



February 6, 2024

VIA E-MAIL AND OVERNIGHT MAIL

Francisco J. Diaz, MD  
Chief Medical Examiner  
401 E Street, SW  
Washington, D.C. 20024  
Ph: (202) 698-9000  
Email: ocme@dc.gov

**Re: Claim of Human Remains – bodies of five aborted babies held by CME since March of 2022**

Dear Dr. Diaz:

We are writing on behalf of our clients, Rev. Patrick and Mrs. Katie Mahoney, to request that, pursuant to D.C. Code § 3-413, they be given the rights and duties of next of kin for five babies whose bodies are currently in your custody.<sup>1</sup>

By way of introduction, the ACLJ is an organization dedicated to the defense of constitutional liberties secured by law, including the defense of the sanctity of human life. Counsel for the ACLJ have presented expert testimony before state and federal legislative bodies, and have presented oral argument, represented parties, and submitted amicus curiae briefs before the Supreme Court of the United States

---

<sup>1</sup> Mary Margaret Olohan, *Exclusive: DOJ Advised DC Medical Examiner to Dispose of Aborted Baby Bodies, Lawyer Says*, The Daily Signal (Feb. 5, 2024), <https://www.dailysignal.com/2024/02/05/exclusive-doj-advised-dc-medical-examiner-to-dispose-of-aborted-baby-bodies-lawyer-says/>

and numerous state and federal courts in cases involving a variety of issues, including those dealing with abortion and constitutional law.<sup>2</sup>

On March 30, 2022, the bodies of five babies of late-term gestation, who died via late-term abortion, were retrieved by the Washington D.C. Metropolitan Police Department and collected by your office. On April 5, 2022, in response to hearing reports about the deaths of these babies, Members of Congress sent letters to Washington, D.C. Mayor Muriel Bowser, Chief of the D.C. Metropolitan Police Department Robert Contee and U.S. Attorney General Merrick Garland,<sup>3</sup> requesting an investigation into their deaths, including autopsies, which were to be conducted by your office. One of the questions that was posed by the Members of Congress to Mayor Bowser and Chief Contee, was whether they would “commit to properly and respectfully burying each child.”<sup>4</sup>

Mayor Bowser responded on April 8, 2022, but included no statement with regard to the disposal or care for these babies.<sup>5</sup> Just yesterday, a report was released that your office intends to dispose of these babies’ bodies by the end of the week, as the “DOJ has advised [you] that there is no reason to keep those babies anymore.”<sup>6</sup>

As no next of kin has come forward to claims these babies, despite the publicity surrounding their deaths, our clients, Rev. and Mrs. Mahoney, under the D.C. Code, should be given “the right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services,” as volunteers per D.C. Code § 3-413(a)(5). Both Rev. and Mrs. Mahoney are competent adults, and Rev. Mahoney is a Presbyterian minister and the Director

---

<sup>2</sup> See, e.g., *Pleasant Grove City v. Sumnum*, 555 U.S. 460 (2009); *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228 (2022); *June Med. Servs. v. Russo*, 140 S. Ct. 2103 (2020); *Whole Woman’s Health v. Hellerstedt*, 579 U.S. 582 (2016); *Gonzales v. Carhart*, 550 U.S. 124 (2007); *Schenck v. Pro Choice Network*, 519 U.S. 357 (1997); *Whitmer v. Linderman*, 973 N.W.2d 162 (Mich. 2022); *Oklahoma Call for Reprod. Justice v. O’Connor*, No. 120543 (Okla. 2022).

<sup>3</sup> Press Release, Sen. Moran Joins Colleagues to Demand Investigation Into Deaths of Five Babies Aborted in D.C., U.S. Sen. Jerry Moran (Apr. 7, 2022), <https://www.moran.senate.gov/public/index.cfm/2022/4/sen-moran-joins-colleagues-to-demand-investigation-into-deaths-of-five-babies-aborted-in-d-c>.

<sup>4</sup> *Id.*

<sup>5</sup> James Lankford (@SenatorLankford), X (Apr. 8, 2022, 5:32 PM), <https://twitter.com/SenatorLankford/status/1512543859024306189?s=20&t=C9QPZqEQd-DvxbDT7E7ZkQ>.

<sup>6</sup> Mary Margaret Olohan, *Exclusive: DOJ Advised DC Medical Examiner to Dispose of Aborted Baby Bodies, Lawyer Says*, The Daily Signal (Feb. 5, 2024), <https://www.dailysignal.com/2024/02/05/exclusive-doj-advised-dc-medical-examiner-to-dispose-of-aborted-baby-bodies-lawyer-says/>.

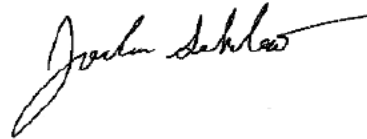
of the Christian Defense Coalition, based in Washington, D.C. He has been an ordained minister for 47 years and has presided over many funerals and memorial services. It is important to both him and his wife, along with others, that these aborted children have a dignified burial and memorial service.

The bodies of these babies have been in your custody since March of 2022. Many news articles have been written regarding their deaths and the facts that lead to their bodies being retrieved by the D.C. Police and ultimately entering your custody. Pictures have been published of the bodies. Congressional inquiries have been made into their deaths. The Department of Justice is aware of these babies. Yet, no next of kin has been identified or come forward to claim the rights and responsibilities related to proper burial.

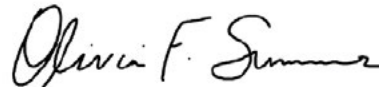
Therefore, we respectfully request that Rev. and Mrs. Mahoney be given those rights and responsibilities as volunteers pursuant to D.C. Code § 3-413. Please find attached the affidavits of Rev. and Mrs. Mahoney requesting the same.

Should your office need anything further from us, please do not hesitate to contact Olivia Summers at [REDACTED] or [REDACTED].

Sincerely,



Jordan Sekulow  
Executive Director



Olivia F. Summers\*  
Senior Litigation Counsel  
AMERICAN CENTER FOR  
LAW & JUSTICE



\*Admitted in VA & DC