonstrations near an abortion clinic in Melbourne, Fla.

In that case, a state trial court judge

required that pro-life protesters stay at least 36 feet away from a clinic or face fines of up to \$500. The judge also barred protesters from approaching patients within 300 feet of the clinic and banned picketing within 300 feet of the homes of clinic staff.

A federal appeals court in Atlanta struck down the order, but the Florida Supreme Court upheld its constitutionality.

"While the First Amendment confers on each citizen a powerful right to express oneself, it gives the picketer no boon to jeopardize the health, safety and rights of others," wrote the Florida Supreme Court.

The order was appealed by three people who said it prohibits peaceful protests. The Supreme Court said it would hear the case by April. A ruling is expected by the end of the term in July.

Bishop: Government must speed up peace with rebels

By Mike Tangeman
Catholic News Service

MEXICO CITY — The Mexican government and the rebels in Chiapas must "speed up the process of negotiations" if a peaceful settlement to an armed rebellion is to be found, said Bishop Samuel Ruiz Garcia of San Cristobal de Las Casas, Mexico.

The bishop, a mediator in the conflict, said although the government had been successful at establishing direct contact with guerrillas in the southern state of Chiapas, face-to-face talks seemed a long way off.

The government's special peace envoy, Manuel Camacho Solis, said the peace process is faltering and that both sides need to show flexibility.

Some 2,000 mostly indigenous followers of the previously unheard of Zapatista National Liberation Army declared war on the Mexican military New Year's Day after occupying several towns in Chiapas.

Even though a de facto and temporary cease-fire is in place, the rebels' very existence and their demands for social justice and a transitional national government to pave the way for fraud-free elections have created a crisis in Mexico.

A commission of seven Mexican bishops who visited Chiapas issued a report saying that obstacles to peace include the fact that the Zapatistas have a large, well-armed following and that the uprising has caused serious divisions among members of many communities in Chiapas.

In presenting the report, the president of the Mexican bishops' conference, Archbishop Adolfo Suarez Rivera of Monterrey, underscored the commission's point that a serious obstacle to peace is the "marked social, economic and political backwardness" in Chiapas. He called on authorities to carry out a true agrarian reform in the state.

A native of San Cristobal de Las Casas and former diocesan vicar general in the early 1960s under Bishop Ruiz, Archbishop Suarez said that true agrarian reform never took place in Chiapas after Mexico's epic revolution. He said the government should now distribute land to needy peasants.

"I have always said that the revolution of 1910 never arrived in Chiapas," said Archbishop Suarez.

"The authorities should buy up more farmland, re-examine the situation and then both turn over a sufficient amount of that land to the peasant farmers and Indians and establish agencies to help them work those lands efficiently," he said.

On Jan. 21, Camacho, who was named 10 days earlier by President Carlos Salinas de Gortari as a special commissioner for peace and reconciliation in Chiapas, announced that he had received a message via Bishop Ruiz from the Zapatista rebel command.

In veiled language, Camacho made a public reply, saying that he and Bishop Ruiz "are ready to show up at the indicated location" and that "everything which has to do with logistical questions is already resolved."

Camacho said the rebels had informed him and the bishop that they were willing to turn over Gen. Absalon Castellanos Dominguez, a former Chiapas governor taken prisoner during the first days of fighting, "if and when the conditions they have outlined are complied with."

Despite optimism over the contact with the rebels, Camacho's remarks showed that the peace process has many obstacles to overcome, not least of which are the terms of an amnesty for the rebels approved Jan. 19 by the Mexican Congress. Under the terms of the amnesty, the pardon and release of Zapatistas captured during the fighting is contingent upon the rebels laying down their arms.

Decision threatens all rights protesters, USCC official says

WASHINGTON (CNS) — The Supreme Court's ruling that abortion protesters may be charged with breaking anti-racketeering laws threatens any human rights protesters, said a spokeswoman for the U.S. Catholic bishops.

"As a result of the Supreme Court's decision in *NOW vs. Scheidler*, actions can now be threatened against even peaceful pro-life protesters — or any human rights protesters ... at great expense to these groups, even if they are judged not guilty in the end," said Helen Alvaré, director of planning and information for the Secretariat for Pro-Life Activities for the U.S. Catholic Conference.

The court ruled unanimously Jan. 24 that economic motive is not required to apply the Racketeer Influenced and Corrupt Organizations Act, known as RICO.

The decision came in a case in which Joseph Scheidler and his Pro-Life Action Network were sued by the National Organization for Women on behalf of abortion clinics for allegedly violating laws meant to control organized crime. NOW claimed the groups were involved in a nationwide conspiracy to drive abortion clinics out of business for their own financial gain. Also named in the suit were Randall Terry and his clinic blockade group, Operation Rescue.

The ruling sends the case back to lower courts to determine whether the anti-racketeering laws actually were violated.

"The Supreme Court decided only

the technical statutory point that RICO contains no economic motive requirement," Alvaré said in a statement.

At a Chicago press conference, Scheidler vowed to fight on.

"Maybe some of us have to be convicted of saving lives to wake America up. It shows we've been effective," he said. "If we hadn't been effective we wouldn't have had this sledgehammer thrown at us, this draconian measure to try to stop us."

Clark Forsythe, Scheidler's attorney from the pro-life law firm Americans United for Life, said he anticipated a "costly abuse of RICO in the courts throughout the country that will threaten all activists that oppose various businesses."

Forsythe said Americans United had already absorbed about \$1 million in expenses during the eight years the case has been working its way through the courts. Such expenses put "a big chill" on the movement to fight abortion, but will not stop it, he said.

A spokesman for another group that supported Scheidler said the news from the decision was what the court did not decide.

NOW must still prove that Scheidler and the other activists committed a crime, said Steven T. McFarland, director for the Center for Law and Religious Freedom of the Christian Religious Society.

The court also declined to consider whether First Amendment rights overrule the claim of RICO violations.

"The Supreme Court's ruling on that issue could change the whole



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