

PRESS RELEASE

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Advocates Urge Washington Supreme Court to Accept Challenge of Woman Convicted of Murder After Experiencing a Stillbirth

Advocates argue conviction sets a dangerous precedent for pregnant people in Washington

Seattle, Wash. – Legal Voice is fighting the prosecution of Melissa McMillen, a Washington State woman who gave birth at home alone in her bathroom and was convicted of felony murder when the baby did not survive.

Melissa is currently serving a prison sentence of more than 10 years for not seeking medical attention for a baby that she believed was stillborn.

“Melissa was made out to be a murderer for suffering a pregnancy loss,” said **Sara Ainsworth, Advocacy Director for Legal Voice**. “Her prosecution sets a dangerous precedent, opening the door for pregnant people to be policed and punished based on the outcomes of their pregnancies. We cannot let this ruling stand, especially since pregnancy loss is an all too common, and often inexplicable, reality.”

At trial, the prosecutor used the fact that she had not had prenatal care and had given birth unattended – meaning without medical or midwifery care – as “evidence” of murder. People give birth every day unattended, whether by choice or by accident of timing. Unattended births are not just a fact of life – they are a pregnant person’s constitutional right. And, by using lack of prenatal care as “evidence” of a crime, prosecutors put the people who lack access to health care at a higher risk of being blamed when something goes wrong.

The appeals court upheld Melissa’s conviction in January, but Melissa and her legal team have appealed to the Washington Supreme Court. Legal Voice [filed a brief](#) urging the Supreme Court to take the case, arguing that there is a substantial public interest at stake when courts extend Washington’s criminal code to condemn a woman to prison for having a stillbirth.

Melissa’s situation is not entirely unique. All around the nation, women have been arrested, jailed, and prosecuted for their birth outcomes. While Melissa’s case involved an unintentional stillbirth, there have also been at least 17 people arrested or prosecuted for acting to intentionally end their pregnancies. One of the most well-known cases was that of Purvi Patel, an Indiana woman whose feticide conviction for self-inducing an abortion was later reversed by the Indiana Court of Appeals.

These prosecutions set dangerous precedents and ignore the many valid and important reasons pregnant people decide to end their pregnancies on their own, including lack of access to affordable health care and privacy concerns. As such, punishing women for their

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pregnancy outcomes—whether intentional or not—disproportionately targets people of color, immigrants, and low-income people.

Legal Voice is a member of the [Self-Induced Abortion \(SIA\) Legal Team](#), a consortium of organizations actively working to make the legal landscape safer for all people who end their pregnancies on their own.

“Pregnant people have a constitutional right to abortion, yet that right is not a meaningful reality for everyone,” said **Farah Diaz-Tello, SIA Legal Team Senior Counsel**. “Abortion care is increasingly getting pushed out of reach for those who need it most, leaving them without adequate options. What’s worse, they’re being wrongfully prosecuted for self-administering abortions when clinic care is unavailable or not the right option for them.”

The SIA Legal Team is developing innovative ways to fight the criminalization of people who decide to end their pregnancies outside of the medical system, and to expand access to reliable information for those who wish to do so.

Legal Voice was joined in its brief in *State v. McMillen* by ACLU of Washington, Birth Rights Bar Association, National Advocates for Pregnant Women, The Center on Reproductive Rights & Justice, Open Arms Perinatal Services, and the Midwives Association of Washington State.

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Legal Voice is a progressive feminist organization using the power of the law to make positive change for women and girls in the Northwest. Legal Voice uses ground-breaking litigation, legislative advocacy, and community education to fight gender oppression and injustice in the legal system.