

Outrage over manslaughter charge facing Alabama woman who miscarried after shooting

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Lawyers for the young Alabama woman who was five months pregnant and is facing a manslaughter charge after she was the victim of a shooting that led to a miscarriage filed a motion in Jefferson County Circuit Court this week to have all charges dismissed.

The attempted prosecution of 27-year-old Marshaé Jones is part of the escalating effort to reverse the 1973 US Supreme Court decision that legalized abortion by granting full legal rights to the human fetus. It is also bound up with a law-and-order frenzy that criminalizes the poor.

“It is simply unconscionable to prosecute a shooting victim for losing her baby as a result of an unforeseeable injury,” Mark White, the lawyer for Jones, noted in a press release Monday. “The charges against Marshaé are based on a flawed and contorted theory of criminal liability that simply does not exist under the law. We are asking the Court to dismiss this unreasonable, unfounded, and unjust indictment with prejudice and without delay.”

The case stems from a fight Jones had with another young woman in December 2018 in the parking lot of a dollar discount store in the town of Pleasant Grove, a suburb of Birmingham, Alabama the state’s largest city. When Ebony Jemison, 23, shot Jones in the stomach, the fetus did not survive. A Jefferson County grand jury, citing grounds of self-defense, refused to indict Jemison, but the authorities then turned to Jones, blaming her for the incident and thus for its consequences.

“The only true victim in this was the unborn baby,” Lt. Danny Reid of the Pleasant Grove Police Department said at the time. “It was the mother of the child who initiated and continued the fight which

resulted in the death of her own unborn baby.”

“When a five-month pregnant woman initiates a fight and attacks another person,” Reid continued, “I believe some responsibility lies with her as to any injury to her unborn child... That child is dependent on its mother to try to keep it from harm, and she shouldn’t seek out unnecessary physical altercations.”

The present case stems from a statutory provision in Alabama which equates the fetus from the moment of conception with a human being. The fetus “personhood” movement has sought to indirectly attack the right to abortion and prepare to recriminalize it, by legally enshrining the rights of the fetus as equal to or even greater than those of the woman who is carrying it.

More than three-quarters of US states, 38 in all, have some form of “fetal homicide” laws on the books, giving victim status to the fetus in instances of violence against a pregnant woman. The fetal homicide laws implicitly challenge the Supreme Court’s 1973 *Roe v. Wade* decision by equating the rights of the unborn to women’s privacy rights and the control of their own bodies.

In Jones’ case, this concept has been extended in a way that her lawyers charge is “illegal, inappropriate and unprecedented.” The pregnant woman, who was not responsible for any violence against the fetus, is held to a standard of responsibility that is equal to that for the welfare of any of her children.

As Jones’s lawyers have explained, she is facing a charge of taking a human life because she was involved in an altercation in which she herself was shot and wounded. She has not only lost her unborn baby, but also her job, and she faces a prosecution that could tear

her away from her six-year-old daughter for up to 20 years if convicted.

Although the latest case has attracted wide attention, it is far from unprecedented, in Alabama or elsewhere. By one count at least 479 women, disproportionately African American, have been targeted and arrested since 2006 under Alabama's "chemical endangerment" law. This legislation holds women who are using drugs criminally liable in cases of miscarriage or stillbirth. One young white woman, Jessica Lindsey, was sentenced to 10 years in prison for heroin use, after her infant was stillborn. Another woman received a five-year suspended sentence.

The Alabama Supreme Court specifically ruled in 2011 that there is no legal difference between a child and a fetus, or between a viable fetus and a nonviable fetus.

The criminalization of pregnant women is not confined to Alabama, or even to the South, where it is undeniably most aggressive. A recent column in the *New York Times* by Michele Goodwin, a University of California professor, referenced similar cases in the states of Iowa and Wisconsin.

"Pregnancy exclusion" laws in Idaho and many other states outlaw such documents as living wills if the woman involved does not include a stipulation that itself invalidates the will when the woman is pregnant. The right-wing reasoning is the same: the woman has no legal right over her own body, and the supposed rights of the fetus override that of the mother.

It is but a short legal step from here to the conclusion that the mother has no right to abortion, and this is precisely what the Alabama legislature enacted into law in May, banning abortion under almost all circumstances, including that of rape or incest. The legislation was passed for the express purpose of provoking a test case before the US Supreme Court, where the anti-abortion fanatics hope to achieve their long-sought goal of overturning the precedent set by the high court in 1973.

As Goodwin points out, the campaign against abortion has resulted in high maternal death rates. The statistics demonstrate that the misnamed "pro-life" reactionaries have absolutely no interest in the fate of working-class children once they have been born, or in the fate of mothers, as long as they do not have an abortion.

Above all, this campaign is part of the criminalization of the poor and the working class, since middle-class and wealthy women would never be targeted for arrest and are not affected in the same way by the attacks that have led to the elimination of many clinics and other abortion providers.

The District Attorney of part of Jefferson County, which includes Birmingham, is a Democrat who narrowly won election in 2016. Lynneice Washington issued a carefully worded statement acknowledging the work of the grand jury and then adding that no final decision had been taken as to whether to prosecute Jones.

Jones is free on \$50,000 bond, and is due back in court on July 9, when a ruling on her lawyers' motion to dismiss all charges is expected.



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