



June 28, 2019

The Hon. Wendy Wexler Horn
1 North Washington Street
Courthouse Building
Suite 101
Farmington, Missouri 63640

Re: Cause No. 18SF-CR00326-01

Judge Horn,

As physicians, health care professionals, public health advocates, legal advocates and experts in reproductive health we are asking you to show compassion and convey mercy in the sentencing of Ms. Roberta Baker.¹

Ms. Baker's conviction for felony child abuse stems from her giving birth to a premature baby at home, where the baby did not survive beyond his first day.

The conviction is particularly troubling since fear of punishment and incarceration kept Ms. Baker from seeking health care for her pregnancy and birth, and her conviction will keep other women like her from seeking care.² Ms. Baker's arrest and prosecution appear to rely in substantial part on allegations of substance use during pregnancy. As every leading medical organization to address this issue has concluded, including the American Medical Association, the American Academy of Obstetricians and Gynecologists, the American College of Nurse-Midwives, the American Academy of Pediatrics, and the March of Dimes, issues related to alcohol and drug use during pregnancy are health issues best addressed through public education and community-based treatment when needed, not through the criminal justice system.³

¹ State of Missouri v. Roberta Baker, 18SF-CR00326-01, County of St. Francois (2018).

² Orisha Bowers, et. al., Tennessee's Fetal Assault Law: Understanding its impact on marginalized women, SisterReach (2015). Available at: https://sisterreach.org/images/2019/fetalassaultreport_sr-final.pdf

³ See, Medical and Public Health Statements, attached to letter and available at: http://advocatesforpregnantwomen.org/main/publications/fact_sheets/medical_and_public_health_group_statements_opposing_prosecution_and_punishment_of_pregnant_women_revised_june_2018.php

Indeed, this is the clear policy in Missouri, where the State prefers “to avoid criminal prosecution of mothers in favor of providing education, treatment, and protection of the child through social services.”⁴ Ms. Baker did not have a health care provider she could access or trust. The failure to seek medical care in this context is far more a failure of the health and social services systems than an indication of any criminality. Ms. Baker and her baby suffered from this failure and the Court can take this into account and show leniency in sentencing.

This conviction will not improve outcomes for babies who are born to mothers with substance use disorders, but may in fact contribute to more women like the defendant avoiding health care. It is not too late for this Court to send a message to Ms. Baker and women like her, that they will be treated with respect and compassion if they do suffer from a substance use disorder.

Pregnant women, fetuses and children benefit from adequate nutrition, prenatal and other health care, counseling, and continued support of medical providers. Unfortunately, many people with alcohol or drug use disorders find it difficult to obtain the help they need. There is a lack of substance use disorder treatment in Missouri, especially in Farmington, and especially for pregnant women.⁵

Drug dependency is a medical condition, not a crime. Pregnant women do not experience drug dependencies because they want to harm their fetuses or because they don’t care about their children. Ms. Baker cared for and grieves her newborn, and has other children who need her to be well and out of prison.

Locking up a mother who is grieving a pregnancy loss contravenes Missouri public policy, and best practices for public health. It is counter-productive. Ms. Baker’s conduct is no threat to the community. We ask you to give Ms. Baker the lowest possible sentence and release her with time served.

Signed,



National Advocates for Pregnant Women, and

American Academy of Addiction Psychiatry
Gateway Women's Access Fund

⁴ State v. Wade, 232 S.W.3d 663 (Mo.App.W.D. 2007).

⁵ There are no substance use disorder treatment facilities in Farmington, MO with programs specifically for pregnant/postpartum women as indicated by the Substance Abuse and Mental Health Services Administration Locator Map, available at: <https://findtreatment.samhsa.gov/locator>

Hope Clinic for Women, Abortion Clinic in Granite City, IL
Missouri National Organization for Women State Council
National Institute for Reproductive Health
Reproaction
Virginia Commonwealth University
Women's Law Project

Monica Barron, Ph.D., Kirksville, MO
Kenneth DeVille, Ph.D., J.D. Professor, Brody School of Medicine, East Carolina University,
Greenville, NC
Alison Dreith, Deputy Director, Hope Clinic for Women
David S. Cohen, Professor of Law, Drexel University Kline School of Law, Philadelphia, PA
Tonya E. Edmond, PhD, Associate Dean for Diversity, Inclusion & Equity and Professor, Brown
School at Washington University in St. Louis
Barbara Katz Rothman, Ph.D.
Stephanie Kraft Sheley, J.D.
Freda McKee, President, Missouri National Organization for Women State Council
Colleen McNicholas, DO, MSCI
Sandra O'Neil-Callahan WHNP-BC
Pamela Merritt, Co-Director of Reproaction
Jocelyn Morris, Board of Directors of Natl Organization for Women, Fort Leonard Wood
Daniel R. Neuspiel, MD, MPH, Professor Emeritus of Pediatrics, Atrium Health, Charlotte, NC
Gillian Schivone MD, St. Louis MO
Mishka Terplan, MD MPH FACOG DFASAM
Jami Ake PhD, MSW
Elizabeth Verklan, Ph.D.
Winnie Ye, MPP, National Institute for Reproductive Health, Brooklyn, NY
Omar Young, MD, FACOG, Washington University in St. Louis School of Medicine
Carley Zeal, MD, MPH - OB/GYN in St. Louis

cc: Melissa Gilliam
Courtney Goodwin
Stephanie Zipfel