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**High court to review invalidation
of Nebraska's late-term abortion ban**

By Larry Chesser

WASHINGTON (ABP) -- The U.S. Supreme Court agreed Jan. 14 to review a decision striking down Nebraska's ban on "partial-birth abortion."

The 8th U.S. Circuit Court of Appeals said the 1997 Nebraska law is unconstitutional because it places an "undue burden" on women's right to choose an abortion.

The appeals court said while the term "partial-birth abortion" has been widely used by lawmakers and the media, it had no fixed legal or medical definition.

In addition to barring a controversial late-term procedure known as dilation-and-extraction, in which the fetus is killed by extracting the contents of the skull, the Nebraska law also bans a more widely used procedure known as dilation-and-evacuation.

By prohibiting the most common procedure for second-trimester abortions, the appeals court concluded, the Nebraska law "imposes an undue burden on a woman's right to choose to have an abortion."

In asking the high court to review the decision, Nebraska Attorney General Don Stenberg argued that the 8th Circuit's ruling conflicts with a ruling by the 7th Circuit upholding similar laws in Wisconsin and Illinois. He also argued that the appeals court misapplied past Supreme Court rulings on how states may regulate abortion.

"If a state cannot ban the partial-birth abortion/D&X procedure, there is effectively no limit on abortion at all," Stenberg argued in Nebraska's petition to the high court.

Stenberg also invited the high court to address broader issues surrounding abortion, including whether courts should leave the matter to lawmakers. But justices limited their review of the case to whether the appeals court misconstrued Nebraska's ban and whether it misapplied Supreme Court guidelines on what constitutes an undue burden.

Attorneys for physician LeRoy Carhart, who challenged the Nebraska law, argued that the appeals court ruling is consistent with other abortion rulings. Carhart claimed Nebraska wants justices to overturn the landmark 1973 ruling recognizing abortion rights and "subject women's privacy rights to the caprice of legislative majorities."

Congress has twice approved legislation to ban partial-birth abortions, but President Clinton vetoed the measures.

Thirty states have passed bans on partial-birth abortion. In its opinion, the 8th Circuit noted that in most cases heard by federal courts, the statutes have been found unconstitutional.

Officials from 10 states -- Alabama, Iowa, Louisiana New Jersey, Pennsylvania, Virginia, South Carolina, South Dakota and West Virginia -- urged the high court to review the 8th Circuit ruling.

"The partial-birth abortion issue is ripe for review because it is one of great national importance -- as evidenced by the passing of partial-birth abortion bans in nearly three-fifths of the states, extensive litigation, and extensive congressional activity," attorneys for the states argued.

The high court is expected to hear arguments in the dispute, *Stenberg vs. Carhart*, in April, with a decision expected by this summer.

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Boy Scouts win Supreme Court review of discrimination case

By Kenny Byrd

WASHINGTON (ABP) --The U.S. Supreme Court said Jan. 14 it will review a unanimous decision by the New Jersey Supreme Court that a man's membership in the Boy Scouts of America was unlawfully revoked solely because he is a homosexual.

James Dale joined the Boy Scouts at age 8, beginning a successful Scout tenure that included earning Scouting's top award, the Eagle Scout Badge. He later gained adult membership to the Boy Scouts and served as an assistant scoutmaster for 16 months.

But after Dale was identified in a news article as the co-president of the Rutgers University Lesbian/Gay Alliance, he received a letter from a local Boy Scouts official revoking his membership. The official said the standards for leadership by the group forbade membership to homosexuals.

After an appeal to Boy Scouts' officials to reverse their decision, Dale filed suit against the federally chartered corporation.

A trial court rejected Dale's charge the Boy Scouts had violated a New Jersey law barring discrimination in places of public accommodation and in other areas. But a state appeals court reversed the decision.

The New Jersey Supreme Court also sided with Dale, ruling that the Boy Scouts is a "place of public accommodation" and not a "distinctly private" club. The top state court said the Boy Scouts invites the public to join, attend or participate in some way and benefits from relationships with the government.

The court also discarded the Boy Scouts' claim that it is exempt from the anti-discrimination law because it is operated by a "bona fide religious or sectarian institution." The court said: "This claim deserves little discussion. Boy Scouts repeatedly states that it is nonsectarian."

"We agree that Boy Scouts expresses a belief in moral values and uses its activities to encourage the moral development of its members," said justices on the New Jersey Supreme Court. "We are not persuaded, however, that a 'shared goal' of Boy Scout members is to associate in order to preserve the view that homosexuality is immoral."

In a concurring opinion, Justice Alan Handler noted that "Boy Scouts' official position on issues of sexuality is that 'boys should learn about sex and family life from their parents, consistent with their spiritual

beliefs.' Numerous religious denominations sponsoring Boy Scout units subscribe to the view that homosexuality is compatible with their religious precepts."

Handler also took issue with stereotypes about the morality of homosexuals. He added "the myth that a homosexual male is more likely than a heterosexual male to molest children has been demolished."

Lawyers for the Boy Scouts asked the Supreme Court to review the case. They argue the New Jersey court's decision unconstitutionally requires the organization "to put into a leadership position a person who, by word and deed, disagrees with the organization's moral code." Lawyers said the ruling violates the Boy Scouts' freedom of speech, rights of expressive association and freedom of intimate association.

Lawyers for Dale said the high court should not review the case.

They criticized the Boy Scout's "across-the-board policy of excluding gay members -- not for what they say or do, but for who they are -- even though non-gay members are permitted to remain, no matter what views or positions they take on 'morality' or other matters."

The Southern Baptist Ethics and Religious Liberty Commission weighed in on the case in a brief written by Jay Sekulow, director of Pat Robertson's American Center for Law and Justice.

"While Dale certainly has the right to be a homosexual advocate, the Boy Scouts has an equivalent right not to hold Dale out as an example for male youth," said the brief for the Southern Baptist agency and the ACLJ.

The high court will hear the case later this term and issue a ruling by the end of June.

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American Baptist leader announces retirement plans

VALLEY FORGE, Pa. (ABP) -- Daniel Weiss, general secretary of American Baptist Churches in the U.S.A. since 1988, says he will retire from the post Aug. 31.

Weiss, 62, will step down after completing his third four-year term as the top paid executive in the 1.5 million-member denomination, American Baptist News Service reported.

"I am so grateful to God and to American Baptists for the privilege of serving over these years," Weiss wrote in a letter announcing his retirement to ABC/USA president Trinette McCray.

An official at the denomination's headquarters in Valley Forge, Pa., said Weiss decided to step down this year instead of seeking another four years of responsibilities. Communications Office Director Richard Schramm said it is a "logical time" for Weiss to retire.

A former seminary professor and president, Weiss and his wife, Rachel, said they plan to live at homes in Florida and Massachusetts in retirement.

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-- By Bob Allen

Alabama church continues to send out missionaries

AUBURN, Ala. (ABP) -- Many Southern Baptist churches have members who leave to become foreign missionaries.

With the Jan. 10 appointment of Keith and Carolyn Hocutt, Lakeview Baptist Church in Auburn, Ala., has 54.

The east Alabama church was host for a service of commissioning for 36 new missionaries by the International Mission Board of the Southern Baptist Convention. A capacity crowd of nearly 2,000 looked on.

The congregation's missionary zeal doesn't seem to be waning, either. Near the end of the service, during an invitation for others wanting to commit to missionary service, Lakeview members Rob and Betty Martin came forward.

Rob Martin, an International Mission Board trustee who is nearing retirement at Auburn University, said the couple doesn't know where they will serve or for how long but expect a short-term stint within the next year.

"As the invitation began Betty came to me and we stepped forward to say we are going wherever God sends us in missions," Martin said.

Leaders of the Auburn congregation predicted having the service there would have ongoing impact.

"We have an extremely high interest in international missions," said John West, Lakeview's minister of missions. "We present the cause of Christ to serve around the world weekly, but hopefully our people can catch a greater vision (following the service) and others will increase their involvement."

The new missionary recruits reflect the growing diversity of Southern Baptist missionaries. Six of the appointees are of Asian background, noted Jim Riddell, who leads the IMB's mobilization team.

Another new missionary, Harris Cook, noted that being in his 50s, he once would have been considered too old to become a missionary.

Cook said he was fulfilling a call God gave him when he was in seminary more than 25 years ago. A chronic illness and eventual death of his first wife prevented his appointment until now.

He remarried in 1994. He and his current wife, Jenny, have been ministering in apartment complexes and mobile-home communities.

The Cooks will coordinate the evangelism efforts for a missionary team focusing on more than 5 million urban poor living in Caracas, Venezuela.

The Hocutts will serve as missionary associates in Western South Africa focusing on evangelism.

The appointment service was held in conjunction with an IMB trustee meeting at nearby Auburn University Hotel and Conference Center. The 36 new missionaries bring the total number of IMB missionaries worldwide to 4,834.

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-- The Alabama Baptist

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