



An investigative report from  
**OPERATION RESCUE**

**Fetal Age**

**DECEPTION**

**HOW**

**ABORTION CLINICS  
FALISFY FETAL AGE TO  
AVOID COMPLYING  
WITH THE LAW**

**With NEW info  
about the  
CARHART  
CONNECTION!**

BPD 5.98 cm 24w3  
24w2  
c

An Operation Rescue  
Investigative Report:

Fetal Age  
Deception

**How abortion clinics  
falsify fetal age to avoid  
complying with the law**

**By Cheryl Sullenger  
Senior Policy Advisor for Operation Rescue**



**Fetal Age Deception  
By Cheryl Sullenger**

**©2009 by Operation Rescue® and Cheryl Sullenger  
P.O. Box 782888, Wichita, KS 67278  
[www.operationrescue.org](http://www.operationrescue.org)  
All Rights Reserved**

# Illegal Fetal Age/Viability Deception Scheme Uncovered At Abortion Clinics In Two States

**Sonogram images, sworn statements show that Women's Health Care Services intentionally underestimated fetal age and viability to avoid compliance with Kansas law.**

**Now new evidence suggests that the same thing may be happening at LeRoy Carhart's Bellevue, NE, abortion mill.**

Operation Rescue conducted an undercover investigation of late-term abortions in October, 2008, at George Tiller's now closed Women's Health Care Services, (WHCS) in Wichita, Kansas. The focus of the investigation was on how the clinic made the determination of fetal age and viability. Operation Rescue discovered compelling evidence that WHCS intentionally underestimated fetal age, and therefore viability, in order to avoid compliance with the Kansas ban on post-viability abortions.



Now new information has surfaced that indicates Nebraska abortionist LeRoy Carhart is also engaging in similar practices.

***Women's Health Care Services in Wichita, KS was the subject of this investigation. The late-term abortion clinic, where LeRoy Carhart of Nebraska once worked, is now permanently closed.***

## Background

Operation Rescue interviewed several former WHCS patients concerning the determination of fetal age and viability, and had reason to believe that WHCS employees routinely underestimated the gestational age of pregnancies, and/or determined that viable pregnancies were non-viable in order to avoid having to obtain the concurring opinion from a second Kansas physician indicating that the late-abortion met the strict exceptions outlined in K.S.A. 65-6703.

That law states in part:

No person shall perform or induce an abortion when the fetus is viable unless such person is a physician and has a documented referral from another physician not legally or financially affiliated with the physician performing or inducing the abortion and both physicians determine that: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman.

If the physician determines the gestational age of the fetus is 22 or more weeks, prior to performing an abortion upon the woman the physician shall determine if the fetus is viable.

Viability is defined by law as when a baby can survive for an indefinite period outside the womb with natural or artificial life-supportive measures. Babies have been known to survive at 22 weeks<sup>1</sup> and earlier, although 23 weeks<sup>2</sup> is generally considered the threshold of viability in the United States, where there exists superior neonatal technology. At 24 weeks, the viability of healthy babies born to healthy mothers is undeniable in the medical community worldwide. Kansas law requires that each case be individually reviewed and tested for viability beginning at 22 weeks gestation.

Mental health risks are interpreted to be included in K.S.A. 65-6703 as a "major bodily function" as long as the condition is both substantial and irreversible.

### Examples of violations surface

Most notable among those interviewed were Michelle Armesto-Berge and a botched abortion victim referred to as "Patient S."

**Mrs. Armesto**, (maiden name Berge), came forward in 2007, and testified before a joint legislative committee that she was given an abortion at WHCS against her will on May 13, 2003, in her 24th week of pregnancy. She and her mother arrived late for her abortion appointment and missed the time when the other late-term abortion patients saw the second physician. Mrs. Armesto discovered only after receiving her medical records years later that abortionist Shelley Sella had made a determination that her baby was non-viable.<sup>3</sup> Mrs. Armesto testified that she was in good health with an uncomplicated pregnancy and had no reason to believe that her baby was not viable.



***"Patient S." tells a sidewalk counselor of her horrific abortion experience that nearly cost her life. She insists that her baby's age was intentionally low-balled at WHCS.***

**Patient S.** had an abortion at WHCS in September, 2008. She told Operation Rescue that she was 23 weeks pregnant at the time of the abortion, but WHCS staff members told her that she was only 19 weeks. She said she knew that was wrong, but did not say anything fearing the price of the abortion would go up if she did. Patient S. received no concurring signature from a second Kansas physician before her abortion that ended in life-threatening complications and an emergency hospitalization. [Documentation at <http://www.operationrescue.org/archives/tiller-patient-feared-%e2%80%9cthey%e2%80%99re-liable-to-kill-me%e2%80%9d-during-botched-abortion-that-hospitalized-her/>]

### The investigation begins

A pregnant volunteer, who we will refer to only by her first name, Shaye, offered to make an appointment for and procure a sonogram at Women's Health Care Services.

Shaye had been under the care of a physician prior to the investigation. She and her pre-



born baby were found to be healthy and her pregnancy was progressing normally, without complications.

Gestational age is often determined using the first day of a woman's last menstrual period (LMP). For Shaye, that date was April 18, 2008. According to that date, Shaye would have been 25 weeks 5 days along in her pregnancy, well past the 22 weeks when viability must be determined under Kansas law.

The undercover aspect of this investigation was conducted on October 16-17, 2008. All telephone calls made to WHCS were recorded.

### **Misleading information from WHCS employee**

On October 16, Shaye placed a phone call to WHCS in an attempt to schedule an abortion. She spoke with WHCS employee Diane Warren, who erroneously told her that Kansas law says abortion is a woman's choice up to the 24th week of pregnancy.

Warren seemed confused about exactly how to calculate Shaye's pregnancy using her LMP and first told Shaye that she was between 31 and 32 weeks of pregnancy. When Shaye told her she could not be that far along, Warren told Shaye to procure a sonogram and bring her the BPD number so that they could determine whether they would do the abortion and how they would set her fee.

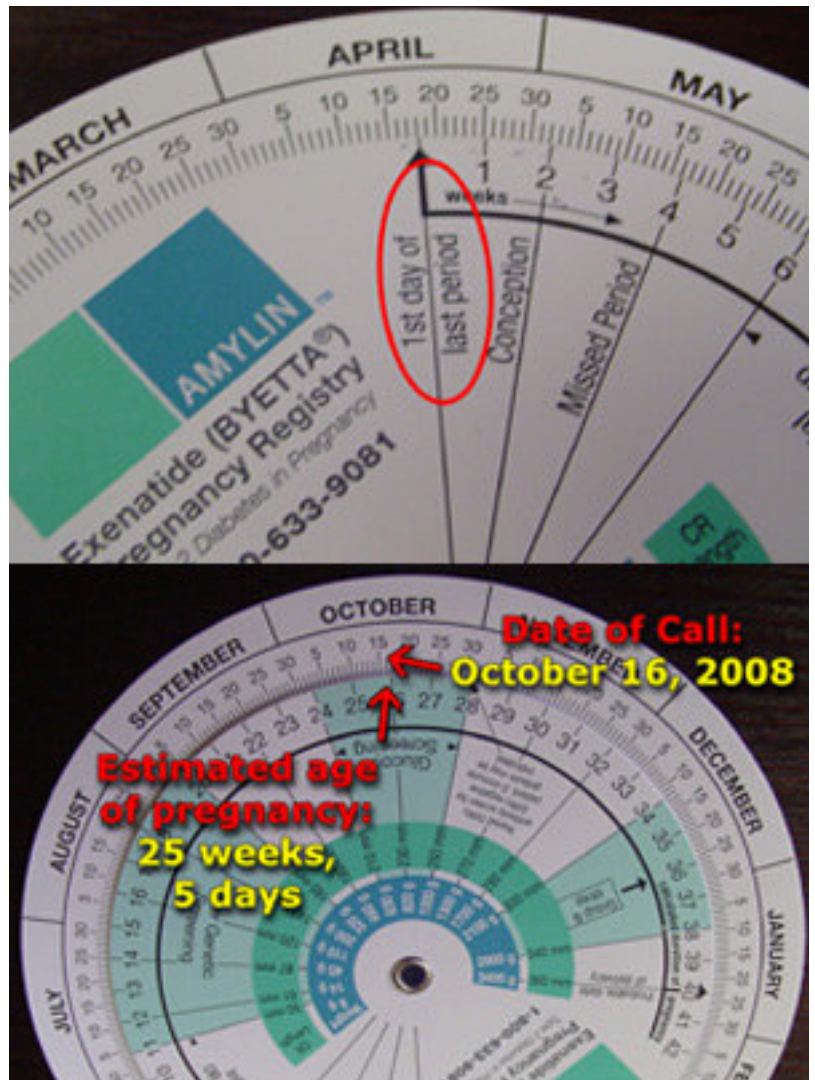
The BPD number is the Biparietal Diameter, or the measurement across the baby's head that can be used to determine fetal age.

Shaye was given an appointment for a sonogram the next day, on October 17, 2008.

### **First Sonogram Measurement Trashed**

The following is an excerpt from a sworn statement made by Shaye concerning her experience at WHCS that day.<sup>4</sup>

The woman who gave me the ultrasound at WHCS was Lindsey Alejandro. She informed me that my baby was 24 weeks, 6 days gestation. I told her that I did not think I could be that far along, so she told me she was going to try something else.



***The gestational age of Shaye's baby, as calculated using a standard pregnancy wheel.***

At that point, Ms. Alejandro tore off the ultrasound photo that showed 24 weeks, 6 days gestation and threw it into a trashcan. She remeasured the baby from another angle and the measurements came up as 23 weeks gestation.

Ms. Alejandro told me that I could have the abortion because it is a woman's choice up until 24 weeks.

Shaye was directed to another WHCS employee, Deborah Esquina, and given an appointment for an abortion at WHCS for the following week with abortionist **LeRoy Carhart**, and told her abortion would cost \$3500 – up front – plus \$65 for medication.



**Actual WHCS sonogram of Shaye's baby. This is the second, younger measurement taken after the older measurement was thrown away by a WHCS employee.**



**Former WHCS employee Lindsey Alejandro now works for LeRoy Carhart in Bellevue, Nebraska.**

She was instructed to return on Monday, October 20, for her final consultation, and was told the actual abortion would begin on Tuesday, October 21, 2008. She received no appointment with a second Kansas physician for the purpose of concurring on the medical necessity of Shaye's pregnancy, even though she would have been **24 weeks, 3 days at the time of the abortion** according to WHCS's own second and lower determination of fetal age. This was past the medically and legally accepted threshold of viability.

WHCS employee Linda Joslin took Shaye's medical history and was aware that she and her pregnancy were healthy and without physical or mental health complications. WHCS was specifically aware that Shaye did not suffer from depression.

### **Two more sonograms confirm later gestational age**

In order to confirm the actual gestational age of Shaye's baby, she received a second sonogram on October 17, 2008, at **Via Christi-St. Joseph's Hospital** in Wichita. According to that hospital's measurements, Shaye's pregnancy was **24 weeks 3 days**. This would have placed the gestational age of Shaye's baby at **25 completed weeks on the day the abortion** was scheduled to begin.<sup>5</sup>



As an extra confirmation, Shaye received a third sonogram on October 17, 2008, from **Baby Waves** in Wichita, which determined that Shaye's pregnancy was **24 weeks, 4 days**. This would have placed the gestational age of her baby at **25 weeks, 1 day, on the day the abortion** was to begin.<sup>6</sup>

<b>Determinations of Gestational Age of Shaye's Baby</b>		
<b>Determiner</b>	<b>Age on Oct. 17, 2008 (Sonogram day)</b>	<b>Age on Oct. 21, 2008 (Scheduled abortion day)</b>
<b>LMP</b>	25 weeks, 5 days	26 weeks, 2 days
<b>WHCS (1st)</b>	24 weeks, 6 days	25 weeks, 3 days
<b>WHCS (2nd)</b>	<b>23 weeks, 6 days</b>	<b>24 weeks, 3 days</b>
<b>Via Christi</b>	24 weeks, 3 days	Exactly 25 weeks
<b>Baby Waves</b>	24 weeks, 4 days	25 weeks, 1 day
Kansas law states that a determination of viability must be made at <b>22 weeks gestation, when viability is possible</b> . The <b>commonly accepted</b> threshold of viability is <b>23-24 weeks</b> .		

According to **four independent determinations**, including Shaye's LMP, the first (and discarded) WHCS measurement, and sonograms from Via Christi Hospital and Baby Waves, Shaye's baby was past the most conservative threshold of viability.

The **only** measurement that actually placed the gestational age of Shaye's baby under 24 weeks, when there could still be some question as to viability, was the second ultrasound measurement taken after WHCS employee Lindsey Alejandro trashed measurements that showed Shaye's baby was clearly past the threshold of viability. That **second measurement** was the measurement used to schedule an abortion for Shaye's baby.

***But even that measurement was beyond the 22-week barrier encoded in Kansas law at which time viability must be determined, and would have placed her pregnancy at 24 weeks, 3 days – beyond the most liberal threshold of viability – at the time the abortion was scheduled to begin.***

Shaye later procured copies of her sonogram records from all three locations and provided them to Operation Rescue with permission to publish them.

### **The Carhart Connection**

Nebraska abortionist LeRoy Carhart was employed by Women's Health Care Services in Wichita during this time. In fact, as already mentioned, Shaye was scheduled for an abortion with Carhart at WHCS even though all her ultrasound images indicated that she would have been beyond the legal limit in Kansas at the time of her scheduled abortion.





In August, 2009, a former employee of LeRoy Carhart's Bellevue, Nebraska, abortion clinic, The Abortion and Contraception Clinic of Nebraska, (ACCON), came forward and told Operation Rescue that similar fetal age manipulation was common at his clinic during her tenure of employment.

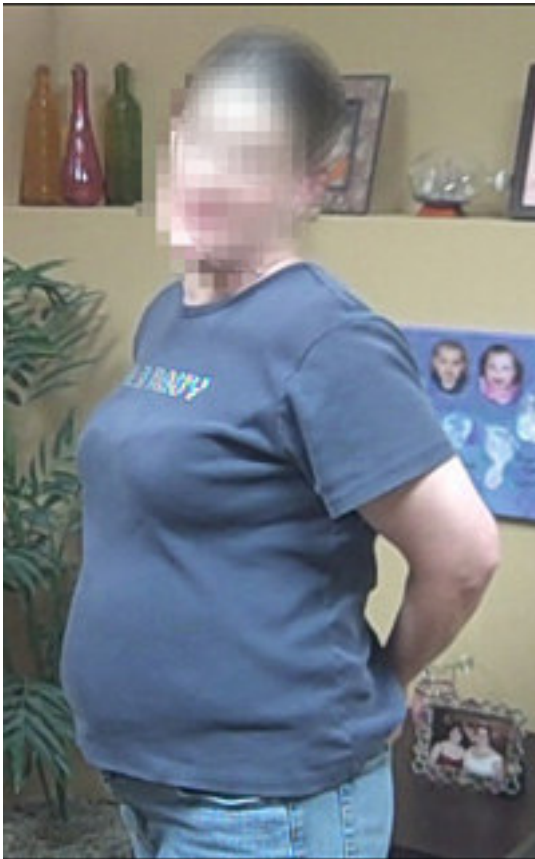
She said that if an ultrasound showed a woman too far along in her pregnancy, Carhart would redo the ultrasound himself and come up with a younger gestational fetal age in order to avoid the legal limits on gestational age in Nebraska. Quote:

"If we found [a woman] to be gestationally 'such and such', which would be over the legal limit, Dr. Carhart would go back in there with the same ultrasound machine, he would do another ultrasound, and somehow they would be within the legal limit. And if they were over the legal limit, I mean horribly over so there was nothing he could really do with the pictures or anything, then he would not write on their chart at all."



**Abortionist LeRoy Carhart**

It is likely that Carhart trained Lindsey Alejandro how to manipulate the fetal age in order to avoid compliance with the law. After the closure of WHCS, Alejandro was hired by Carhart and, as of this writing, works for him at his Bellevue abortion clinic, which is currently under investigation by the Department of Health.



**Shaye, who helped uncover an illegal fetal age/viability deception scheme at WHCS.**

### **Conclusion**

Kansas law states that "no person shall perform an abortion when the fetus is viable."

- **Health and viability:** Shaye's baby was past the medically accepted threshold of viability according to **four independent determinations**. There was no condition that threatened Shaye's health, either physically or mentally. In fact, Shaye enjoyed a healthy pregnancy and safely delivered a healthy baby boy in early February, 2009.

- **Misrepresentation of Kansas law:** Shaye interacted with a total of four WHCS employees, none of which gave her correct information about Kansas law. At least two employees of Women's Health Care Services misinformed Shaye that before the 24th week of pregnancy, Kansas law says abortion is a woman's choice. However, Kansas law places the limit of unrestricted abortion at 22 weeks gestation, when viability is possible and a determination of viability must be made. **The 24th week of pregnancy is not even mentioned in Kansas law.**

- **Intentional underestimation of fetal age:** When the first determination of fetal age showed Shaye's pregnancy beyond the legal limit, a WHCS employee destroyed that measurement and came up with a new, earlier fetal age. The employee then advised Shaye that she could proceed with the abortion, knowing full well that the baby was beyond the threshold of viability.
- **Violation of second concurring physician requirement:** Shaye all too easily obtained an appointment for a post-viability abortion without being referred to or obtaining the signature of a second Kansas physician as required by law.
- **Violations of Informed Consent:** Kansas also has an informed consent law that requires that abortionists tell women the gestation age of their babies, among other facts. Women's rights to informed consent were violated when WHCS misrepresented Kansas law to women considering abortions. This misrepresentation of the law, coupled with the intentional underestimation of fetal age and viability, forced women to make serious, life-altering decisions based on false information, violating the purpose of the informed consent statute.

Shaye told Operation Rescue that it was her understanding that WHCS would have stopped at nothing to give her an abortion, even offering her a number to call for financial aid so money – a hefty \$3500 fee – would not be an issue that would prevent her from getting the abortion.

Shaye's case is not an isolated incident. When taken into consideration with interviews from other former WHCS patients, it shows a pattern of abuse. There is every reason to believe that the gestational age of pregnancies and viability were routinely and intentionally underestimated at Women's Health Care Services to avoid having to comply with Kansas law.

In light of new information provided by the former Carhart employee, it is likely that similar abuses regarding the determination of fetal age are occurring with regularity at his abortion clinic in Nebraska.

It is clear that WHCS and ACCON coyly attempted to appear as if they were following the law, without actually doing so, even according to evidence in their own records presented here. WHCS and ACCON employees led women to believe that their late-term abortions were being done in compliance with the law when, in fact, the evidence in this report shows that they were not.

This kind of deception is placing women's lives in danger, since the risks of serious abortion complications increase as the gestational age of the baby increases. There are physical dangers to doing abortions on women whose gestational age has been miscalculated. In addition, the deception of WHCS and ACCON has also needlessly cost the lives of viable babies that the laws were enacted to protect.

---

For more information about this and other Operation Rescue investigations, please visit our website at [www.operationrescue.org](http://www.operationrescue.org).

# Attachments

## ATTACHMENT 1

### Born at just 22 weeks - Amilla is not yet allowed home

By NICK McDERMOTT, The London Daily Mail

Last updated at 16:12 22 February 2007

A girl born after just under 22 weeks in the womb - among the shortest gestation periods known for a live birth - will remain in a hospital a few extra days as a precaution, officials said.

Amillia Taylor, who weighed less than 10 ounces (283 grams), had been expected to be sent home this week.

However, routine tests indicated she was vulnerable to infection, said Dr. Paul Fassbach, who has cared for the baby since shortly after she was born.

"She has been fine," Fassbach said, but doctors are being extra cautious "now that she's going into the world."

Doctors say she is the first baby known to have survived after a gestation of fewer than 23 weeks. But full-term births usually come after 37 to 40 weeks. Amillia was just 9 1/2 inches long and weighed less than 10 ounces when she was delivered by Caesarean section. She now weighs 4 1/2 pounds.



She has suffered respiratory and digestive problems, as well as a mild brain hemorrhage, but doctors believe the health concerns will not have major long-term effects.

"Her prognosis is excellent," said Dr. Paul Fassbach, who has cared for Amillia since her second day.

Amillia was conceived in vitro and has been in an incubator since birth. She will continue to receive a small amount of supplemental oxygen even after she goes home. Her parents Sonja and Eddie, from Homestead, Florida, were visiting friends in Miami





when Mrs Taylor went into labour at just over 19 weeks pregnant, having conceived by IVF.

Doctors attempted to delay the birth but eventually were forced to carry out an emergency caesarean.

Amillia Taylor weighed just under 10oz and was only 9 1/2 inches long at birth

Dr Guillermo Lievano, who delivered Amillia, said he was not expecting her to survive.

"I was prepared for the worst and

prepared to break the bad news to the mother."

Amillia responded to treatment, however. During two months in an incubator, she even had plastic surgery after her left ear was partially torn off during the delivery.

"I'm still in amazement," said Mrs Taylor, 37, a teacher. "I wanted her to have a chance and I knew in my heart that she was going to make it.

"It was hard to imagine she would get this far. But now she is beginning to look like a real baby. Even though she's only 4lb now, she's plump to me."

Ten ounces of determination: Amillia was little longer than this pen.

William Smalling, neonatologist at Baptist Children's Hospital in Miami, said: "She's truly a miracle baby. We didn't even know what a normal blood pressure is for a baby this small."



Amillia's incredible story will reignite the debate over Britain's abortion laws, which campaigners say must be updated in the light of recent medical advances.

Babies can still be aborted for non-medical reasons at up to 24 weeks. Recent evidence shows that, of those born at 25 weeks, half of them manage to live.

© 2009 Associated Newspapers Ltd

## ATTACHMENT2

<http://www.nrlc.org/news/1998/NRL2.98/wright.html>

### **Viability, Fetal Pain, In Utero Surgery, and Roe v. Wade**

Editor's note. The following is excerpted from the testimony of Dr. Jean A. Wright, presented at a Senate Judiciary Committee hearing that took place January 21. Dr. Emery is an Associate Professor of Pediatrics and Anesthesia at Emory University School of Medicine in Atlanta.

Mr. Chairman and members of the committee. My name is Jean A. Wright, M.D., M.B.A. I am a practicing pediatric intensive care physician. I am board certified in pediatrics, anesthesia, and in both sub-boards of critical care medicine. I would like to focus my remarks today from the perspective of a practicing pediatrician and clinical investigator. I was a pre-medical student in 1973, and my own personal career in medicine since then, in many ways, parallels the changes that have taken place since the Roe v. Wade decision.

Although I have spent the majority of my career in the academic medical center, the knowledge available to me today as a practicing clinician is as available to all physicians and to much of the public as well (due in part to the Internet). I am speaking for myself, and not on behalf of any organization.

I would like to focus my remarks on the changes we have seen in the field of pediatrics, particularly the areas of neonatology, surgery, anesthesia, and intensive care. Medical knowledge in those areas provides a new standard of science upon which a very different conclusion might be reached if Roe v. Wade were decided in 1998, rather than the limited information that was available in 1973.

#### **The Science of Neonatology: A New Definition of Viability for the Premature Infant**

In 1973, neonatology was in its early years as a separate subspecialty of pediatrics. The understanding of the physiology of the pre-term infant, and the equipment, medications, physicians, and specialized units available to care for them were present, but limited or primitive. By contrast, today there are thousands of neonatologists, hundreds of neonatal intensive care units, and breaking discoveries in the world and womb of the developing fetus and neonate....

In 1973, the scientific discussion heavily focused on the issues of fetal viability. At that time, the common understanding was that infants born before 28 weeks could not survive. Today, that age of viability has been pushed back from 28 weeks to 23 and 24 weeks. And some investigators are working on an artificial placenta to support those even younger.

In fact, while the number of children that are born and survive at 23 to 28 weeks gestation are still a minority of the infants in a NICU, they are common enough that the colloquial term "micro-preemie" has been coined to describe them, and an additional body of neonatal science has grown to support the care of the very premature infant. So in 25 years, we have gone from a practice in which infants once thought to be nonviable are now beneficiaries of medical advances to provide them with every opportunity to survive.

The Science of Anesthesia: A Better Understanding of the Development of Pain Perception

1. The new knowledge of the development of pain in the fetus.

...Several types of observations speak for the functional maturity of the cerebral cortex in the fetus and neonate. First are reports of fetal and neonatal EEG patterns, including cortical components of visual and auditory evoked potentials, that have been recorded in pre-term babies of less than 28 weeks gestation. Cortical evoked potentials to somatosensory stimuli (touch, pain, heat, cold) were also recently documented in pre-term neonates from 26 weeks gestation.

Ultrasonographic findings report specific fetal movements in response to needle punctures in utero (Robinson and Smotherman, 1992; Sival, 1993). Moreover, a controlled study of intrauterine blood sampling and blood transfusions in fetuses between 20 and 34 weeks of gestation showed that hormonal responses that were consistent with fetal perception of pain, and were correlated with the duration of the painful stimulus (Gianna-koulopuolos et al., 1994).

Pre-term neonates born at 23 weeks gestation show highly specific and well-coordinated physiologic and behavioral responses to pain, similar to those seen in full-term neonates, older infants, and small children (Pain in Neonates, Anand and McGrath, 1993).

All of the scientific references I have just made are from research breakthroughs in the last 10 years. This information was not available in 1973. As a result of this newly emerging understanding of fetal pain development, Anand and Craig, in a 1996 editorial in the journal PAIN, called for a new definition of pain, a definition that is not subjective, and that is not dependent on the patient's ability to provide a self-report.

2. Increased sensitivity to pain in pre-term infants.

Contrary to previous teachings current data indicate that pre-term neonates have greater pain sensitivity than term neonates or older age groups. Several lines of scientific evidence support this concept....

[S]tudies ... indicate the presence of the pathways needed for the conduction of pain, and a lower pain threshold in pre-term neonates, with the occurrence of further decreases in pain threshold following exposure to a painful experience (Fitzgerald).  
The Science of Pediatric Surgery and Pediatric Anesthesia: New Concepts of Fetal Surgery and Perinatal Hospice

In the early 70s, many pre-term infants were considered too ill to tolerate the effects of anesthesia in order to undergo their needed surgery. Even by the early 80s (the time I entered my first years as a pediatric anesthesiologist), pre-term infants still received

minimal anesthesia in the operating room and NICU. It wasn't until two landmark articles published in 1987 ... that the practice of pediatric anesthesia began to change broadly.... Today we are the beneficiaries of an enormous fund of new medical knowledge, and I believe we should incorporate that into our approach to protecting the life of the unborn.

Furthermore, places such as the University of California, with its Fetal Surgery Center, are doing just that. Exciting surgical advances which allow for the surgeon to partially remove the fetus through an incision in the womb, fix the congenital defect, and then slip the "pre-viable" infant back into the womb should make us reconsider the outcome and viability of many pre-term infants, particularly those with challenging congenital defects.

And should a family be stricken by the terrible news that their anticipated newborn has a condition that is likely to be fatal upon delivery, the concept of "perinatal hospice" is now available. Many grieving parents have relayed to me how precious those few hours were when they held their newly delivered baby in their arms before it died. For a few hours, they were a family. The family was able to embrace its newest member, celebrate its short life, and then move on to the grieving stage. Just as adult hospice programs have helped many of us deal with the last days and hours of a loved one's life, hospice care in the NICU can bring meaning to a very dark hour in a family's life.

### **The Changes in Public Attitude on Abortion: Decreased Total Numbers and Decreased Support**

Popular polls and population surveys indicate that the country has changed its opinion regarding abortion. As reported ... in the Journal of the American Medical Association, the number of abortions in this country has decreased. In the Atlanta Journal, on January 16, they report that since 1989, "supporters of generally available legal abortion have slipped to 32% from 40%, ... and those who said abortion should be available [but under more restricted circumstances] have increased to 45% from 40%" in 1989 (quoting a New York Times/CBS News poll). Perhaps one of the many reasons that have led to these changes in public opinion is the overall concern our citizens have demonstrated towards other vulnerable segments of our population now is being applied to the unborn child....

### **Conclusions**

The scientific literature reviewed above and my clinical experience in the delivery of anesthesia and the care of critically ill and injured children lead me to believe that:

1. Many infants considered nonviable in 1973 are viable in today's world of advanced neonatal care.
2. There is a growing body of literature regarding the care needed for the survival of the "micro-preemie."
3. The anatomical and functional processes responsible for the perception of pain are developed in human fetuses that may be considered candidates for abortions, particularly late-term "partial-birth abortions." At this stage of neurologic development, human fetuses respond to the pain caused by needle puncture in utero in a similar manner as older children or adults, within the limits of their behavioral repertoire.
4. The threshold for such pain perception is lower than that of older pre-term newborns, full-term newborns, and older age groups. Thus, the pain experienced during abortions by the human fetus would have a much greater intensity than any similar procedures performed in older age groups.
5. Current methods for providing maternal anesthesia during "partial-birth abortions" or other forms of abortion are unlikely to prevent the experience of pain and stress in the human fetuses before their death occurs, particularly those by partial decapitation.
6. New techniques have allowed some forms of fetal surgery to provide a more promising outlook for children previously thought to have life-threatening congenital deformities.
7. Our understanding of the psychosocial needs of the family are better now, and we offer perinatal hospice care as a way of bringing meaning and purpose to a very dark time in the life of a family.

The science referred to in this presentation is a reflection of the science of the 1980s and 1990s. The medical profession did not know this in 1973. Those who made the Roe v. Wade decision did not know it. But history constantly reveals a pattern of how difficult it is for society to change paradigms once believed....

Today we are hearing evidence, both medical and legal, that was not available to our counterparts in 1973. We cannot change the [past] ramifications of their decision, but we can make better and more informed decisions today. Just as the incoming tide raises the level of the water in the harbor and in doing so all the boats rise to the same new level, so should we allow the tide of new medical and legal information to serve as a tide to raise both our medical and legal understanding of the unborn, and in doing so, lead us to making better decisions for this vulnerable population.



**ATTACHMENT 3**

Women's Health Care Services  
George R. Tiller, M.D., P.A.

Physician Attestation of Non-Viability  
22-24 Weeks Gestation

Patient: Berge, Linda  
Reported LMP: November 25, 2002  
Sonogram Results: BPD: 60 FL: 44 AC: 195 HC: 217  
Physical Examination: Fund height - 24  
Composite Gestation Age: 23 w 5 d

Based on physical examination, sonogram results, and last menstrual period (if known), it is my professional judgement that there is a reasonable probability that this pregnancy is not viable

George R. Tiller  
George R. Tiller, M.D., Medical Director

5/13/03  
Date

20-004

**ATTACHMENT 4**

**Statement of Shaye Stewart, taken on December 5, 2008.**

I am Shaye Stewart, a resident of Sedgwick County, Kansas.

I am currently pregnant. The first day of my last menstrual period was April 18, 2008.

On October 17, 2008, I received an ultrasound at Women's Health Care Services, located at 5107 E. Kellogg in Wichita, Kansas.

The woman who gave me the ultrasound at WHCS was Lindsey Alejandro. She informed me that my baby was 24 weeks, 6 days gestation. I told her that I did not think I could be that far along, so she told me she was going to try something else.

At that point, Ms. Alejandro tore off the ultrasound photo that showed 24 weeks, 6 days gestation and threw it into a trashcan. She remeasured the baby from another angle and the measurements came up as 23 weeks gestation.

Ms. Alejandro told me that I could have the abortion because it is a woman's choice up until 24 weeks.

I was sent to another room where I filled out additional paperwork, then was sent to see Deborah Esquina, who explained pricing and other information about the abortion to me. She gave me a phone number that I could call to get financial help.

About an hour and a half later, I went to Baby Waves, located at 1861 N Rock Road, Suite 200, in Wichita, Kansas. There I received another ultrasound examination. The technician there told me my baby was 24 weeks 4 days gestation.

Later that evening, I went to Via Christi St. Joseph Medical Center, located at 3600 E. Harry Street in Wichita, Kansas, where I received a third ultrasound. The technician who examined me at Via Christi St. Joseph told me that my baby over 24 weeks gestation.

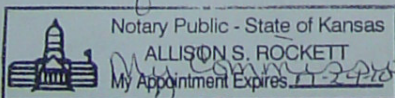
I do hereby affirm that the above statement is true and accurate to the best of my ability.

Shaye Stewart  
Shaye Stewart

12-5-08  
Date

State of Kansas  
County of Sedgwick.

Sworn to before me this 5<sup>th</sup> day  
of December, 2008, by Shaye Stewart



Expires

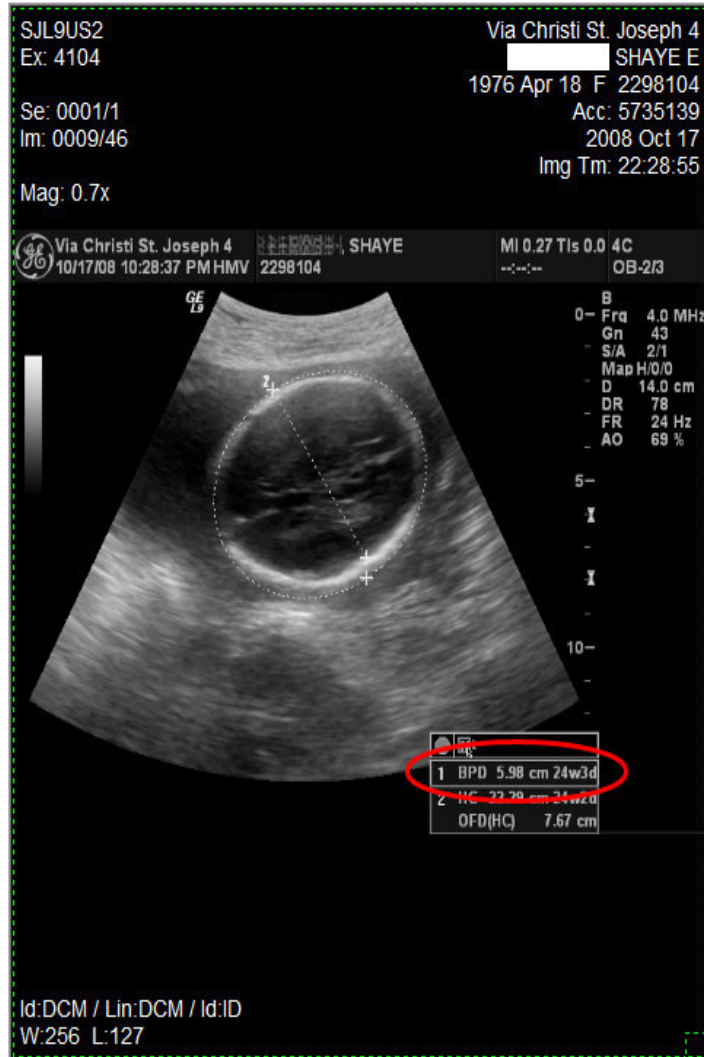
Allison Rockett  
Notary Public

1-24-10



## ATTACHMENT 5

### SHAYE'S ULTRASOUND IMAGE FROM VIA CHRISTI



## ATTACHMENT 6

### SHAYE'S ULTRASOUND IMAGES FROM BABYWAVES







©Operation Rescue®  
P.O. Box 782888, Wichita, KS 67278  
[www.operationrescue.org](http://www.operationrescue.org)  
All Rights Reserved