
*Fighting Against All Odds:
How Three Ethnically and Racially Diverse Abortion Providers Overcame Public Scrutiny to
Challenge Society's Outlook on the Controversial Abortion Laws*

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Although abortion has been legal nationwide in the United States for over forty years, the procedure is still the subject of much discussion and controversy. Before *Roe v. Wade*, poor, single women of color were especially vulnerable to receiving unsafe abortions. State abortion laws were generally vague, and many permitted abortions only when a woman's life was in jeopardy. Some states also permitted physicians to perform abortions if a woman's health would be compromised by continuing with a pregnancy; a loose interpretation of these laws allowed physicians to perform abortions for those women who asserted that their mental health would suffer if they had to continue with a pregnancy. Many other women, unable to find or to afford physicians who would perform hospital abortions, navigated the black market of abortionists. Although practitioners who were committed to ensuring that women received sound care performed most illegal abortions, the unregulated, illicit nature of the procedure also attracted unscrupulous people who were more interested in making money than assisting women. We know more about the latter because instances of botched abortions—which usually resulted in a woman's death—were the ones that garnered publicity. But by turning our attention to the abortionists who risked criminal charges and their professional reputations by providing abortions during the era before *Roe*, we can see how the movement to legalize the procedure began. Several convicted abortion providers used the publicity surrounding their trials as opportunities to critique abortion laws. Dr. Milan Vuitch, Dr. Edgar Keemer, and Dr. Kenneth Edelin were three prominent abortion providers in major cities who challenged state abortion laws.

Drs. Keemer and Edelin were two of the most prominent abortionists of color who aided mostly poor African American women. Vuitch, born in Serbia, provided abortions in Washington D.C. and Maryland. All three of these physicians faced the challenge of being viewed as outsiders in the United States during the era in which they practiced. Drawing upon newspaper articles, magazines, and journal entries, this paper will look at how society treated these abortionists as social outcasts as well as how these outliers challenged the way in which abortion was viewed by the public.

With the declining birthrate of white, native-born Americans in the nineteenth century, attitudes about abortion changed. With industrialization, families no longer needed as many children to assist with farm labor. And as parents began to invest in children's education, it became more expensive to raise children. These factors, combined with the increased availability of birth control devices and methods, contributed to the rapid decline in the birth rate by the end of

the century.¹ Many women turned to abortion as a method of birth control in order to limit the number of children that they had.² However, in the 1800s, physician-performed abortion was primarily administered to women of the middle and upper classes. Poor women were forced to seek either illegal abortions or to attempt the dangerous practice of self-abortion. These women used techniques that often proved ineffective, yet were simultaneously treacherous to their own health. The use of clothes hangers was one such method instituted by a number of desperate women. The illegal status of abortion also forced many abortionists to fly under the radar. Although this practice was dangerous for all physicians, it was particularly troublesome for abortionists who could have been viewed as potential outcasts or imposters. Specifically, African Americans and immigrants who practiced medicine faced increased scrutiny.

During the late nineteenth century, Dr. William Fayen, who practiced in New York, was charged with providing an illegal abortion. In 1879, *The New York Times* published an article titled "A Man with a Secret: Why 'Dr.' William Fayen will not produce his German Medical Diploma."³ The article focused just as much on his country of origin as on the illegal abortion that he performed. Journalists criticized Fayen for refusing to exhibit his German diploma, later noting that he changed his last name to avoid being confused with another doctor who committed suicide a year earlier. The title of the article questioned the legitimacy of Fayen's practice, and there seems to have been a definitive bias against him due to his immigrant status. On December 20, 1879, Fayen was found guilty for "having committed malpractice" on a woman named Minnie Pape.⁴ The use of the word malpractice as a substitute for abortion seems particularly feasible given the underground nature of the practice during the 1800s. Several years later in 1884, Fayen was again described as "Dr." William Fayen.⁵ Thus, it appears that the press remained skeptical that he was truly a qualified, legitimate American physician. These newspaper articles portrayed Fayen as an imposter of sorts, reflecting a xenophobic view of foreign physicians that continued to exist well into the twentieth century.

In the second half of the 1900s, the abortionist Milan Vuitch was accused several times of providing illegal abortions. Vuitch, who performed abortions in Washington D.C. and Maryland, was born in Serbia. With the help of his American-born wife, Florence Robinson, he immigrated to the United States, where he performed thousands of abortions a year, and was arrested a total of sixteen times. Significantly, he never served time in jail.⁶ The period in which he lived was a time in which the crude birth rate declined to its lowest level in American history, a trend due in part to the commonplace use of abortion as a form of birth control.⁷ Although public support for the legalization of abortion under certain conditions was growing, it remained illegal in most circumstances. Vuitch challenged the law, and was one of the few physicians to speak openly about his practice.⁸

¹ Sauer, R. "Attitudes to Abortion in America, 1800-1973." *Population Studies* 28, no. 1 (March 1974): 54.

² *Ibid.*, 55.

³ "A Man with a Secret: Why 'Dr.' William Fayen Will Not Produce His German Medical Diploma." *The New York Times*, April 9, 1879, 2.

⁴ "Dr. Fayen Found Guilty: The Jury Render a Verdict Against Him - Sentenced Postponed." *The New York Times*, December 20, 1879, 3.

⁵ "Fayen's Visit to Annie Wagner." *The New York Times*, April 5, 1884, 3.

⁶ "Dr. Milan Vuitch, 78, Fighter for Abortion Rights." *The New York Times*, April 11, 1993, 30.

⁷ Sauer, 63.

⁸ *New York Times*. "Dr. Milan Vuitch, 78, Fighter for Abortion Rights."

In 1965, *The Washington Post* published an article in which Vuitch denied performing an abortion, stating that the operation was “actually the treatment of a pelvic infection.”⁹ In March 1966, Vuitch was freed from one abortion charge, yet was involved in a separate accusation also dealing with abortion. Again, Vuitch argued that he was not performing an abortion but rather treating a pelvic infection.¹⁰ In 1969, Vuitch was sentenced to a year in jail and a \$5,000 fine for performing an illegal abortion. Following the verdict, he responded, “I feel that the law is an unworkable law...limiting the activities of a physician.”¹¹ The article, which appeared on the front page of *The Washington Post*, emphasized that Vuitch was a Yugoslavian immigrant, indicating that his practice of providing illegal abortions was related to his immigrant status. In another front-page article from 1971, he was described as operating an “abortion mill” that provided abortions without considering the woman’s health, an accusation that Vuitch would most definitely reject.¹² Despite continuous fines for medical malpractice, Vuitch appeared to welcome these prosecutions, as he routinely granted interviews following his arrest, suggesting that he welcomed the publicity surrounding his practice. Vuitch sought opportunities to explain to the public the contexts that drove women to his practice. Dr. Vuitch was instrumental in the movement to liberalize abortion laws nationwide, culminating in the landmark 1971 U.S. Supreme Court decision, *United States v. Vuitch*, which enabled physicians to interpret “health” broadly in those states that permitted abortions when a woman’s health would have been jeopardized by continuing with a pregnancy.¹³

Dr. Vuitch’s zealous advocacy for the liberalization of abortion laws did not always translate to his practice, which was riddled with accusations of sloppiness and poor care by the 1980s. In 1983, ten years after *Roe v. Wade*, Vuitch agreed to pay a family \$150,000 after a patient died following an abortion.¹⁴ Criticism of Vuitch continued until he was forced to close his clinic. In 1984, the *Afro-American* published an article stating that Vuitch’s clinic was charged with “24 health-code violations.”¹⁵ The clinic was charged with mismanaging the administration of anesthesia, unclean containers, the absence of a registered nurse, rusted instruments, incomplete records and providing the wrong dosage of certain medications. Vuitch was also accused of gagging a woman to muffle her screams.¹⁶ After years of prosecution for being an abortionist, it seemed ironic that Vuitch would ultimately be shut down for something other than performing an abortion. On December 21, 1984, Vuitch surrendered his license to practice medicine in Washington, D.C.¹⁷

Dr. Vuitch’s career showcases the complexity of the history of illicit medical practice. Although he was one of the most prominent abortion providers before, during, and after *Roe v. Wade*, his status as an immigrant framed the way he was presented in the American media. One

⁹ “Vuitch Denies Charge He Performed Abortion.” *The Washington Post*, November 27, 1965, B2.

¹⁰ “Judge Frees Dr. Vuitch In Abortion.” *The Washington Post*, March 15, 1966: B2.

¹¹ Richard M. Cohen, “Dr. Vuitch Gets Year For Abortion in Country.” *The Washington Post*, November 19, 1969, A1.

¹² Graham, Fred P. “High Court Upholds D.C. Abortion Law; Supreme Court Rules, 5 to 2, That Washington’s Anti-Abortion Law is Not Unconstitutionally Vague.” *The New York Times*, April 22, 1971, 1.

¹³ 402 U.S. 62 (1972)

¹⁴ Ed Bruske, “\$150,000 Payment Set In Abortion Clinic Suit.” *The Washington Post*, August 19, 1983, B2.

¹⁵ Susan Philip, “City Closes Abortion Clinic: Cites Health Code Violations.” *The Baltimore Afro-American*, December 8, 1984, 13.

¹⁶ Carleton, Leslie. “Abortion Clinic Closed.” *Off Our Backs* 15, no. 1 (January 1985), 1.

¹⁷ Engel, Margaret. “Dr. Vuitch Surrenders D.C. License: Abortionist Not Barred From Practice in Md., Va.” *The Washington Post*, December 21, 1984, B1.

might question whether the intense scrutiny that he faced throughout his career was partly due to societal fear of both abortion and foreigners. The ongoing context of the Cold War helped to explain the anxiety that Americans felt toward outsiders. Although it would be easy to focus on the targeting of Dr. Vuitch, it is important to recognize that he was highly successful in making his challenge to the abortion laws publically recognized, thus using the scrutiny to advance his goal of making the public sympathetic to abortion law reform.

Black abortion providers were also subjected to special scrutiny. Abortion has specific and historically-rooted meanings for African Americans. For some, the ability to control one's fertility held special significance because enslaved Americans often lacked the right to choose when to have children; some black women understood their use of birth control and abortion as a rejection of white supremacy and slavery because they enabled them to exert control over their reproductive lives.¹⁸ It is important to note that illegal abortion had particularly devastating consequences for black women's health. Before *Roe v. Wade*, black women and minorities were more likely to die after receiving illegal abortions than white women. A study on abortion in the United States between 1972 and 1974 revealed that women of color were ten times more likely to die from illegal abortions than whites.¹⁹ Furthermore, before 1973, 80% of deaths caused by illegal abortions in New York involved black and Puerto Rican women.²⁰ African American women were less likely than white women to have close relationships with physicians who would petition for hospital-based abortions. This led many women to seek abortions from providers they did not know and whose services they could afford. Although few in number, African American physicians risked their careers and criminal prosecution to aid poor black women who wanted abortions. Dr. Edgar Keemer and Dr. Kenneth Edelin were two prominent abortionists of color who assisted African American women and challenged publicly abortion laws that prevented women from obtaining safe abortions. Like Fayen and Vuitch, Keemer and Edelin became targets for the media due to being abortion providers who were likewise viewed as social outcasts by American society.

Dr. Keemer practiced medicine primarily in Detroit, Michigan. It is significant to note that he practiced before abortion was legal. He graduated from the historically black Meharry Medical College and interned in Washington, D.C. Keemer was first mentioned in *The Chicago Defender* in 1937, when he was named as the city physician.²¹ When he assumed his new position, the press zeroed in on Keemer's personal life. In 1949, his second of three wives charged him with adultery.²² Nine years later, *The Daily Defender* accused him of being an "abortion ring leader." Keemer was subsequently given a prison sentence for several years and was fined \$500.²³ Although several articles painted Keemer in a negative light, he seemingly practiced with good intentions. Keemer realized that abortion laws had created economic discrimination, noting that of the 296

¹⁸ Sherman, Renee Bracey. *Whitewashing Reproductive Rights: How Black Activists Get Erased*. February 24, 2014. http://www.salon.com/2014/02/25/whitewashing_reproductive_rights_how_black_activists_get_erased/ (accessed April 20, 2014).

¹⁹ Cates, Willard, and Roger Rochat. "Illegal Abortion in the United States: 1972-1974." *Family Planning Perspectives* 8, no. 2 (1976): 88.

²⁰ Ross, Loretta J. "African-American Women and Abortion: A Neglected History." *Journal of Health Care for the Poor and Underserved* 3, no. 2 (1992), 281.

²¹ The Chicago Defender. "Name Dr. Keemer As City Physician." *The Chicago Defender*, August 7, 1937, 18.

²² Clark, Libby. "2nd 'Wife' Sues Medic Over Third." *The Chicago Defender*, February 12, 1949, 1.

²³ Jones, Isaac. "Jail Two Detroit Medics As Abortion Ring Leaders." *Daily Defender*, February 10, 1958, 2.

non-hospital abortions performed, 98% “were in the poverty or lower middle-income level.”²⁴ Keemer recognized that many of these deprived women would resort to gruesome abortion techniques, which included the use of coat hangers, if they could not afford an abortion. Thus, Keemer fought for abortion law reform to prevent such misfortunes from occurring.²⁵

One of Keemer’s primary goals was to challenge the Michigan state laws on abortion. He disputed the legal structure and interpretation of abortion in Michigan, stating that his abortions abided by the law “governing medical practice, which is separate from the antiabortion law.”²⁶ Keemer hoped to educate the public by expounding upon the flaws of the system. Like Vuitch, Keemer interpreted state abortion laws loosely as a way of challenging their effectiveness and validity. Most importantly, Keemer felt that it was discriminatory that upper class women were able to travel to get abortions while the poor, “indigent women” of Detroit were subject to back-alley abortions.²⁷ Despite facing continuous pressure from the media, Keemer endured his prosecution in hopes that it would one day “serve as a test case to clear the air once and for all” that he performed only legal abortions.²⁸ He was able to question many legal decisions including *Roe v. Wade*, in which he viewed “consenting female” as a term of great ambiguity.²⁹ Thus, his legacy lay with his fight to break “legal shackles,” to establish a more clearly defined set of abortion laws, to allow easier access to abortions regardless of socioeconomic status, and to expand the rights of impoverished black women.³⁰

Practicing out of Boston, Dr. Kenneth Edelin was an African American physician who provided abortions to impoverished African American women before, during, and after *Roe v. Wade*. Edelin graduated from Columbia University and attended Meharry Medical College, the same medical school as Dr. Keemer.³¹ However, Edelin practiced after Keemer and was much more affected by the outcome of *Roe v. Wade*. Additionally, Edelin faced a greater level of scrutiny in Boston newspapers than Keemer had in Detroit.

Edelin was most famous for performing an abortion on a seventeen-year-old girl in 1973, a procedure that led to a manslaughter conviction in 1975. His trial lasted for over a year and sparked an enormous debate about the consequences of the legalization of abortion. His conviction for manslaughter was based on the belief that the fetus born alive before Edelin allegedly suffocated it for several minutes. However, Edelin fought this accusation by arguing that the clocks in the operating room were broken and removed for repair.³² He also challenged the state abortion laws, loosely interpreting such laws to help justify the procedure. He stated that his

²⁴ Keemer, Edgar B. “Looking Back at Luenbach: 296 Non-Hospital Abortions.” *Journal of the National Medical Association*, July 1970, 291-293.

²⁵ Keemer, Edgar B. “Update on Abortion in Michigan.” *Journal of the National Medical Association*, November 1972: 518-519.

²⁶ Shanahan, Eileen. “Doctor Leads Group’s Challenge to Michigan Anti-Abortion Law.” *New York Times*, October 5, 1971: 28.

²⁷ Mullen, William. “Fetus Used to Demonstrate as Priests Debate Abortions.” *Chicago Tribune*, November 11, 1971: A23.

²⁸ *Ibid.*

²⁹ Keemer, Edgar B. “Involuntary Sterilization.” *Journal of the National Medical Association*, September 1973: 458.

³⁰ Keemer, “Update on Abortion in Michigan.” 519.

³¹ Marquard, Bryan. “Kenneth Edelin, the Doctor at Focus of Abortion Fight, Dies.” *The Boston Globe*, December 31, 2013.

³² Kifner, John. “Women Rally for Doctor Convicted in Abortion.” *The New York Times*, February 18, 1975, 27.

primary obligation was to the mother, not the fetus. The trial was covered on the front page of *The Boston Globe*.³³

Race seems to have played a major role in the lawsuit brought against Edelin. The *Boston Globe* noted that the jury that declared Edelin guilty was entirely white, leaving Edelin looking “stunned.”³⁴ In another front-page article, it was revealed that Edelin had opted for a trial by jury on the basis of a poll that showed that about 85% of the country’s jurors were in favor of abortion.³⁵ Despite the statistical odds, all nine jurors deemed Edelin guilty.

Racism may have played a factor in the jurors’ decision. Some jurors declared that they were persuaded to find Dr. Edelin guilty after examining a shocking photo of the fetus, which was referred to as a “baby boy” throughout the trial.³⁶ However, a later article revealed that Michael Ciano, an alternate juror, “had heard other jurors utter racial slurs about Dr. Edelin.”³⁷ One month later, another doctor stated that he believed both the state and jury to be biased.³⁸

Despite the guilty verdict, a significant number of Bostonians continued to support Dr. Edelin. A crowd of 1,500 protesters gathered on February 17th to protest his manslaughter conviction. Notably, the majority of the crowd was made up of women.³⁹ Community support for Edelin did not stop there. Three jurors reported to the police that they “received threatening” calls, while another had his car windows smashed.⁴⁰

After Dr. Edelin’s trial, several area hospitals adjusted their abortion rules to be more cautious. While some hospitals stated that they would not let the conviction affect their practice, some doctors were quoted as being concerned for cases involving “women that are very young, poor, mentally ill.”⁴¹ This fear was similar to that encountered by Dr. Keemer, who stated that poor women that lacked access to safe abortions were likely to resort to self-induced methods or uncertified abortionists. Many doctors expressed a common theme of concern for the general well being of women of all economic classes. Dr. Keemer and Dr. Edelin were unique in focusing on poor black women who wanted abortions.

On Christmas Day 1976, Edelin was cleared of his conviction. The court explained that he “had no evil frame of mind, was actuated by no criminal purpose, and committed no wanton or reckless acts.”⁴² It is important to note that the article, despite its great significance, was located on the eighth page of *The Baltimore Afro-American*. Thus, it is possible that the longevity of the trial caused public interest to decrease over such an extended period of time as well as not enable Edelin to fully rehabilitate his image.

Dr. Edelin was also documented as being one of only two doctors at Boston City Hospital willing to perform abortions. He was noted as frequently working weekends without pay in order

³³ White, Diane. “Duty to Mother, Not Fetus, Edelin Says.” *The Boston Globe*, February 4, 1975, 1.

³⁴ White, Diane. “Jury convicts Edelin of manslaughter.” *Boston Globe*, February 16, 1975: 1.

³⁵ Kifner, John. “Convicted Boston Doctor Put on Probation for Year.” *The New York Times*, February 19, 1975, 1.

³⁶ White, “Jury Convicts Edelin of Manslaughter.”

³⁷ Kifner, “Women Rally for Doctor Convicted in Abortion.”

³⁸ Altman, Lawrence K. “Impact of Boston Verdict on Abortions Appears Slight.” *The New York Times*, March 16, 1975, 34.

³⁹ Kifner, “Women Rally for Doctor Convicted in Abortion.”

⁴⁰ Kifner, “Convicted Boston Doctor Put on Probation for Year.”

⁴¹ “Some Hospitals Tighten Abortion Rules, Others See No Edelin Case Impact.” *The Boston Globe*, February 20, 1975, 46 and Altman, “Impact of Boston Verdict on Abortions Appears Slight.”

⁴² “Court Clears Dr. Edelin in Historic Abortion Case.” (Baltimore) *Afro-American*, December 25, 1976, 8.

to serve as many impoverished women as possible.⁴³ Thus, his trial seems to have been influenced by the location of his practice. As demonstrated by Dr. Edelin and Dr. Vuitch, the decision made in *Roe v. Wade* seems to have only increased the tension and volatility of society's view on abortion. Compared to the trial of Dr. Keemer, these cases received much more media attention and scrutiny.

Despite differences in the color of their skin, the times in which they practiced, and the location of their work, Vuitch, Keemer and Edelin all received significant media attention for their work as abortion providers. Keemer and Edelin shared the desire to treat impoverished black women within their communities and prevent dangerous illegal abortions. All three attempted to exploit the vagueness of their state abortion laws, using sources of media including newspapers, magazines and journals as a means to convey their message to the general public. Keemer, who practiced before *Roe v. Wade*, seemed to evoke a smaller emotional response from the surrounding society. By comparison, Dr. Edelin and Dr. Vuitch, both of whom practiced after abortion was legalized, received a much more rambunctious reaction from the public and media. However, all three were similar in being viewed as social outcasts, not only for being abortion providers, but also for their race and ethnicity. Being black during the time of the Civil Rights Movement must have placed an even greater stress on Keemer and Edelin, who faced opposition based upon their status as African American physicians and their decision to practice abortion. Vuitch, with his Serbian roots, likely faced an increased societal pressure due to the fear of foreigners that was pervasive in the mid-century United States. Thus, the changing culture of race and the tense foreign policy that the United States adopted during the second half of the twentieth century caused these three physicians to face increased public scrutiny. Despite being chided by the public for their practice, all three were able to challenge the state laws pertaining to the provision of abortion. As outsiders living on the inside, their actions were able to disrupt the status quo of American society's view on abortion.

⁴³ Kifner, John. "Doctor Disputes Abortion Method: Cites Broken Clocks to Deny Charge by Prosecution." *The New York Times*, February 1, 1975, 38.

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