

## Mary Wagner Proceeds to the Ontario Court of Appeal – Please Support Her Defence of the Unborn

Dear Friend:

October 7, 2017

**Mary Wagner** is appealing the Superior Court's ruling of Dec. 26, 2016, regarding her Aug. 15, 2012 case. Her legal battle continues for the defence of the unborn, now going before the **Ontario Court of Appeal**. Unborn children, who for over 48 years, since 1969, have not had protection for their very lives in Canadian law, are appealing for their right to life through Mary Wagner's case of Aug. 15, 2012.

**The present law, section 223(1)** of the *Criminal Code of Canada* states: "A child becomes a human being within the meaning of the Act when it has completely proceeded, in a living state, from the body of its mother whether or not: a) it has breathed, b) it has an independent circulation, or c) the naval string is severed."



Photo, Dec. 1, 2016 at the Superior Court of Ontario, Toronto, Ontario, JSB

It has been five years now that Mary has brought forward the constitutional challenge of this section of the *Criminal Code* through the lower court and the

Superior Court of Ontario. Now Mary is taking that challenge and all the unfavourable judgments of the two previous courts to the next level, **Ontario Court of Appeal**.

Mary came to Toronto from British Columbia in 2010 to be in solidarity with Canadian Pro-Life heroine Linda Gibbons. Linda had sacrificed 11 years of her life in prison since September of 1994, and Mary had given now 4.75 years of prison life since March of 2010; both imprisoned for the sake of the defence of our pre-born children.

On Aug. 15, 2012, Mary was charged with mischief: interference with lawful enjoyment/operation of a business, and breach of a court order, as a result of her peaceful outreach to pregnant mothers who, with their children, were threatened by abortion at a Toronto abortion killing centre.

In the following box is a summary of what has happened since August 15, 2012.

Sept. 20, 2012, Mary acquires an experienced constitutional lawyer, Dr. Charles I. M. Lugosi, SJD, to represent her.  
June 12, 2014, Mary's trial for her arrest of August 15, 2012 is over. She is released. Time spent in jail – 1 year, 9 months and 27 days. The court proceedings with various extensions delayed the trial. Also, Mary refused to agree to bail conditions which violated her conscience, one condition, to not to be within 100 metres of any abortion mill in Ontario.  
July 3, 2014, Mary submits a Notice of Appeal to the Superior Court of Justice. Fifteen counts of the trial judge's rulings are challenged as being in error and denying her a fair trial for the unborn including the following: the order denying the unborn the admission of viva voce (live voice) evidence of medical experts concerning the humanity of the unborn child; the probation order denying Mary her constitutional rights; and every other each conviction, sentence, orders and rulings made by Honourable Justice Fergus O'Donnell of the Ontario Court of Justice (court file # CE55312902/CLT3957466).  
Dec. 23, 2014, Dec. 12, 2015, and Dec. 12, 2016, Mary is arrested, charged, tried, convicted and serves time at Vanier Centre for Women in Milton. She defends herself, basing her arguments as found in her appeal to Superior Court. From Nov. 30 to Dec. 1, 2016, Mary attends, as a free women, not as a prisoner, her own appeal to the Superior Court of Ontario, 361 University Avenue, Toronto. She appealed Judge Fergus O'Donnell's conviction and sentencing for her arrest of August 15, 2012. A large number of supporters attended the three and a half days of court.  
Dec. 26, 2016, Superior Court Judge T. Dunnet ruled against Mary and the unborn and upheld all the judgments of Honourable Justice Fergus O'Donnell of the lower court of the Ontario Court of Justice. Justice denied once again!  
Jan. 16, 2017, Mary and her lawyer Dr. Charles Lugosi submitted their application for leave to appeal to the Ontario Court of Appeal, seeking to overturn the judgments of Honourable Justice Tamarin Dunnet.  
June 2, 2017, Mary and Lugosi amend the application, giving the details, grounds and the relief sought by the appeal.

**Twenty nine years ago, on October 3 and 4, 1988**, the Supreme Court of Canada heard the constitutional challenge of the brave and daring Polish Canadian Joe Borowski. He argued that the unborn child had the right to life as any other human being under Section 7 of the *Canadian Charter of Rights and Freedoms*. However, in January of the same year, the Supreme Court upheld Henry Morgentaler's constitutional challenge to the abortion law - striking down section 251 of the *Criminal Code*, making Borowski's case moot. Mary's lawyer Dr. Lugosi, on September 14, 2017, stated: "The Court refused to decide this issue, ruling instead that the right to liberty under section 7 of the *Charter* permitted legal abortion, since an unborn child by legal definition was not defined as a human being under section 223 of the *Criminal Code*."

**Mary Wagner carries on the battle that Borowski began.** Lugosi added: "In 2012 Mary decided to challenge this legal definition, arguing that all people are human beings by their very nature and that it is morally and legally wrong for any government to define who is and who is not a human being, based on age, development, or location of existence. A ruling upholding the government's position that it can define who is a human being based on politically-decided criteria will open the door to any class of human being to be exposed to legally-permitted murder by anyone who has authority over someone else. This kind of mentality is contrary to the rule of law and supports tyranny. A ruling agreeing with Mary Wagner will mean that all unborn children are human beings and by operation of law, all abortion will be murder, the wrongful killing of a human being. **The importance of her case cannot be overstated.**"

Dr. Lugosi concludes: "Mary's goal is to get inside the front door of the Supreme Court of Canada to force them to decide her case. That Court will then be faced with a pivotal decision that will determine the kind of nation Canada is."

**One of Mary's key defences**, (directly related to section 223 (1) of the *Criminal Code*), before the Ontario Court of Appeal will argue section 37 of the *Criminal Code of Canada* that states: "Every one is justified in using force to defend himself or any one under his protection from assault..." Mary's argument contends that "any one" includes unborn children and that, by her presence and outreach to the pregnant women, she peacefully acted in self-defence of those pre-born children. Section 37 has recently been repealed and replaced by section 34, a similar law. However, since Section 37 was in force at the time of Mary's arrest, Dr. Charles Lugosi, her defence counsel, states: "...she is entitled to rely on the self-defence of others. Mary contends that "any one" includes all human beings, including those not born."

**Mary, a Catholic, is mindful of Jesus' words** in Mt. 25:40: "*I tell you solemnly, in so far as you did this to one of the least of these brothers of mine, you did it to me.*" Church teachings confirm Mary's convictions. The *Catechism of the Catholic Church*, section 2270 states: "From the first moment of his existence, a human being must be recognized as having the rights of a person – among which is the inviolable right of every innocent being to life." Section 2242 states: "The citizen is obliged in conscience not to follow the directives of civil authorities when they are contrary to the demands of the moral order... Refusing obedience to civil authorities... finds its justification in the distinction between serving God and serving the political community." "Render...to God what is God's" (Mt.22:21). "We must obey God rather than men" (Acts 5:29).

**On April 16, 2013**, Dr. Charles Lugosi on behalf of Mary had applied to the Superior Court for big case management and constitutional test case status for Mary's case. As well, an application was earlier made to the trial judge Fergus O'Donnell for direct funding by the Attorney General of Ontario. All were denied. The only available option, in order to pursue this very important constitutional challenge, has been and continues to be, to directly appeal to people of good will for donations to support Mary's defence and her defence of the unborn. **A BIG THANK YOU** for all your prayers and to all who contributed financially for Mary's defence of the unborn for the trial and the appeal to the Superior Court of Ontario and for the beginnings of the application to appeal to the Ontario Court of Appeal. At this point the Fund has run dry!

It is hoped that people of all faiths and people of good will, will support Mary and the unborn at the **Ontario Court of Appeal**. Please consider financially supporting Mary's legal defence, according to your means. "Each and every contribution is valued, whether large or small" (Dr. Lugosi). "Above all, please pray for the success of this case in defence of the unborn and for the healing of suffering post-abortive mothers and all women considering abortion" (Mary Wagner).

**Donations to support Mary's legal defence** can be made in one of two ways:

1. Make a cheque payable to Mary Wagner Legal Defence Fund with the account number 0319 8991-017 written in the memo section, and mailed to: Mary Wagner Legal Defense Fund, c/o John Bulsza, P.O. Box 20076 Byron; 431 Boler Rd., London, ON, N6K 2K0; [For U.S. dollars the account number is 0319 4797-101. For international wire transfers, the Swift Code is BOFMCAM2, and donations are made payable to Mary Wagner Legal Defence Fund, account # 03192-001-8991-017, and sent to the branch office address: Bank of Montreal, 295 Boler Rd, London, Ontario, Canada, N6K 2K1].
2. Deposit your donation directly to the Mary Wagner Legal Defence Fund, account # 0319 8991-017, in any **Bank of Montreal** in Canada. Ask the teller to be sure to send a copy of your cheque and receipt to transit 0319, through the bank's internal delivery system; or, if a cash donation is made, please write your name and address on the bank's copy of your receipt and have it delivered the same way to transit 0319. This will aid in the Fund's book-keeping. \* The Defence Fund is not a registered charity; income tax receipts are not issued. 100% of donations go to Mary's legal defence.

For information about Mary Wagner, Linda Gibbons, Joe Borowski, consider going to [www.lifesitenews.com](http://www.lifesitenews.com) or other pro-life World Wide Web sources through your computer search engine. **PLEASE PASS THIS LETTER ON TO THOSE YOU KNOW. THIS WOULD BE MOST HELPFUL! God Bless!**

Most Sincerely, *John S. Bulsza*, Co-trustee of the Mary Wagner Legal Defence Fund

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