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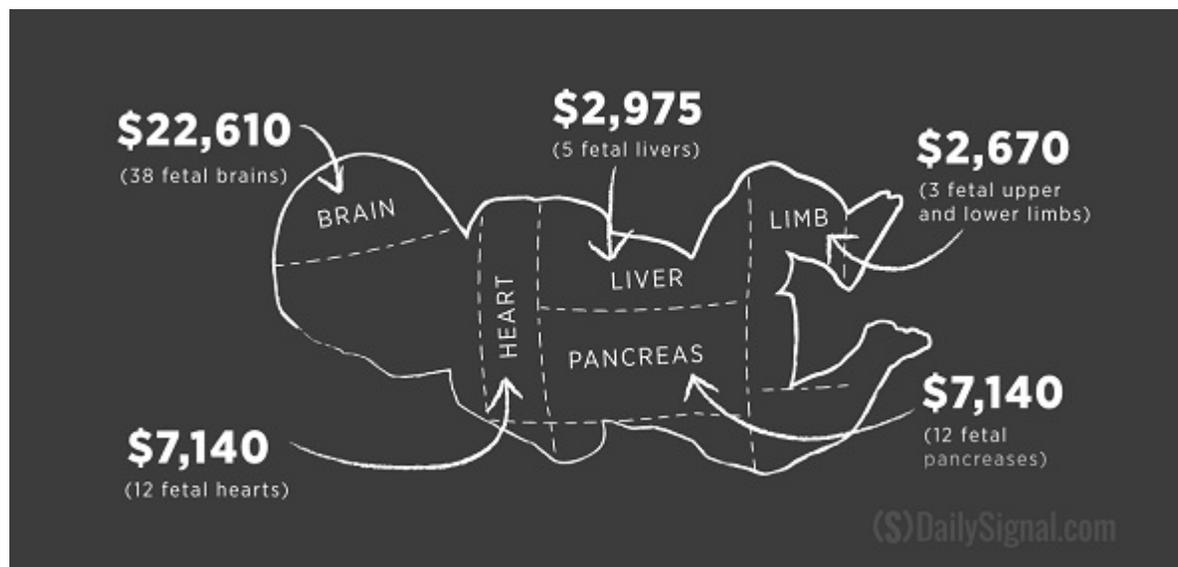
Judge tosses some charges against baby body-parts investigators

Legal team notes they cannot be refiled



By WND Staff

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A California court dismissed a small portion of the felony criminal charges against an undercover journalist who exposed the abortion industry's profiting in the sale of baby body parts.

Judge Christopher Hite of the San Francisco Superior Court dismissed one and a half of the 15 charges against Sandra Merritt, according to her Liberty Counsel

defense team.

Merritt and David Daleiden, both of the Center for Medical Progress, face charges filed by California Attorney General Xavier Becerra for allegedly violating state privacy laws by secretly recording executives on video in public places such as conventions and restaurants.

The statute of limitations has run out on the dismissed charges so they cannot be brought again, Liberty Counsel said.

The videos, most of which were recorded at the National Abortion Federation's 2014 and 2015 abortion convention and trade shows, exposed Planned Parenthood's illegal involvement in harvesting and selling aborted baby body parts to companies such as StemExpress.

The abortion industry executives were seen lobbying for higher pay for baby body parts. One wanted higher pay so she could get a Lamborghini.

Merritt and Daleiden are the first undercover journalists to be criminally prosecuted in the history of the state.

A two-week preliminary hearing in the case just concluded, with Hite throwing out the charge regarding "Doe 8," an abortion professional who never showed up to testify.

"The other charge concerned two alleged events with 'Doe 9,' a Planned Parenthood doctor. However, half of that charge was dismissed since the attorney general's office never played the video in court of the alleged incident on April 8, 2014," Liberty Counsel said.

During the preliminary hearing, it was revealed that a prosecutor was "ignorant" of the law, said defense lawyers.

Liberty Counsel argues the law "states conversations are not confidential when there is a reasonable expectation they will be overheard, and undercover taping is allowed when those doing so have a reasonable belief that they are collecting evidence relating to a violent crime."

Defense lawyers have introduced evidence in San Francisco Superior Court that some of the abortion executives who are complaining of a loss of "privacy" are on record saying they didn't care if their comments were publicized.

Special agent Brian Cardwell, lead investigator for the attorney general's case, testified last week on behalf of the 14 "Doe victims," referring to the abortion executives.

"California Proposition 115 allows the state to present evidence for the 'victims' through hearsay testimony of an investigator," Liberty Counsel noted. "During cross-examination Special Agent Cardwell stated this was his first investigation of illegal recording under section 632 and though he had received no training for

this type of investigation, he stated he knows the definition of 'confidential communication' under section 632."

However, Deputy Attorney General Johnette Jauron, the lead prosecutor in the case, objected, saying Section 632 does not define a "confidential communication."

"There was an audible reaction in the courtroom as section 632 clearly defines 'confidential communication' and even Cardwell started his testimony by admitting he knew the definition," Liberty Counsel said.

There were other problems with the testimony.

"During cross-examination, it was revealed that Cardwell left out multiple exculpatory information from the arrest warrant affidavit. One 'Doe' video was filmed during an elevator ride, during which a stranger was present the entire time. Cardwell did not mention this to the judge in his arrest warrant affidavit. He included in the affidavit a complaint filed by a 'Doe' to the Los Angeles Police Department (LAPD), but failed to mention that the complaint was dismissed because the meeting occurred in a public place and therefore there was no basis for pursuing the case," Liberty Counsel said.

"Cardwell stated he asked one 'Doe victim' if her recorded conversation could be heard by others, and she said yes. In preceding 'Doe' interviews, Cardwell admitted that though other 'Does' said they 'felt' the recorded conversations were 'confidential,' he did *nothing* to investigate these claims. He did not ask the

'victims' what they meant when they claimed their conversations were 'confidential,' and he made no effort to determine whether their claim of 'confidentiality' is consistent with section 632's definition. He simply accepted the Does statements as fact and presented them in his affidavit for the arrest warrant."

The judge's decision following the preliminary hearing is not expected for some time.

Cornering the market

Liberty Counsel said a video was played in court of the undercover journalists talking with a Planned Parenthood doctor identified as "Doe 9" in a public restaurant.

"When questioned by the attorney general's office, 'Doe 9' stated that StemExpress had cornered the Northern California market for baby body parts. However, 'we have an affiliate in Orlando that goes to 20 weeks' and they could expect to pay \$30-\$100 'per specimen,'" Liberty Counsel explained.

On cross examination, Liberty Counsel Vice President of Legal Affairs and Chief Litigation Counsel Horatio Mihet asked "Doe 9" whether she was concerned that the tape had been made public.

"When 'Doe 9' answered 'yes,' he presented her with a transcript of her deposition from Planned Parenthood's civil case against the Center for Medical

Progress, where she said, 'I haven't done anything wrong in the videos. It doesn't matter to me if they're released publicly.'"

Counsel Attorney Nicolai Cocis also questioned "Doe 3," a retired late-term abortionist filmed at the 2014 National Abortion Federation's conference, on the topic of passersby hearing the conversation.

According to Liberty Counsel, "Doe 3" stated "she did not feel the need to lower her voice or take privacy precautions at the conference."

"Cocis played a clip of that video, pausing every time a stranger entered the frame. However, 'Doe 3' admitted that some people walking past may have been close enough to hear snippets."

Political motivations

Liberty Counsel has charged that Attorney General Xavier Becerra had political motivations for filing the counts against Daleiden and Merritt.



Xavier Becerra (right)

For example, he made a public pledge to "Stand with Planned Parenthood."

The former attorney general and now senator, Kamala Harris, who began the case, has received \$81,215 in campaign donations from the abortion industry, Liberty Counsel pointed out.

The defense counsel has argued in court that never before has the state of California prosecuted criminally a journalist for an undercover recording of public interest.

"Judge Christopher Hite of the Superior Court is presiding over the preliminary hearing and decreed that the names of the abortion providers who testify will be sealed during the prosecution," Liberty Counsel said.

Earlier, a "Doe 7" admitted on video she was unconcerned that any other people may have heard her comments.

'The heads that get stuck'

The videos, which are still available online, prompted some states to pull funding for abortionists and adopt new rules. The U.S. House and Senate investigated and sent referrals for criminal investigation to the Department of Justice.

But the abortionists responded with civil lawsuits against Daleiden and his organization. And they convinced Becerra to pursue state privacy violation charges.

Some videos that have not been released are to be aired for the first time in the hearing. The videos, taken at at National Abortion Federation meeting, were suppressed by a federal judge who has links to Planned Parenthood.

Here are two of the videos released by CMP: