

# Voice for Choice

Newsletter of the Kentucky Religious Coalition for Reproductive Choice

Winter 2019

## Reproductive Rights in Court: An Update

By Heather Gatnarek, Staff Attorney, ACLU of Kentucky

The ACLU of Kentucky, along with national ACLU's Reproductive Freedom Project, have been busy for two years challenging the state of Kentucky's attempts to limit or outright prohibit access to safe, constitutional abortion care. Since January 2017, we have brought three federal lawsuits on behalf of the state's last remaining abortion clinic.

In the early days of the 2017 General Assembly, the legislature passed, and we immediately challenged, a law mandating that doctors accompany ultrasound examinations with a narrative, display the image, and make audible the fetal heartbeat if there was one – even if the patient did not want to see the image or hear the heartbeat. We argued that this law violated the doctors' First Amendment rights and prevailing medical ethics. The district court agreed.

The state appealed that ruling, and oral arguments were heard before the Sixth Circuit Court of Appeals in July. We are awaiting a ruling in that case. Notably, in 2015, the Supreme Court declined to hear a case out of North Carolina that dealt with an almost-identical law. Other states have passed similar laws, many of which were challenged in court. Those cases are making their way through other federal appellate courts, and there is not yet a clear consensus among the federal circuits on this issue. Of course, there is never a guarantee that the Supreme Court will agree to hear an appeal on a particular case, but a circuit split increases that likelihood, so we may see this issue before the Supreme Court in the future.



Heather Gatnarek,  
Staff Attorney,  
ACLU of Kentucky

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**Jan. 26 & 27:**  
**TWO great events to**  
**mark Roe v. Wade!**

**Sat. January 26, 5-8pm**  
**"Reversing Roe"**  
**Documentary Screening**  
**with Potluck Dinner**

**Sun. January 27, 2-4pm**  
**Book Release & Signing**  
**by author Robin Marty**

**Event details on p.2!**



**YOUR VOICE**  
**is needed in**  
**FRANKFORT!**

**Thurs. February 7 is**  
**Reproductive Rights Rally Day**

Ride KRCRC's **Big Purple Bus** from Louisville to Frankfort, for the rotunda rally and some lobbying!

**RSVP:** Fill out the form at <http://bit.ly/WeAreKY2019>.

**Thurs. Feb. 21 is KRCRC Lobby Day**

**STAY TUNED** for details – we'll post them on our Facebook page and email them around. (Do we have your email address? Send it to [info@krcrc.org](mailto:info@krcrc.org) so you won't miss out!)

# Jan. 26 & 27: TWO great events to mark Roe v. Wade!

## Sat. Jan. 26, 5-8 pm

### “Reversing Roe”

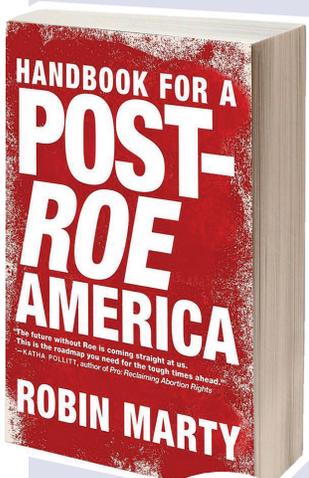
#### Documentary Screening with Potluck Dinner

at First Unitarian, 809 S. Fourth St. in Louisville

Potluck\* Dinner at 5; Film at 5:30; discussion after film

Forty-five years after it revolutionized abortion law in America, the landmark 1973 US Supreme Court case Roe v. Wade is once again at a crossroads. Intense and unflinching in its commitment to telling the whole story, REVERSING ROE provides a gripping look at what’s happening on the ground in 2018.

*\*Bring a dish to share (and list ingredients please)!*



## Sun. Jan. 27, 2-4 pm

### Book Release & Signing

at Louisville Free Public Library main branch, 301 York St. at 3rd St.

Refreshments provided

#### Discussion with author Robin Marty

Nationally recognized freelance writer, speaker and activist Robin Marty tracks state restrictions on reproductive health care rights and anti-abortion rights groups.



—PLUS—

### NO CHOICE



### “No Choice” Short Films!

# Wayne's Words

by the Rev. Wayne A. Gnatuk,  
Chair of Kentucky Religious Coalition for Reproductive Choice

Since our last newsletter was published, I've read two books about abortion rights, and recommend both to you. The first is *Pro-Choice and Christian: Reconciling Faith, Politics, and Justice*, by the Rev. Kira Schlesinger, an Episcopalian priest in Tennessee. The second is *Trust Women: A Progressive Christian Argument for Reproductive Justice*, by the Rev. Rebecca Todd Peters, a Presbyterian minister currently serving as professor of religious studies at Elon University in North Carolina. Earlier in her career, she was on the staff at Presbyterian headquarters in Louisville, where I myself served for fifteen years.

I strenuously disagree with those who declare that abortion and religious conviction must be antithetical to one another. In previous issues of our newsletter, I've written my own theological rationale explaining why I believe in abortion and reproductive justice. Nevertheless, I'm always grateful to read the views of other religious professionals on these issues, as they often stretch my own understanding. So it has been with both of these books.

In her book of 136 pages, Kira Schlesinger grieves the act of abortion, but as a feminist upholds the right of women to control their own bodies and recognizes that abortion is often the best choice among many others. She includes a history of abortion that I found helpful, takes a scholarly look at biblical materials about it, and surveys the positions of various denominations on choice. Her hope, she says, is to encourage positive dialogue between religious persons who are "pro-choice" and religious persons who are "pro-life" (good luck with that)! In her attempt to enable such a dialogue, Schlesinger works a little too hard, in my opinion, to meet the antis halfway. *Pro-Choice and Christian* is worth a read, though.

Personally, I much preferred Rebecca Todd Peters' book (206

pages). The titles of her chapters make her positions clear. Chapter One: "You Shouldn't Have a Baby Just Because You're Pregnant." Chapter Three: "Abortion Policy as the Public Abuse of Women." Chapter Four: "Misogyny Is Exhausting." Chapter Five: "Patriarchy as Social Control."



Rev. Wayne A. Gnatuk

After establishing "that the failure to trust women to make decisions about their reproduction is rooted in misogyny and sexism," Peters writes, "A Christian ethic of abortion rooted in reproductive justice begins with affirming that abortion is a decision with moral implications while also rejecting the narrow moralistic values that seek to police women's sexual behavior. A responsible ethical response to an unplanned pregnancy includes asking the very serious question of whether one is able to welcome a child into the world and to make a covenant with that child to be a living and caring parent. When women ask themselves if they can accept an unplanned pregnancy, they are asking a serious moral question without exerting bias that there is a right and wrong moral response. A pregnant woman and her partner who are thinking carefully, morally, and responsibly about their situation, their existing moral obligations, and their capacity to embrace the joys and challenges of either parenting or placing a child for adoption are engaging in meaningful moral discernment. To say that abortion is a moral action is not a Christian argument but rather a moral one consistent with Christian teaching."

My brief comments here only scratch the surface of these two books. Both authors have shown courage at this difficult (and scary) time in our nation's history by publishing books that are pro-choice. Read their arguments and pass them on!

## Legislative Alert!

from Ann Hardman and Annie Prestrud,  
Co-Chairs KRCRC Legislative Committee

State legislatures across the U.S. have enacted laws that limit access to reproductive health services. The conservative super-majority in Kentucky's legislature is poised to pass additional laws to restrict reproductive health rights. We have to prepare to respond to legislation that is inconsistent with KRCRC's mission and values.

Dear KRCRC MEMBER,

*As a co-chairs of the KRCRC Legislative Advocacy Committee, we are preparing for the KY General Assembly this January by establishing what we call a Rapid Response team. This is a group of us who will call, when alerted, to a member(s) of the Assembly about a certain piece of legislation wending its way through the voting process. We will give you names, numbers, email and addresses at the time of the action. If you would like to join us for a rapid response to Frankfort, please email us with your name and email address. Thank you so much for standing with KRCRC.*

Ann Hardman mail to: [annkhardman@att.net](mailto:annkhardman@att.net)

Annie Prestrud mail to: [aaprestrud@gmail.com](mailto:aaprestrud@gmail.com)

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# KRCRC's Lexington Group is Now an Official Chapter

By Melissa Sevier  
Board Member, Lexington Chapter, KRCRC

At its October 2018 meeting, a group that has come together in Lexington under the auspices of KRCRC learned that it is now an official chapter. This news came through Wayne A. Gnatuk, who is both the convener of this new chapter and the chair of KRCRC's state board. The members also reviewed the newly revised KRCRC bylaws at the same meeting.

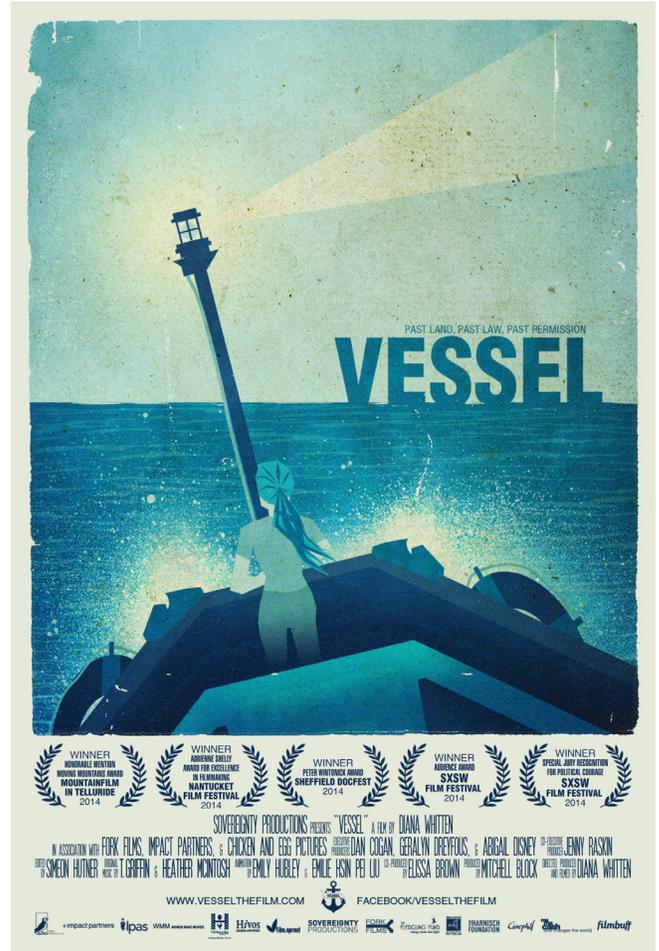
The chapter discussed meeting more often in 2019 in order to look for more ways to increase both presence and influence in the greater Lexington area. The last part of the meeting was spent viewing the first half of the documentary Vessel. The documentary's website (<https://vesselthefilm.com>) gives the following description:

*Vessel begins with a young doctor who lived by the sea, and an unlikely idea. Rebecca Gomperts, horrified by the realities created by anti-abortion law around the world, felt compelled to challenge this. Her method: to provide abortions on a ship in offshore waters.*

*Her project, Women on Waves, begins as flawed spectacle, a media frenzy, faced with governmental, religious, and military blockades. But with each setback comes a more refined mission, until Rebecca has the revelation that she can use new technologies to bypass law – and train women to give themselves safe abortions using WHO-sanctioned protocols with pills.*

*We witness the creation of an underground network of emboldened, informed activists, working at the cutting edge of global reproductive rights, who trust women to handle abortion themselves. Vessel is Rebecca's story: one of a woman who heard and answered a calling, and transformed a wildly improbable idea into a global movement.*

At its next meeting, the Lexington chapter will view the remainder of the documentary. If you're interested in joining the group, contact Wayne A. Gnatuk at [wagnatuk@outlook.com](mailto:wagnatuk@outlook.com).



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## Women Of Valor: Jewish Tradition And Reproductive Rights

By Sharon Hordes,  
Cantor Keneseth Israel, KRCRC Board Member

I've been volunteering at the KRCRC table at the Kentucky State Fair for the past several years. It never fails that at least one person will approach the table, presumably drawn in by the word, "religion" on our banner, notice the word "choice", and then promptly turn around and walk away. Because, for the past few decades, the anti-choice movement has been so influenced by the religious right, many of us cannot remember a time when people of faith could support reproductive rights for women.



Sharon Hordes

I am Jewish and I am a trained cantor who has been serving synagogues since 2001. I am also a lifelong pro-choice advocate. I am a mother of two. I feel no conflict in claiming those any of these identities.

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## WOMEN OF VALOR *Cont. from page 4.*

Before delving into this controversial, emotionally-driven subject, I want to start off by examining just how much the Jewish tradition teaches us to respect and revere women. One of the best illustrations of this is found in the text of Proverbs 31, referred to as “Eishet Chayil”, or “Woman of Valor”. It is a traditional custom for husbands to recite this to their wives every Sabbath evening after sundown and before the Sabbath meal. The poem, which begins with the words, “An accomplished woman, who can find? Her value is far beyond pearls” goes on to describe the ideal woman as one who is strong, compassionate, responsible, and kind. She takes an active role in the running of the household as well with outside businesses and agriculture.

This revered passage is a description of the ideal wife. To me, it is revealing to see what these qualities are. She is not “less than,” subservient, or incapable of making decisions for herself. Rather, she is the “personification of wisdom,” and bears a great deal of responsibility in the household. She does all her work with wisdom, love, sensitivity and strength. Is this an individual who should not be entrusted with important choices regarding reproduction?

For a closer look at what the Jewish legal tradition has had to say about abortion, I first turn to the millennia-old Jewish law as it is laid out in traditional sources, the Mishnah and Talmud. The medieval philosopher Moses Maimonides stated in his book, *Mishneh Torah*, that abortion is permitted if carrying the fetus to term or giving birth pose a direct threat to the life of the mother. In this case, the life of the fetus is subordinate to that of the mother because the fetus is the cause of a threat, whether this threat is immediate because of toxemia, placenta previa or breach position or long-term due to consequences for the mother’s diabetes, kidney disease or hypertension. A concept in Judaism that has influenced many of our laws is “*ve-hai ba-hem*,” translated as “and you shall live by them.” It means that the laws we are to abide by should enhance our lives, never endanger them.

*Halakhab*, the term for the ancient, established system of law in the Jewish tradition, does not view abortion as murder, a crime that calls for capital punishment. The twenty-first chapter of Exodus says that if a man strikes a pregnant woman and kills the fetus, he should be fined only for damages to property, not murder. The Talmud describes the fetus as “water” until the fortieth day.

Judaism also takes into account the mother’s psychiatric along with her physical well-being. If the effect of continuing the pregnancy to full term would likely cause the mother so much mental anguish as to lead to her suicide, she would have grounds for abortion. Such an effect must be probable and substantial, but it is definitely a factor in the decision.



*Jewish women try on the Tallis, the traditional prayer shawl.*  
Huffpost, December 6, 2011.

While most Orthodox rabbis forbid abortion in the case of a “defective” fetus, the twentieth-century Rabbi Eliezar Yehuda Waldenberg is an exception. He supported a woman right to choose to have a first-trimester abortion if she discovered that the fetus would be born with a deformity that would cause it to suffer. He permitted the abortion of a fetus with a lethal fetal defect, such as Tay Sachs disease, up to the seventh month of gestation. It is important to note that one of the most important commandments in Judaism, “*p’ru ur’vu*”, meaning “be fruitful and multiply,” is overshadowed by the obligation to preserve the mother’s health and well-being, physical and mental.

This is the prevalent, traditional Orthodox Jewish approach. I cannot speak about Jewish views on reproductive rights, however, without including more progressive views. Reform Judaism, the branch of Judaism that broke away from mainstream Orthodox Judaism in Germany in the nineteenth century, made some major changes to religious tradition to permit Jews to function more freely in a society into which they could now be integrated. At their 1846 Breslau conference, the leaders called for full equality of men and women in all areas of religion. And while this declaration remained largely formal and very few opportunities for leadership were actually given to women at that time, it was the first of many steps to include women as equal members of the community who were not subservient to the men.

There are members of more progressive Jewish movements--Reform, Conservative and Reconstructionist-- as well as secular Jews who have founded groups that support a woman’s right to choose. These groups take a more liberal stance on abortion. Unlike their Orthodox Jewish counterparts, these groups support abortion on demand. Since 1893, the National Council of Jewish Women has been working hard to support women and families. Its members lobby their local and national politicians on behalf

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We filed our second lawsuit just days after the hearing in the ultrasound case, in March 2017, when we challenged the state's attempt to revoke the clinic's license based on the requirement that the clinic have transport and transfer agreements with an ambulance company and a hospital. The clinic had these agreements on file for years, yet out of the blue the state claimed there were certain "deficiencies" with these agreements and threatened to revoke the clinic's license if the purported deficiencies were not fixed. Although the clinic tried to obtain agreements to meet the state's new requirements, they were unable to do so immediately, and we filed a lawsuit to prevent the state from enforcing this requirement and therefore revoking the clinic's license.

At the September 2017 trial, we, along with intervening plaintiff Planned Parenthood of Indiana and Kentucky (which was denied an abortion clinic license based in part on these required agreements), put forth evidence to show that these transfer/transport agreements do not have any beneficial effect on women's health and safety. Indeed, the state could point to no evidence that these agreements protect women in any way, no studies that support this position, and no information about any woman not receiving the care she needed because a facility lacked a transfer or transport agreement. In contrast, if the requirement for these agreements were enforced, women would face a very real obstacle to, and undue burden on, their access to medical care. The clinic would lose its license and be forced to close. Women would not be able to access abortion care in the state of Kentucky at all.

According to the 2016 *Whole Women's Health v. Hellerstedt* Supreme Court decision, if a law places an undue burden on women's access to abortion, and if that burden outweighs any possible benefit to women's health and safety, the law must be struck down.

Again, the district court agreed with us. In a thoughtful and comprehensive sixty-page opinion in September 2018, the trial judge struck down the requirement for the transport/transfer agreements, finding that "the record is devoid of any credible proof that the challenged regulations have any tangible benefit to women's health." Of course, the state

has already noticed its intent to appeal this case to the Sixth Circuit, so we will have briefing and, likely, oral argument in this case in 2019. This case fits squarely within the *Whole Women's Health* framework.



Our third and most recent lawsuit was filed in April of 2018 and went to trial in federal court in November. We challenged a law passed by the 2018 Kentucky General Assembly prohibiting abortion providers from performing the safest and most common second-trimester abortion procedure (known as "D&E." or "dilation and extraction") unless fetal death was achieved first. Some of the procedures suggested by the state to cause fetal death are unstudied, ineffective, and risky – and again, these additional procedures confer no benefit on women's health and safety. The medical community agrees that there is no medical reason to achieve fetal death before performing a D&E.

This case, too, fits within the *Whole Women's Health* framework. This law would confer no benefit on women but rather would place an undue burden on their ability to access abortion by requiring an additional, unnecessary, and risky procedure. Every other court that has considered a challenge to a law like this has struck it down as unconstitutional, and we are confident that the federal court here will do so as well.

Suffice it to say that the state of Kentucky has kept us quite busy these last two years, and our work is not done yet. With the November 2018 election, we saw very little change to the Kentucky General Assembly. We will, of course, be on the look-out for any other abortion restrictions that may be introduced when the legislature gavels into session in 2019. Meanwhile, we will actively defend the district court's decision in the appeal to the transfer/transport agreement case, and we will file our post-trial briefs in the D&E case in order to put the case before the judge and await a decision. As always, we are thankful to the KRCRC community for your continued interest in and support for this work!



Do you shop at Kroger, with a Kroger Plus card? You can be giving KRCRC a financial boost, at no cost to you! Two simple steps:

1. Go to [www.kroger.com/communityrewards](http://www.kroger.com/communityrewards). Create an account or sign in.
2. Follow the instructions to select an organization. KRCRC is #SU106.

Now you're ready to help KRCRC every time you shop! Just use your Kroger card (including at the gas pump), and KRCRC will receive a small percent of your purchases. Thank you!

# Where Is Our Pro-Choice Community? A Conversation with Mary Lou Marzian

By Ann Taylor Allen, Editor

Since she first became a Democratic representative to the Kentucky House of Representatives from Kentucky's 34th District, Mary Lou Marzian has defended women's reproductive autonomy. Marzian is a Louisville native who attended Assumption High School and the University of Louisville, where she studied nursing. Recollecting her Catholic upbringing, she remarked that in her family home "we didn't talk about abortion."

Her views changed, however, when during her studies for her nursing degree she took several courses in Women's and Gender Studies. Among her teachers was Liliyalce Akers of the Department of Sociology at the University of Louisville. These courses, Marzian recalls, made her aware of the many effects of gender inequality—an awareness that her work as a nurse in a clinic for indigent patients confirmed. Women's inability to control reproductive decision-making limits their opportunities in other areas, including education, work, and personal development. "Reproduction is personal and private," she asserts, and no one but the individual women herself should control it.

Having served as president of the local chapter of the National Organization for Women (NOW), Marzian first ran for office in 1994. As a legislator, she organized opposition to measures that restricted access to abortion by requiring parental consent for minors who choose abortion and a twenty-four-hour waiting period between a required face-to-face counseling session and the medical procedure. Despite her efforts, these laws were passed, but pro-choice legislators have been able to block other proposed anti-abortion measures.



*Rep. Mary Lou Marzian (center) with KRCRC board members Kate Foster and Ann Allen*

Enlivening dry legislative debates with caustic humor, Marzian once suggested that Kentucky should close all medical and nursing schools. "People who have questions about their health only have to ask their state legislators. Think how much money that would save!"

A safety zone in front of Kentucky's only abortion clinic is among the goals that Marzian is working with Louisville activists and clinic escorts to achieve. "This is not an abortion issue—it's a health issue," she declares.

Marzian is delighted at the increase in the number of progressive candidates, especially women, who have run for office throughout the state, and she hopes this trend will continue. She warns the majority of citizens who support reproductive rights that they must organize to support pro-choice candidates and put pressure on legislators. "Where is our pro-choice community?" she asks, adding that when people are accustomed to having and exercising a right, they often cannot believe they could lose it. There will always be abortion, she observes—the only question is how many women will die or end up in hospitals. But she concludes that "women are resourceful" and they will find a way to defend themselves against these threats to their health and autonomy.

## **WOMEN OF VALOR** *Cont. from page 5.*

of women and their families, volunteer directly with those in need and educate the general population about how so many issues affect the lives of women and families.

Another progressive Jewish organization that supports a woman's right to control her fertility is the Religious Action Center of Reform Judaism (RAC). For the past 50 years, RAC has been the hub of Jewish social-justice and legislative activity in Washington, DC. Its mission is to educate and mobilize the Reform Jewish community on legislative and social concerns. Among the seventy causes they support are economic justice, civil rights,

religious liberty, Israel and reproductive rights for women. Their website, [rac.org](http://rac.org), contains links to articles about reproductive justice and offers ideas on how to get involved with the cause.

I hope this article has clarified that the Judeo-Christian tradition is not a monolith when it comes to the issue of reproductive choice. The more we are educated about what all the voices from our religious traditions actually say, the more empowered we are to advocate reproductive choice from a religious perspective.



**Kentucky Religious Coalition  
for Reproductive Choice  
PO Box 4065  
Louisville, KY 40204**

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*The Religious Community in Support of an Individual's Right to Choose!*



**Newsletter Editor:  
Ann T. Allen  
Design & Layout:  
Jennifer Shank**

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**Tel: 1.866.606.0988  
Email: [info@krcrc.org](mailto:info@krcrc.org)  
Web: [www.krcrc.org](http://www.krcrc.org)  
Twitter: [@Ky\\_RCRC](https://twitter.com/Ky_RCRC)**

**KRCRC  
PO Box 4065  
Louisville, KY 40204**

#### **KRCRC MISSION STATEMENT**

The mission of the Kentucky Religious Coalition for Reproductive Choice is to mobilize the moral power of people of faith and conscience to safeguard and advance reproductive justice in the Commonwealth of Kentucky.

We do this through advocacy, education, and support of organizations with related goals.