

Supreme Court says racketeering law was used improperly against pro-lifers
By Robert Marus
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WASHINGTON (ABP) – A law meant to prevent racketeering and extortion by organized crime cannot be used to punish anti-abortion-rights protesters, according to the Supreme Court. The justices ruled 8-1 on Feb. 26 that the federal Racketeer and Influenced and Corrupt Organizations (RICO) Act could not apply to abortion protestors in two cases that were combined.

The cases were *Scheidler vs. National Organization for Women* and *Operation Rescue vs. National Organization for Women*. In both cases – whose history dates from the large anti-abortion civil disobedience of the 1980s – NOW and abortion providers had sued to prevent a coalition of strident anti-abortion groups from blocking access to abortion providers across the country.

RICO enables organizations to sue for violations of the Hobbs Act, an earlier anti-racketeering law. That statute outlaws the hindering of commerce “by robbery or extortion.” If an organization violates the Hobbs Act on more than two occasions, they can then be sued under RICO, which also allows for tripling fines for damages in lawsuits.

The court’s majority said that though the protesters may have acted illegally, it did not constitute an actual violation of the Hobbs Act. “We hold that petitioners did not commit extortion because they did not ‘obtain’ property from respondents as required by the Hobbs Act,” Chief Justice William Rehnquist said in the majority opinion.

A 1998 decision in federal district court in Illinois awarded \$85,900 in damages from the coalition of anti-abortion groups to the two clinics represented by NOW. That amount would have been tripled under RICO. After the groups appealed the decision, the 7th U.S. Circuit Court of Appeals upheld the lower court’s ruling.

But the High Court overturned that ruling. “There is no dispute in these cases that petitioners interfered with, disrupted, and in some instances completely deprived respondents of their ability to exercise their property rights,” Rehnquist wrote. “Likewise, petitioners’ counsel readily acknowledged at oral argument that aspects of his clients’ conduct were criminal. But even when their acts of interference and disruption achieved their ultimate goal of ‘shutting down’ a clinic that performed abortions, such acts did not constitute extortion because petitioners did not ‘obtain’ respondents’ property. Petitioners may have deprived or sought to deprive respondents of their alleged property right of exclusive control of their business assets, but they did not acquire any such property.”

The anti-abortion groups gained support for their case, in the form of friend-of-the-court briefs, from an unlikely array of organizations that practice civil disobedience – such as People for the Ethical Treatment of Animals. Those groups argued that applying RICO to such acts of civil disobedience would have a chilling effect on their free-speech rights.

Anti-abortion groups hailed the ruling as a “major victory for pro-life speech,” and pro-abortion-rights groups said the ruling further weakened the ability of women to exercise their right to abortion. But, the decision did not affect a newer federal law that prohibits many of the same activities. The Freedom of Access to Clinic Entrances (FACE) Act, passed by Congress in 1994, remains applicable to anti-abortion protesters despite the ruling.



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House again votes to ban all human cloning
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WASHINGTON (ABP) – For the second time the House of Representatives has voted overwhelmingly to ban all forms of human cloning, including those that some scientists believe could produce lifesaving cures.

But such a comprehensive cloning ban once again faces an uphill battle in the Senate, which has been much more closely divided on whether so-called “therapeutic” cloning should be banned along with reproductive cloning.

On Feb. 27, the House voted 241-155 to pass the Human Cloning Prohibition Act of 2003, sponsored by Rep. Dave Weldon (R-Fla.) and co-sponsored by 140 other congressmen, including several Democrats. The bill would make any form of cloning a federal crime and also would ban the importation of any medical procedures or products that had been developed with the use of human embryos cloned in other countries.

Although virtually all members of Congress agree that cloning for reproductive purposes should be illegal, there is intense disagreement on cloning done as part of medical research. Supporters say stem cells produced by cloned embryos could eventually produce cures for certain types of medical conditions. Cures produced by cloned embryos could have advantages over cures produced from the stem cells of non-cloned embryos because it reduces the likelihood that the patient’s body would reject the tissue or organ that was produced.

However, opponents of such therapeutic-cloning research adhere to at least one of two arguments: That allowing some kinds of cloning would create a loophole that would tempt renegade scientists to clone embryos for reproductive rather than therapeutic purposes, and that killing cloned embryos (which must be done to harvest stem cells) would be immoral.

“Like most Americans, I believe human cloning is deeply troubling, and I strongly support efforts by Congress to ban all human cloning,” President Bush said, in congratulating the House on the vote. “We must advance the promise and cause of medical science, including through ethical stem cell research, yet we must do so in ways that respect human dignity and help build a culture of life.”

But bill opponent Rep. Jerrold Nadler (D-N.Y.) said banning therapeutic cloning is as immoral as allowing reproductive cloning. “It is precisely because we abhor the suffering that would result from using cloning techniques for human reproduction that it is clearly immoral to criminalize using so-called ‘therapeutic cloning,’ ” Nadler said in floor debate on the bill before its passage.

“So what is this bill really all about? It would write into our criminal law a narrow religious view that a few cells in a petri dish are morally equivalent to a fully developed human being, and that no benefit to those suffering and dying from terrible diseases would justify such research.”

The House passed a similar bill in 2001, but leaders in the then-Democratically-controlled Senate blocked it from being considered while supporters of two competing bills battled in that chamber. Even though Republicans are now in control of the Senate, the question may still remain unresolved under Majority Leader Bill Frist (R-Tenn.). While Frist, a physician, has expressed support for a comprehensive human-cloning ban in the past, he has also publicly come out in support of allowing stem-cell research on non-cloned embryos.

The bill passed by the House and now sent to the Senate is H.R. 534.



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