



Written by [Warren Mass](#) on June 15, 2016

Texas Judge Dismisses Charge Against Pro-Life Investigator David Daleiden

In what is being hailed as a victory for the pro-life movement, on June 13, a Houston judge dismissed a misdemeanor charge of attempting to buy human organs against David Daleiden, the founder of the Center for Medical Progress (CMP). Daleiden secretly videotaped Planned Parenthood officials in Houston.



“This a real victory for the pro-life movement,” said Jared Woodfill, one of Daleiden’s attorneys from Houston who made the announcement with attorney Terry Yates.

Harris County, Texas Criminal Court Judge Diane Bull dismissed the charge “for want of jurisdiction.” Earlier this year, a Harris County grand jury that was called to evaluate charges against Planned Parenthood, inexplicably turned on Daleiden and his associate Sandra Merritt and indicted them, instead!

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The *Washington Times* reported on the indictment at the time:

A Texas grand jury has cleared a Planned Parenthood affiliate of accusations it sold fetal tissue for profit, and instead indicted two pro-life activists whose secret recordings ignited a national debate over the abortion provider’s activities, a state prosecutor said Monday.

The activists, David Daleiden and Sandra Merritt, were indicted on charges of tampering with a government record. Both posed as executives of a fake biomedical research company to tape Planned Parenthood doctors and clinic managers talking about harvesting fetal tissue, according to court documents.

Mr. Daleiden was also indicted under a law prohibiting the solicitation or sale of human organs, which suggests grand jurors thought he went too far in trying to snare Planned Parenthood.

“The criminal prosecution of Daleiden and Merritt, even if they did break the law, could chill undercover journalists and activists everywhere,” Cornell University law professors Sherry F. Colb and Michael C. Dorf remarked on the indictment in a January 29 op-ed on CNN.

Following the indictment, Harris County District Attorney Devon Anderson justified the grand jury’s detour from the investigation’s original objective by stating: “As I stated at the outset of this investigation, we must go where the evidence leads us.”

However, as the *Washington Times* reported on May 24, Anderson shared evidence with a Planned Parenthood attorney during a grand jury investigation that resulted in the indictments of Daleiden and Merritt, fueling allegations of prosecutorial abuse.



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In a sworn statement, Planned Parenthood Gulf Coast attorney Josh Schaffer said that Harris County Assistant District Attorney Sunni Mitchell figured out a way to bypass a state directive in order to deliver him raw video footage taken by the pro-life Center for Medical Progress.

“I was told that the Attorney General’s Office agreed to give [the video footage] to the HCDAO [Harris County District Attorney’s Office] on the condition that the HCDAO not give it to PPGC,” the *Times* quoted Schaffer’s statement in the May 17 affidavit. “Mitchell told me that she would try to obtain the footage by other means.”

Schaffer added, “I never asked how she planned to do that. I assumed she would ask [Daleiden](#) for it directly.”

Schaffer eventually said he received the footage in December from Mitchell after she told him she obtained it from one of Daleiden’s attorneys, Murphy Klasing.

Bull did not address the matter of allegations of prosecutorial abuse in dismissing the misdemeanor charge, but rather based her decision on the fact that the indictment did not address an exception in the law, so the court does not have jurisdiction to hear the matter.

In a statement on the dismissal issued on June 14, the Thomas More Society (which describes itself as “a not-for-profit, national public interest law firm dedicated to restoring respect in law for life, family, and religious liberty”) said that it is defending Daleiden in multiple court cases, including the Texas case, as well as numerous lawsuits by the abortion industry. Peter Breen, the Thomas More Society special counsel, commented on Bull’s dismissal of the case:

The Harris County prosecutors were in such a rush to criminalize David Daleiden that they did not properly obtain grand jury approval of each of the elements of the charged misdemeanor.

Furthermore, continued Breen, alluding to the other charge pending against Daleiden:

All charges against Daleiden and his investigators should be dismissed, based on the evidence that Harris County District Attorney’s prosecutors colluded with Planned Parenthood to secure these indictments. Planned Parenthood’s illegitimate aim is clear: it hopes to turn attention away from the abortion industry’s baby parts trafficking, by instead attacking the man who exposed its illegal practices. The Harris County District Attorney’s office should reject that aim and prosecute Planned Parenthood, not David Daleiden and his investigators.

In addition to the misdemeanor dismissed by Bull, Daleiden and Merritt were charged with a second-degree felony of tampering with a governmental record, because they used a fake drivers license to gain access to the facility. That felony is pending and will be considered by a different judge.

In an [article posted by *The New American* last February](#), soon after those charges were filed, John F. McManus, president emeritus of The John Birch Society, posed the question: “Which is Worse: Abortion or a Fake Driver’s License?”

McManus noted:

A Texas grand jury looking into the matter concluded surprisingly that Planned Parenthood had done no wrong and, instead, indicted the two videographers, David Daleiden and Sandra Merritt. They were charged with a felony, the tampering of a driver’s license. And Daleiden was further charged with seeking to purchase fetal tissue. Yes, he created a phony license and yes, he admitted telling Planned Parenthood personnel of his desire to purchase what they were selling. He didn’t really want some body parts of infants torn from a woman’s womb. And he felt it necessary to hide



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his real identity with the marked-up license. He got what he set out to obtain and people throughout the nation saw televised evidence of Planned Parenthood personnel negotiating such deals....

Unless the charges against Daleiden and Merritt are dropped, they could end up being the only criminals associated with the horrifying practice they exposed. Abortion and the side practice of sharing body parts of infants will be granted additional legality. And should the current thinking hold, doctoring a driver's license in order to expose what Planned Parenthood does with funding that it obtains from the American people surely will be considered the greater crime.

Commenting on the charges against Daleiden and Merritt, Representative Diane Black (R-Tenn.), who worked as a nurse for four decades and authored the House-approved Defund Planned Parenthood Act of 2015, said: "It is a sad day in America when those who harvest the body parts of aborted babies escape consequences for their actions, while the courageous truth-tellers who expose their misdeeds are handed down a politically motivated indictment instead."

Photo of David Daleiden: AP Images



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