



Criminalizing Pregnancy

Lynda M. Morgan-Moore

- 2003 - So. Carolina - Regina McKnight, drug addict. Stillborn. Murder conviction.
- 2004 – Utah - Melissa Rowland, declined Caesarean section. Twins, 1 stillborn. Criminal homicide charge.
- 2007 – Oklahoma. Theresa Hernandez, used methamphetamine. Stillborn. First degree murder charge.
- 2008 – Alabama – Amanda Kimborough, used methamphetamine. Infant died 19 minutes after birth. Chemical endangerment of a child conviction.
- 2011 – Indiana – Bei Bei Shuai, attempted suicide. Infant died after 4 days. Murder and attempted feticide charges.

Cases

- 1977 - California – Margaret Reyes, heroin. 2 counts felony child endangerment. Overturned.
- 1980's – “Fetal abuse” prosecutions related to erroneous assumptions of fetal damage with exposure to crack.
- Late 1990's - Child abuse, child endangerment, delivery of drugs to a minor charges against pregnant women.
- Since 1996 Hawaii, Oklahoma, Utah, South Carolina, Wisconsin and Indiana. Murder, attempted murder, and manslaughter charges against pregnant women.
- Forty-seven States have declared convictions based on drug abuse unconstitutional.
- Alabama, Kentucky and South Carolina continue to prosecute and convict based on Chemical Endangerment of Child Law.

History

- Protect children from methamphetamine laboratories.
- Crime to knowingly expose a child to chemicals or controlled substances and the environment in which they are produced.
- In Alabama exposure can be even when the child is in the mother's womb and delivery of drugs to the minor is via the placenta or umbilical cord.
- In Alabama, Kentucky and So. Carolina chemical endangerment of child is a felony.

Chemical Endangerment of Child Law

- 2004 – Unborn Victims Violence Act.
 - Recognizes the "child in utero" as a legal victim if he or she is injured or killed during the commission of any of 68 existing *federal* crimes of violence.
- 2006 – Mississippi – Rennie Gibbs, 15 year old with a cocaine habit. Stillbirth at 36 weeks. Charged with “depraved heart murder”.
- 2011 - Indiana – Bei Bei Shuai, attempted suicide. Gave birth at 34-weeks, son died after 4 days. Charged with murder and feticide.

Fetal Homicide Laws

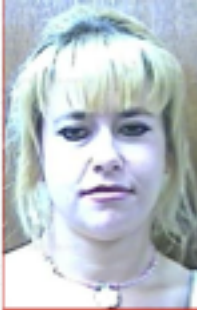
- Eighth Amendment
 - Freedom from Cruel and Unusual Punishment
- Fourteenth Amendment
 - Right to Privacy and Due Process of Law
 - Equal Protection of the Laws
- Tenth Amendment
 - States Power – *parens patriae*

Constitutional Issues

- Abortion Rights
- Prenatal Care
- Family Unit
- Woman's Right to Self Determination

Slippery Slope

Theresa
Hernandez



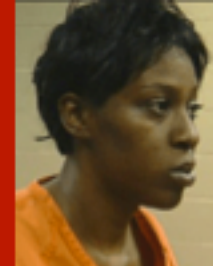
Melissa
Rowland



Amanda
Kimborough



Lorraine
Pickett



Cornelia
Whitner



Regina
McKnight



Bei Bei
Shuai

Who we are

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Resources

Muskie School of Public Service



"The school is here to develop knowledge and develop ways in which to use knowledge" ~ Senator Edmund S. Muskie

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