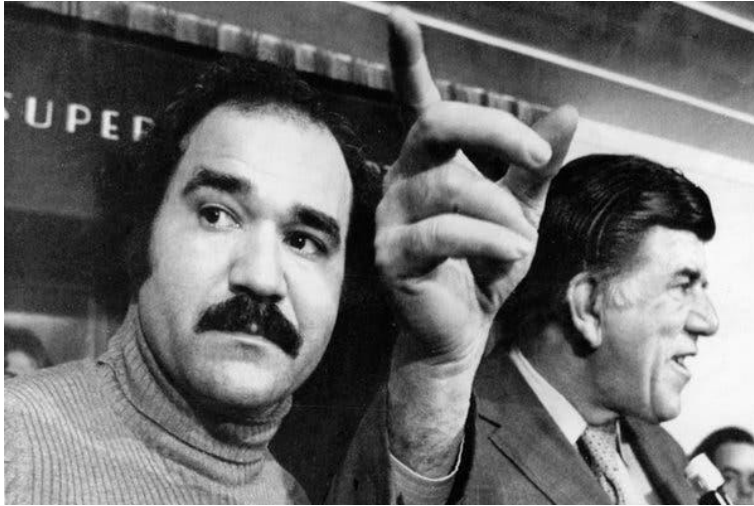


Kenneth C. Edelin, Doctor at Center of Landmark Abortion Case, Dies at 74



Dr. Kenneth C. Edelin, left, with his lawyer in 1975, after Dr. Edelin's sentencing. An all-white jury had convicted him of manslaughter. Credit...United Press International

By [Robert D. McFadden](#)

- Dec. 30, 2013

Dr. Kenneth C. Edelin, a Boston physician whose 1975 manslaughter conviction for performing a legal abortion was overturned on appeal in a landmark test of medical, legal, religious and political questions surrounding abortion in America, died on Monday in Sarasota, Fla. He was 74.

The cause was cancer, his family said.

Two years after the Supreme Court's *Roe v. Wade* decision legalized abortion in 1973, Dr. Edelin, a 35-year-old resident in obstetrics and gynecology at Boston City Hospital, became the focus of a national debate over crucial issues that had been left unresolved by the justices: When does life begin? Does an aborted fetus have rights? And what are a doctor's often contradictory duties to the fetus and its mother?

Dr. Edelin (pronounced EE-da-lin) was charged with causing the death of the fetus of an unwed 17-year-old during an elective abortion in her sixth month of pregnancy. In a six-week trial in Boston that explored uncharted legal ground and made headlines across the country, Dr. Edelin, who was black, was vilified as a baby-killer and defended as a victim of racial and religious prejudice being tried for an action that had never been defined as a crime: killing a fetus that may or may not have been a "person," and whose rights had never been specified by law.

The abortion, which took place in 1973, began as a routine procedure: the injection of a saline solution that usually causes uterine contractions and the expulsion of the fetus. But several tries were unsuccessful, and Dr. Edelin completed the abortion by a surgical procedure known as a hysterotomy — making a small incision in the uterus and detaching the fetus from the placental wall by hand.

Prosecutors did not contest the legality of the abortion — *Roe v. Wade* had struck down anti-abortion laws in most states, including Massachusetts — but argued that Dr. Edelin, after ending the pregnancy, had deprived “a baby boy” of oxygen while it was still in the womb “being born.” A photo of the dead fetus was shown to the jurors, and some said they were “shaken” by it.

The defense called the photo inflammatory and objected repeatedly to the prosecution’s use of “fetus” and “baby” as interchangeable terms. Medical experts testified for the defense that the fetus, estimated to be 24 weeks old, was not viable enough to have survived outside the womb. Dr. Edelin’s lawyers contended that no “person” had even existed, let alone died.

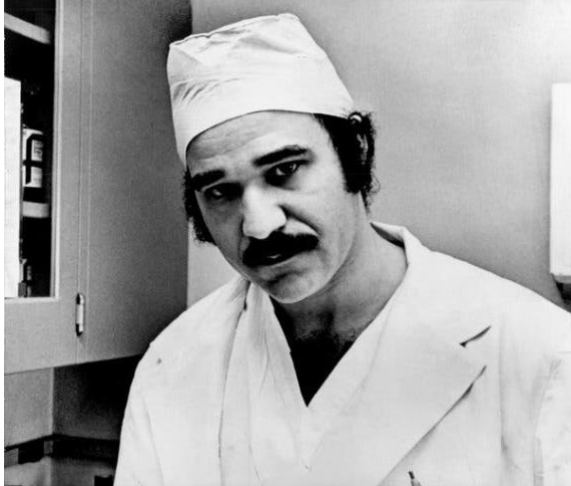
But the all-white 12-member jury, which included nine men and 10 Roman Catholics, convicted Dr. Edelin of manslaughter. Some jurors said later that the photo of the dead fetus, whose face, they said, looked distorted as if in pain, had been decisive in their decision to vote guilty. An alternate juror also said after the verdict that jurors had made racial slurs against Dr. Edelin “more than once” before closing arguments.

The presiding judge, who had instructed the jury that it could convict only if it believed that the fetus was a viable person and that the doctor had acted recklessly, sentenced Dr. Edelin to one year of probation, although he could have imposed a maximum of 20 years in prison. Dr. Edelin kept his medical license and continued to practice at Boston City Hospital.

The verdict was hailed as a victory by anti-abortion groups and the Catholic hierarchy, which had long contended that life was sacred and began at conception. But it shocked and dismayed advocates of women’s rights, who called the case a precedent that could make doctors wary of performing abortions in the second trimester.

Dr. Edelin called the prosecution a “witch hunt” in a city where a huge Catholic population believed that fetuses were human beings and that abortions were sacrilegious. The chief prosecutor, Assistant District Attorney Newman A. Flanagan, was a Catholic who hoped to run for Suffolk County district attorney, and was widely admired for pursuing a case that might tighten restrictions and intimidate doctors who performed abortions.

Dr. Edelin appealed the verdict, and in 1976 the state’s highest judicial body, the Supreme Judicial Court, unanimously overturned the conviction and formally acquitted him.



Dr. Edelin in 1974. Credit...Associated Press

The appellate court held that a doctor could commit manslaughter only by ending the life of a fetus that was definitely alive outside the woman's body. It rejected the prosecution theory that the fetus might have been alive in the uterus after being separated from the uterine wall, and was thus a "person" for purposes of the manslaughter law.

The ruling also clarified the definition of "life," saying that it meant having heartbeats and respiration — more than "several transient cardiac transactions" and more than "fleeting respiratory efforts or gasps." Besides giving doctors protection by defining when a fetus is a live person, the ruling also protected them from criminal liability for failing to take "heroic measures" to save a fetus once it was outside a woman's body.

Propelled to fame by the case, Dr. Edelin became a hero of the women's movement, was named to prestigious posts in national health and human rights organizations, and went on to a successful medical and teaching career. He became known for his concern for indigent patients, and spoke often of the need for legal and safe abortions.

"Nobody likes to do abortions," Dr. Edelin told *The New York Times* in 1975, "but the least we can do is make it safe and humane."

Kenneth Carlton Edelin was born in Washington, D.C., on March 31, 1939, one of four children of Benedict Edelin, a postal worker, and the former Ruby Goodwin. Kenneth attended racially segregated Washington elementary schools and graduated from the Stockbridge School in western Massachusetts in 1957.

After receiving a bachelor's degree from Columbia College in 1961, he taught math and science for two years at the Stockbridge School and then attended Meharry Medical College in Nashville, where he earned his medical degree in 1967.

In 1967, he married Ramona Hoage. They had two children, Kenneth Jr. and Kimberley, and later divorced. In 1978, he married Barbara Evans. They had two children, Joseph

and Corrine. Besides his wife and four children, Dr. Edelin is survived by eight grandchildren; a brother, Milton; and a sister, Norma Edelin Johnson. Another brother, Robert, died in 1982.

Dr. Edelin was the uncle of Jeh C. Johnson, the current United States secretary of homeland security.

Dr. Edelin was in the Air Force from 1968 to 1971, rising to captain and serving a hospital internship at Wright-Patterson Air Force Base in Ohio. After his discharge, he held a medical residency at Boston City Hospital from 1971 to 1974. He became the hospital's first black chief resident in obstetrics and gynecology in 1973, and that October — nine months after Roe v. Wade — performed the abortion that led to his arrest.

After his acquittal, Dr. Edelin became a professor of obstetrics and gynecology at Boston University and was chairman of the department for a decade until 1989. For years he was also director of ob-gyn at Boston City Hospital and managing director of the Roxbury Comprehensive Community Health Center, the largest provider of primary health services for Boston's African-American community.

He was chairman of the Planned Parenthood Federation of America from 1989 to 1992. His case was the subject of a 1978 book, "The Baby in the Bottle," by William A. Nolen, and a play, "As to the Meaning of Words," by Mark Eichman, that was staged in New York in 1981.

Dr. Edelin, who lived in Sarasota and in Oak Bluffs, Mass., discontinued his medical practice some years ago and retired from teaching in 2006.

He was the author of many articles on the prevention of teenage pregnancy and the perils of substance abuse during pregnancy. In 2007 he published a memoir, ["Broken Justice: A True Story of Race, Sex and Revenge in a Boston Courtroom."](#)