

# DIOCESAN NEWS

## Judge's ruling favors anti-abortionist group

By Mike Latona  
Staff writer

BRIGHTON — An anti-abortion coalition has scored a victory in state Supreme Court in its ongoing struggle against a gynecologist who performs abortions.

Justice William P. Polito ruled for the plaintiff, Brighton Residents Against Violence (BRAVE), Sept. 21. Polito stated that the office of Dr. Morris Wortman, 2020 S. Clinton Ave., does not meet with the Town of Brighton's planning and zoning guidelines, even though the town approved the office's opening in 1999.

Polito ordered the office to cease as an abortion facility, and also ordered the removal of a concrete wall behind the office. The 60-foot-long, 10-foot-high wall separates the office from a parking lot, offices and a child-care facility called Children's Center of Brighton.

Wortman has acknowledged in the past that he had the wall constructed in case his office became a bomb target of anti-abortion activists.

BRAVE, a 135-member group, had presented a petition in January, charging that the wall behind Wortman's office wasn't included in the building's initial architectural plan and that it violated town zoning laws.

"Certainly this wasn't a personal victory. It was a victory for the day-care center and the unborn children," said Carol Crossed, BRAVE's president and a nationally noted anti-abortion activist.

Polito determined that the concrete wall does not serve the function of a berm as defined by Brighton's town code, which states that a berm should be an aesthetic tool, such as a sound barrier near an expressway, or serve as a fence to prevent access to property. Polito instead termed the wall, which is covered by grass, a "bomb protective barrier."

Polito also noted that the original architectural plan termed the Clinton Avenue facility a "doctors' office," which he deemed misleading.

"A clinic engaging in and soliciting large numbers of abortions is a new and different use from that approved as a 'doctors' office,'" Polito also remarked in his ruling.

"A new use can only be approved by the Planning Board. The Planner's determination that the building's use as an abortion clinic was not a new use is arbitrary and capricious.

"Because the application was filed by the developer (Cassara Development Corp.) rather than the provider, and the use of the proposed structure was not fully disclosed," Polito added, "the applicant and the Board deprived interested parties and the public of their statutory right to

be heard about their concerns."

Polito was a staunch anti-abortion activist prior to his election to the state Supreme Court in 1996. Yet Paul Leclair, Brighton's town attorney, said that the town, while being aware of Polito's past, felt he acted without bias.

"There is nothing he has done in this particular case that wasn't a fair application of the law, although we may decide to disagree with his application," Leclair said.

Leclair remarked that he doesn't feel a differentiation between "doctors' office" and "abortion clinic" is necessary.

"The town code does not make a distinction between a different kind of health facility, except a doctors' office or an inpatient or overnight facility. The town evaluated this facility as if it were a doctors' office and held two public hearings concerning that. It found that Dr. Wortman had complied with the town code," Leclair said.

However, Crossed maintained, withholding the true intent of the building's use created a public worry about safety concerns in the neighborhood.

"You don't need a bomb protection embankment behind an ophthalmologist's office," Crossed remarked.

Yet Leclair commented that while many people might oppose Wortman's practice on moral grounds, he is not breaking laws by providing abortions.

"Whether you agree with the law or not, a medical practice that performs abortions is a legal facility. The town's laws don't allow you to pick and choose. It has to apply the law to each applicant," Leclair said.

Richard Curtis, Wortman's new attorney, said Wortman plans to appeal Polito's decision. Leclair said Oct. 2 that the town of Brighton was still considering filing an appeal within the 30-day limit allowed after the ruling.

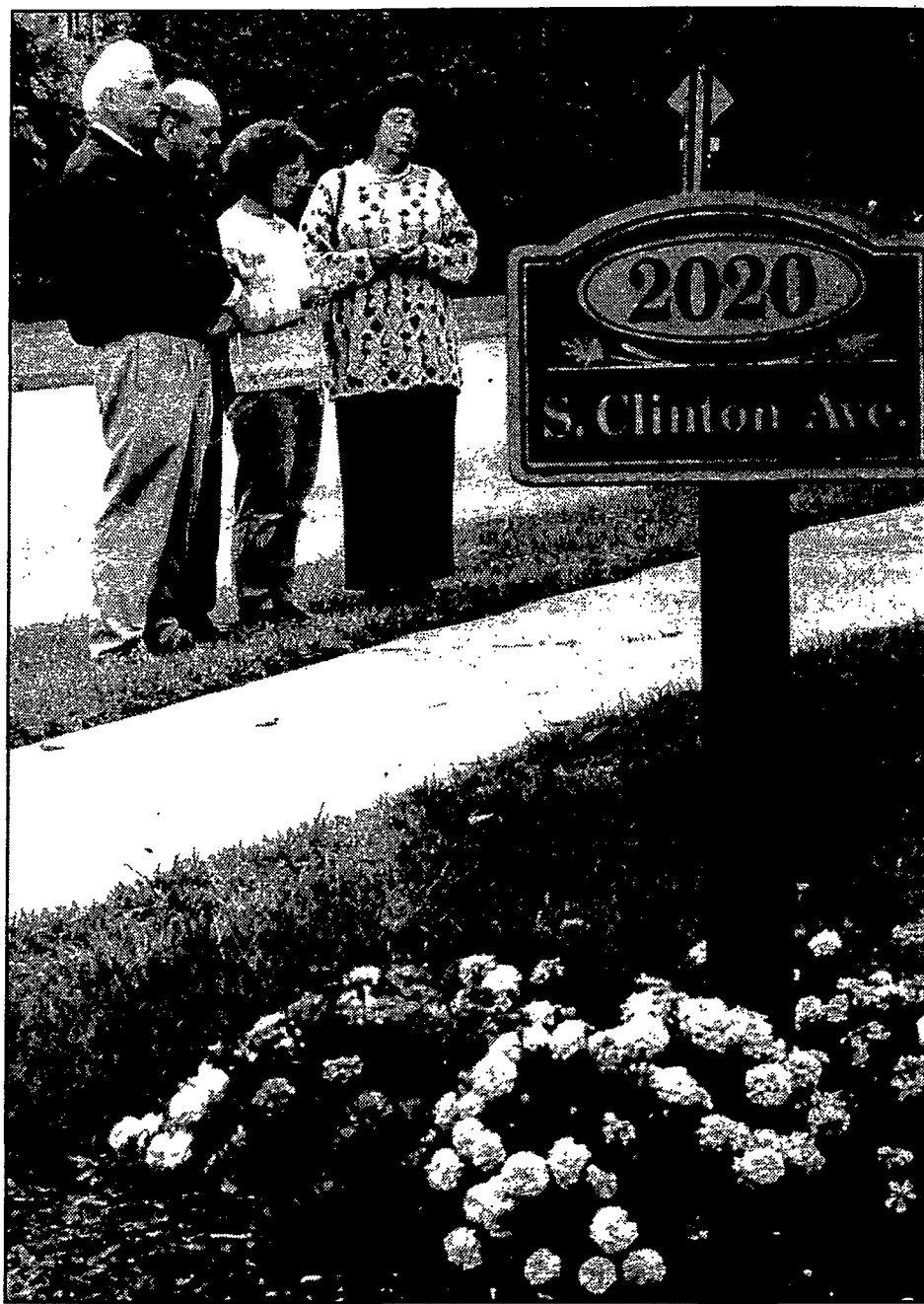
Curtis noted that under the stay effect of Polito's ruling, Wortman may continue his practice at its present location until the appeal is settled.

Crossed acknowledged that BRAVE's victory is likely not its last encounter with Wortman, saying, "We know this is not an ending point, but another beginning point."

Should Wortman end up relocating his clinic, Crossed said BRAVE will continue its protests against him regardless of whether he remains in Brighton or goes elsewhere.

"This is not a question of 'not in my back yard.' This is a question of not in anyone's back yard," Crossed stated.

Wortman has long been a target for anti-abortion activists who have frequently staged protests and prayer services on, or



Andrea Dixon/Staff photographer

(From left) Bob Bradley and Father Jack Healy of the Order of Carmelites, both of McQuaid High School, Honey Rothfuss and Jane Cantin say the rosary outside of Dr. Morris Wortman's clinic on Clinton Avenue, Brighton, Sept. 28.

near, his office property. In 1996, Crossed was arrested for trespassing after she entered Wortman's former office to try to talk a young woman out of having an abortion.

Wortman's practice was located from 1986 to August 1999 on White Spruce Boulevard, also in the town of Brighton.

Wortman was forced to relocate to his current facility because his former tenant, Home Leasing Inc., announced in April 1999 that it would not renew his lease. According to published reports, Home Leasing Inc. Chairman Norman Leenhouts said he refused to house a tenant any longer who performed abortions.

## Democratic assemblyman honored for pro-life votes

State Assemblyman Joseph Robach, D-134th Dist., said there are times when revealing his pro-life convictions in conversation may disappoint a constituent or colleague who opposes his views.

"I say, 'I'm sorry to disappoint you, but I'd rather have it be you than my mother,'" he said, noting his parents raised him to be pro-life. "Some people chuckle when I say that. Some don't."

One group that has applauded his pro-life beliefs is the Leo Holmsten Human Life Committee of the Rochester Area Right to Life Education Fund Inc., which gave its 2001 Human Life Award to Robach at its annual dinner Sept. 25. Robach won the fifth such award. Previous recipients include Father Jim Hewes, a consistent life ethic activist who is the convener for Project Rachel, a diocesan outreach for women and men hurting from abortion.

"These recipients reflect extraordinary efforts, both personally and professionally, in advancing the goal of legal protection for innocent, human life," the Holmsten committee said of the Human Life Award winners in its press release.

The Holmsten committee is named for the late Dr. Leo Holmsten who once headed Planned Parenthood in Rochester but left his position, and eventually became a pro-life advocate. He was also the first winner of the Human Life Award.

Robach, a member of St. John the Evangelist Parish in Greece, has held his seat in the assembly since 1991 when he first won it in special election held after the death of his father, Roger J. Robach, who occupied the seat up to his death.

The Holmsten committee said Robach was given the award for his various efforts to promote the welfare of the unborn, women, children, families and people with developmental disabilities.

Robach has been the lead sponsor of an assembly bill to require parental notification before an abortion can be performed on a minor. He was also co-sponsor of a bill that would require women to be provided with information about abortion's health effects on them as well as information on the developmental stage of their child.

Additionally, Robach said he has also worked on a successful bill to increase funding for early childhood and maternity programs, and a failed motion to ban late-term, or partial-birth, abortions in New York.

Despite the pro-choice leanings of much of the national Democratic leadership, Robach said a number of Democrats like himself remain opposed to abortion.

"I don't look at it as a political issue," he said. "I look at it as a matter of personal conscience."

— Rob Cullivan

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