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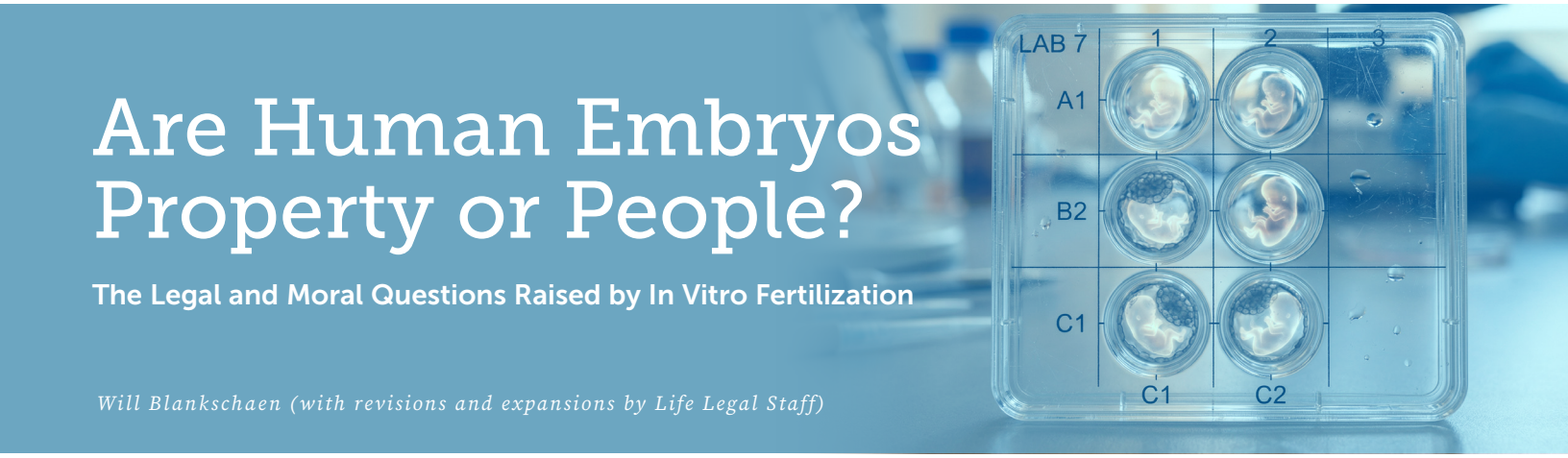

Are Human Embryos Property or People?

The Legal and Moral Questions Raised by In Vitro Fertilization

Will Blankschaen (with revisions and expansions by Life Legal Staff)

As disputes over frozen embryos reach the courts, judges are increasingly confronted with a question rarely addressed before: what, exactly, is a human embryo under the law?

Is the human embryo a person with legal rights?

Is the embryo property jointly owned by the genetic parents?

Or does the embryo occupy some unique legal category somewhere in between?

These questions are not theoretical. They arise in real cases when couples dispute the fate of frozen embryos created through in vitro fertilization (IVF), when clinics lose or destroy embryos through negligence, and when legislators attempt to regulate a rapidly expanding fertility industry.

They also point to a deeper concern: not only what embryos are, but how human beings are brought into existence.

For pro-life advocates—and for organizations like Life Legal—these questions are fundamental. The answers determine whether embryos will be treated as human beings deserving protection or as commodities subject to contractual control.

In a high-profile dispute involving frozen embryos, actor and producer Nick Loeb sought custody of two embryos he had created with actress Sofia Vergara through IVF. When the couple separated, Vergara wanted to prevent the embryos from being brought to term. Loeb argued that the embryos, whom he had named, should be given the opportunity to be born.

Life Legal assisted with Loeb's appeal, emphasizing that embryos are not merely contractual assets or pieces of property but human beings at the earliest stage of life.

The case illustrated a growing tension in American law. Fertility clinics routinely create, freeze, and store embryos, yet the legal system remains divided on the status of those embryos. As IVF becomes more common, disputes like the Loeb case are likely to become more frequent—and more consequential.

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The modern legal debate over embryos began more than three decades ago when a divorcing couple disagreed over the fate of seven frozen embryos created during their marriage in *Davis v. Davis*. Mary Sue Davis wished to donate the embryos to a childless couple. Her former husband, Junior Davis, objected, arguing that he should not be forced to become a parent against his will. Yet if human life begins at fertilization, the embryos were already his biological children, raising a more fundamental question: was this really about future parenthood, or about the fate of existing human lives?

Confronted with this dilemma, the Tennessee Supreme Court had to determine whether the embryos were children, property, or something else entirely.

The court ultimately concluded that embryos occupy an "interim category" between persons and property. It held that decision-making authority should generally rest with the genetic parents and ruled in favor of Junior Davis. The embryos therefore could not be donated for implantation.

The court also observed that recognizing embryos as having "legally cognizable interests independent of their progenitors" would effectively prohibit the practice of IVF in Tennessee. The ruling thus reflects a deeper tension in the law: defining embryos as persons would not simply resolve conflicts between parents, but would call into question the legal framework that makes IVF possible.

Although the decision did not declare embryos to be persons, it acknowledged their unique moral status and recognized that disputes involving embryos could not be resolved through ordinary property law alone.

Since *Davis*, courts around the country have adopted similar approaches. In *In re Marriage of Rooks*, for example, the Colorado Supreme Court held that when couples disagree about the fate of frozen embryos, courts should weigh the parties' competing interests—an approach that almost always favors the party seeking to avoid procreation.

More recently, however, a state supreme court took a very different approach.

1.5–1.8 million embryos created through IVF annually are never brought to birth. They are ultimately discarded, donated for research, or left indefinitely in frozen storage.

In 2024, the Alabama Supreme Court issued a groundbreaking decision in *LePage v. Center for Reproductive Medicine*. The case arose after several couples' frozen embryos were accidentally destroyed at a fertility clinic.

The court held that embryos are "children" for purposes of Alabama's wrongful death statute and allowed the parents to pursue wrongful death claims for their loss.

The ruling was the first of its kind in the United States. It extended legal protections traditionally applied to unborn children in the womb—such as wrongful death statutes and criminal laws recognizing unborn victims—to embryos stored outside the body.

The decision immediately sparked national controversy and led several fertility clinics in Alabama to temporarily pause IVF procedures due to fears of legal liability.

In response, the Alabama legislature passed an emergency law granting broad civil and criminal immunity to IVF providers. The legislation allowed clinics to resume operations but did not overturn the court's legal reasoning. As a result, the underlying legal question remains unresolved: Alabama's highest court has recognized embryos as children for purposes of wrongful death law, yet fertility clinics are largely insulated from liability.

These disputes arise within the broader context of infertility and the growing use of assisted reproductive technologies.

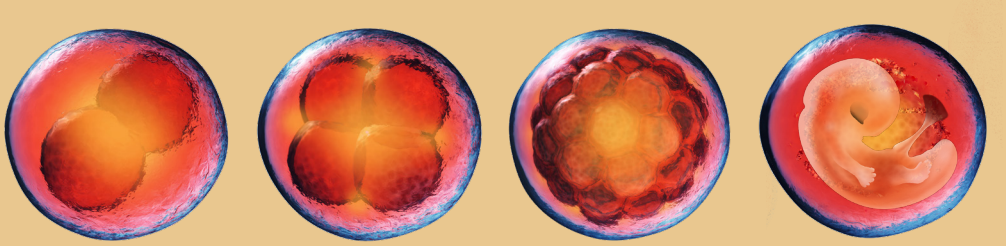
Medical researchers estimate that roughly one in ten couples in the United States experiences infertility. In part, this reflects a demographic shift toward later childbearing, as many couples delay having children until their thirties, when fertility naturally begins to decline.

Since the birth of the first IVF child in the United States in 1981, millions of children have been conceived through laboratory fertilization technologies.

At the same time, IVF continues to raise serious ethical questions.

To increase the likelihood of pregnancy, fertility clinics typically harvest and fertilize multiple eggs during a single IVF cycle. Some embryos are transferred immediately, while others are frozen for potential future use.

Estimates suggest that 1.5–1.8 million embryos created through IVF annually are never brought to birth. They are ultimately discarded, donated for research, or left indefinitely in frozen storage. Attrition occurs at several stages: embryos may fail to develop



Embryos are not merely contractual assets or pieces of property but human beings at the earliest stage of life.

in the laboratory, fail to implant after transfer, or be rejected through genetic screening.

For those who believe human life begins at fertilization, this reality raises profound concerns. If embryos are human beings at their earliest stage of development, then their routine creation, selection, freezing, and destruction cannot be ethically neutral.

IVF also imposes significant burdens on the couples undergoing treatment. Infertility patients frequently experience elevated levels of anxiety, depression, and emotional stress, which can be intensified by IVF. A single IVF cycle can cost tens of thousands of dollars, placing financial strain on couples.

Medical risks also exist for both mothers and children. Hormonal stimulation used to produce multiple eggs can cause life-threatening complications. Researchers have also found long-term health effects in children conceived through assisted reproductive technologies, including higher rates of certain birth defects, premature birth, and low birth weight among IVF babies.

IVF is therefore not simply a technological solution to infertility. It is a demanding medical procedure that, even for those who don't believe that human life begins at conception, presents serious moral questions about the creation, treatment, and fate of human beings at the earliest stages of development.

It also raises a related question about the nature of human reproduction itself: IVF separates human procreation from the marital act.

Traditionally, children are conceived through the bodily union of husband and wife. In IVF, however, eggs are surgically retrieved, sperm is collected and prepared, and fertilization occurs in petri dishes under the supervision of technicians in a laboratory.

Embryos are then evaluated, selected, frozen, discarded, or transferred based on medical or genetic criteria. In this way, the beginning of human life becomes subject to technological processes and clinical decision-making.

Many religious traditions—most notably the Catholic Church—have raised concerns about this shift. The *Catechism of the Catholic Church* teaches that IVF is morally unacceptable because it "establishes the domination of technology over the origin and destiny of the human person." (CCC 2376–2377).

Even outside explicitly religious frameworks, philosophers have raised similar concerns. Jewish bioethicist Leon Kass warned that human procreation should remain an act of "begetting and not of making." Political philosopher Michael Sandel likewise cautions that reproductive technologies can encourage parents to see children less as gifts to be received and more as "objects of our design or products of our will."

From a biological standpoint, fertilization creates a new and genetically distinct human organism. Yet the legal disputes discussed above arise not only because the law has struggled to recognize the status of the human embryo, but also because modern reproductive technologies have transformed the circumstances in which human life begins.

Until the law clearly determines whether embryos are persons, property, or something in between, disputes like those seen in *Davis*, *LePage*, and the *Loeb* case will continue to arise. More is at stake than the resolution of individual controversies. Even the smallest human beings deserve protection from exploitation and manipulation. Yet the structure of the IVF industry—built on the outsourcing of human generation to technological processes and the subsequent selection, storage, transfer, and often destruction of human beings—stands in tension with that fundamental principle.

"Suicide Machines"—From Metaphor to Murder

Alexandra Snyder

"In the day, we sweat it out on the streets
Of a runaway American dream
At night, we ride through mansions of glory
In suicide machines
I wanna die with you, Wendy, on the streets tonight
In an everlasting kiss"

Bruce Springsteen once wrote about "suicide machines" as a metaphor—a poetic image of escape from a broken world.

That metaphor is now being made literal.

Philip Nitschke, an Australian euthanasia advocate, has unveiled a device called the Sarco pod—short for *sarcophagus*. Sleek, futuristic, and intentionally aesthetically alluring, the pod is designed to allow a person to end his or her life at the push of a button. Even more disturbing, the latest version is being marketed to couples, so they can die together.

The Sarco pod looks less like a medical device and more like something out of a luxury design catalog. It was created using a 3D printer and Nitschke has made the plans available for others to replicate.

The Sarco pod does not exist in a vacuum. It emerges from a culture that treats death as the solution to suffering, dependence, and loneliness. What was marketed as an option for the terminally ill has expanded to chronic illness, psychological suffering, and ultimately to those who feel their lives have lost meaning.

Now death is packaged, branded—and even romanticized.

The newest iteration of the Sarco pod, which Nitschke affectionately calls the "Double Dutch," is designed for couples who want to commit suicide together. It includes software that uses artificial intelligence to determine mental capacity—a supposed "safeguard" under Swiss law. As Nitschke describes it, "you'll have to do your little test online with an avatar, and if you pass that test, then the avatar tells you you've got mental capacity."

A couple, together, entering a pod designed to resemble peaceful rest. Their final moment framed not as tragedy, but as intimacy. It is difficult not to hear echoes of Springsteen: "I wanna die with you . . . in an everlasting kiss."

The first reported use of the Sarco pod was meant to demonstrate a controlled, peaceful death. Instead, it triggered a criminal investigation.

In September 2024, a 64-year-old American woman traveled to Switzerland to use the Sarco pod. She was suffering from a chronic condition, but not terminally ill. She had previously contacted another suicide group but abandoned the process after they required her to undergo psychiatric therapy. Nitschke verified her mental

The Sarco pod does not offer dignity. It offers only isolation and a sterile, efficient end where there should instead be human solidarity.

capacity "by talking to a psychiatrist for five minutes."

The Sarco pod was placed in a remote wooded area—despite warnings from Swiss authorities that its use in that region could lead to criminal charges. Nitschke was present the morning of the suicide, but his lawyers advised him to return to his home in Germany before the woman entered the pod. He watched the suicide on a video feed.

Only one man witnessed the suicide—German euthanasia advocate Dr. Florian Willet. Willet monitored the woman's heart rate and oxygen saturation and remained on the phone with Nitschke throughout.

Things did not go as planned.

Willet expected the woman to die shortly after pushing the button to release the deadly nitrogen, but nearly three minutes later, he saw movement in the pod as her body began to convulse. Six minutes after she pushed the button Willet told Nitschke "she's still alive." A few minutes later the movements ceased and the woman was dead.

Later that evening, Swiss authorities investigated the scene. A forensic examiner reported that the woman's neck had injuries consistent with strangulation. This was starting to look more like a homicide than a suicide.

Willet was arrested and served 70 days in a Swiss jail. He was ultimately released when the prosecutor ruled out murder, but he was so traumatized by the arrest—or possibly by witnessing the suicide—that his mental health deteriorated. In January 2025, Willet "fell" from a third-floor window—but reports indicate that he likely jumped. He survived but required extensive recovery. A few months later, Willet used Germany's assisted suicide law to end his own life.

THIS IS NOT COMPASSION. IT IS THE INDUSTRIALIZATION OF DESPAIR.

Proponents of assisted suicide often speak of "death with dignity." But dying alone in a plastic coffin is not dignity. Watching someone take their last breath, seeing their body contort, and waiting for their heartbeat to stop is not dignity. True dignity comes from the inherent worth of every human being, created in the image and likeness of God. It cannot be increased by achievement or diminished by illness.

The Sarco pod does not offer dignity—only isolation and a sterile, efficient end. This is not compassion. It is the industrialization of despair

So how should we respond?

We must meet the push for ever more efficient and inventive means of suicide by calling this what it is: not dignity, but despair; not compassion, but abandonment. A society that offers death as a solution to suffering has lost its moral bearing and utterly failed in its duty to protect the vulnerable.

We must stand against a culture that calls death a benefit and suffering a problem to be eliminated. This is why Life Legal confronts policies that normalize assisted suicide and refuses to accept any understanding of the human person that measures worth by comfort, autonomy, or productivity. It is why we intervene on behalf of people some say are better off dead.

Because the answer to suffering is not a better "suicide machine."

Help Life Legal protect life in the courts.

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Mentally Ill Woman Accessed Assisted Suicide in Oregon

Wesley J. Smith

Most of the media are in the tank (remember Brittany Maynard?) for the assisted suicide/euthanasia agenda and, as a consequence, are primarily interested in reporting on stories of "good deaths." That criticism does not apply to *The Atlantic*, which recently published a scathing exposé of the cruelties inherent in Canada's euthanasia regime. Now, staff writer Elizabeth Bruenig has published an important piece detailing how a mentally ill 31-year-old woman named Eileen Mihich was able to access poison drugs by writing herself a fraudulent prescription for death, which was filled unquestioningly by a willing pharmacy.

Eileen apparently had no discernible diseases but complained about severe abdominal pain. From, "*It Was Too Easy for Her to Kill Herself*":

> Mihich had told her family that she was debilitated by a mysterious abdominal pain and was interested in a medically assisted death. But her suicide still shocked her two closest relatives: her cousin Sarah (who asked to be referred to by her first name, to protect her privacy) and aunt Veronica Torina . . . Nearly a year on, they are still trying to solve the mystery of her death. . .

At the medical examiner's office weeks later, they received her phone, her wallet, and pharmacy receipts for prescription drugs commonly used to end the lives of patients with untreatable illnesses.

They also learned that Mihich's body bore no signs of illness. Mihich had been suffering, but she had not been on the verge of death.

This is not the first time I have heard of such tragic cases. One of Jack Kevorkian's early victims, a woman named Marjorie Wantz, was emotionally disturbed and suicidal, complaining of pelvic pain, for which doctors could find no cause. Indeed, her autopsy report determined "no pathological diagnosis." Kevorkian didn't care. He was interested in hastening deaths.

But, "Wesley," you say, "Kevorkian was acting without legal regulations." Indeed he was. But the regulations in Oregon that were supposed to protect Eileen were about as porous as his conscience:

> When some people in severe distress imagine a peaceful end to what feels like unbearable pain, the availability of medical assistance in dying may shape their thinking, and current safeguards do not seem sufficient to prevent tragic outcomes.

Torina suspects that her niece would still be alive had it been just a little harder for her to secure lethal medication. "She didn't really want to die, but she felt that she was powerless to create a life worth living.

> Eileen had a tough life, with negligent parents. She made a claim of rape against her father that was never pursued legally, lived in multiple foster homes, and suffered from mental illness. She lived on disability and was occasionally homeless. She was diagnosed with bipolar disorder and borderline personality disorder.

Eileen obtained a phony prescription pad and wrote herself a poison script. And it was filled! Here is something about which I was unaware that made an illegal lethal prescription obtainable by a mentally ill and unhappy woman:

> Mihich was able to carry out her fraud with publicly available information and relative ease. Unlike conventional pharmacies, which sell only FDA-approved pharmaceuticals are able to sell customized formulations that are not FDA tested and approved.

Compounding pharmacies are the only places capable of dispensing medications that allow for a more peaceful death, as this involves mixing various sedatives, painkillers, and muscle relaxants into something more easily ingested and absorbed. Yet few pharmacists agree to supply these drugs, largely for ethical reasons. Jess Kaan, a Washington-based doctor who works with people seeking end-of-life care, told me that many of her patients have trouble finding a pharmacy that sells this medication,

which can make such transactions particularly lucrative for those that do.

She apparently paid $2,500 for the poison. Compounding pharmacies. Imagine the regulation-avoiding possibilities. Breunig believes there are lessons to be learned:

> Mihich's method of suicide was clearly illegal in Oregon, Washington, and elsewhere in the United States, where medical assistance in death is available only to adult patients who are terminally ill, have six months or less to live, and are mentally capable of making their own health-care decisions. But her ability to access fatal drugs is concerning, as the spread of laws allowing medical assistance in dying makes it likely that incidents like this will happen again.

No question. And here comes the slippery slope:

> Mihich's case also raises pressing questions about whether access to an assisted death should extend to people with persistent and severe mental illness—a category of disease that may not be terminal but can be debilitatingly painful. Patients who are suffering from severe psychiatric disorders can already legally seek medical help to end their life elsewhere, including in Belgium, the Netherlands, Luxembourg, and, beginning as soon as 2027, Canada. Yet establishing which psychiatric patients are worthy of this assistance has proved complicated.

That's the logic. Please allow me to add a few more thoughts:

- Some might say that Eileen was in pain and her assisted suicide was therefore justified. Okay, but that means assisted suicide isn't about terminal illness but about eliminating suffering by eliminating the sufferer. And since suffering is subjective, there is no limiting principle on how far that right to be dead will extend.
- Strict guidelines don't "protect against abuse." They depend on doctors' self-reporting after the event, and even cases of known abuses do not result in prosecution or medical discipline. After more than 30 years of opposing this agenda, I am convinced that guidelines are not really meant to be effective. Rather, they exist as a sop to justify legalization and provide false assurance that all is under control.
- Just how do you control privatized killing? How do you effectively prevent the "wrong" people from accessing poison pills? How do you control ideologically driven doctors who are willing to prescribe lethal drugs or lethally inject patients they have just met, as often happens? One doctor in Canada has killed more than 400 people!
- The ultimate destination of this movement is the creation of a fundamental right to die for whatever reason and in whatever manner and to get help in so doing, i.e., death on demand. The highest courts in two countries—Germany and Estonia—have already so ruled. And with almost all jurisdictions that have legalized hastened death continually loosening eligibility standards—such as doing away with residency requirements, allowing nurse practitioners to prescribe lethal drugs, shortening waiting periods, and even allowing assisted suicide by telemedicine—the death agenda will continue to expand.

I see only one way to prevent this scenario. Refuse to legalize assisted suicide. Say no to euthanasia.

In jurisdictions where it is already legal, doctors and pharmacies should refuse to participate, no matter the profit margin. Engage in suicide prevention rather than facilitation in every death request. If we are asked to validate the assisted suicide of a loved one by attending it, don't go, but say, "Here is what I will do, because it is you I love and you are not alone." Improve access to palliation and mental health treatment for everyone. Make necessary reforms to hospice care so that suffering people know they can face the end with high-quality symptom control under the care of professionals who value their lives. Good grief, in the U.K., the hospice sector is collapsing, and yet the government is still pushing the legalization of assisted suicide.

In jurisdictions where it is already legal, doctors and pharmacies should refuse to participate, no matter the profit margin.

This much, from the story, is absolutely true:

> The policy debate over medical assistance in dying generally concerns statutory changes, but new laws are encouraging a shift in social norms.

The question we have to ask ourselves: Are these new social norms what we really want? Because if the current trajectory holds, they are precisely the consequences we will get.

[Wesley J. Smith (@theWesleyJSmith) is an author and a senior fellow at the Discovery Institute's Center on Human Exceptionalism and a consultant to the Patients Rights Council. This article was originally published by the National Review Online (https://www.nationalreview.com/corner/mentally-ill-woman-accessed-assisted-suicide-in-oregon/) February 11, 2026, and is here reproduced by kind permission of the author.]

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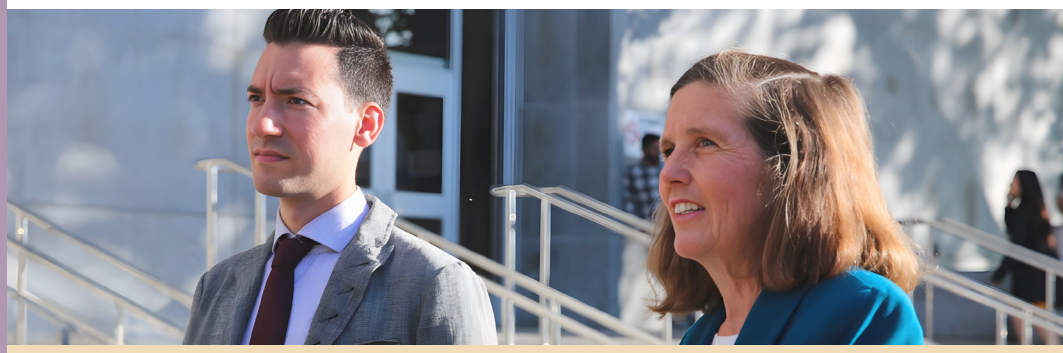
Speak up for those who cannot speak for themselves; ensure justice for those being crushed. Yes, speak up for the poor and helpless, and see that they get justice. —*Proverbs 31:8-9*



David Daleiden with Life Legal attorney, Catherine Short

At last! Victory for Center for Medical Progress

After nearly a decade of relentless prosecution, all criminal charges against pro-life investigator David Daleiden have been dismissed. Daleiden's undercover reporting and video exposés documented barbaric practices within the abortion industry, including the buying and selling of baby body parts for profit.

Instead of prosecuting abortion executives for haggling over the price of aborted fetal livers and other body parts, then-California Attorney General Kamala Harris targeted Daleiden—ordering a raid on his home and filing felony charges against him and fellow undercover journalist Sandra Merritt. This was nothing other than an effort to shield abortionists and suppress dissent.

Life Legal was honored to stand with David early in the fight, defending his rights at a critical moment. Today, with every charge dismissed, no admission of wrongdoing, and no penalties imposed, this outcome marks a decisive victory for free speech, investigative journalism, and the principle that truth cannot be prosecuted out of existence.