



Protecting the most vulnerable

“In the unique circumstances of this case, if [Ms Rogers] is exposed to the full three months suspension of her benefits, a member of our community carrying an unborn child may well be homeless and deprived of basic sustenance. Such a situation would jeopardize the health of Ms Rogers and the fetus, thereby adversely affecting not only mother and child but also the public - its dignity, its human rights commitments and its health care resources. For many reasons, there is overwhelming public interest in protecting a pregnant woman in our community from being destitute”.

*--Justice Epstein,
Ontario Superior Court of Justice (Toronto),
May 31, 2001*

**Published by the Justice with Dignity Campaign Committee
(Sudbury, Ontario)**

Dedicated to Kimberly Rogers

In April 2001, Kimberly Rogers was convicted of welfare fraud for receiving student loans while collecting social assistance. The money helped pay for four years of community college. She earned a diploma in social services in April 2000. The welfare office determined an overpayment of \$13,468.31.

After her conviction, she was *automatically suspended* from receiving social assistance benefits for three months. The penalty was harsh:

- sentenced to six months of house arrest with no money to pay the rent;
- allowed out of her apartment only three hours a week, except with permission "for shopping for necessities of life" although she had no money to do so;
- expected to repay \$13,468.31;
- 18 months probation;
- loss of the right to have part of her student loan forgiven;
- and, of course, **no income at all for three months.**

At the time of her conviction, Kimberly Rogers was five months pregnant and was suffering from a number of medical conditions for which she required prescribed medication. When her benefits were cancelled, her Ontario Works prescription drug card was also cancelled.

Charter Challenge

On May 14, 2001 Kimberly Rogers launched an important case under the *Charter of Rights and Freedoms* that challenged the constitutional validity of the Ontario Works regulations that cancelled her benefits after her conviction. The grounds for the *Charter* challenge were:

- ◆ Cruel and unusual punishment and treatment.
- ◆ Violation of *Charter* guarantees to life, liberty and security of the person.
- ◆ Violation of the *Charter's* equality provision.
- ◆ Violation of Canada's international covenants.

On May 31st, 2001, Justice Epstein granted a temporary injunction reinstating Ms Rogers' benefits.

Not Enough Money

Even after her benefits were reinstated Kimberly Rogers did not have enough money to support herself and her unborn child. She received Ontario Works Benefits of \$520.00 per month, minus \$52.00 to repay the overpayment. Her rent was \$450.00 per month, leaving **\$18.00 a month for food and everything else.**

The mandates and limited funding of many charitable organizations in Sudbury could not address all of Ms Rogers' needs. Unfortunately, even with their involvement and the reinstatement of her benefits, she was still in dire straights. Ms Rogers could not access nor could she afford fresh fruits, vegetables, or meat on a regular basis.

She was alone and pregnant, with no money.

Is deprivation of basic needs a suitable penalty for any crime?

On August 9, 2001 Kimberly Rogers and her unborn child were found dead in her apartment.

A Coroner's Inquest began in Sudbury October 15, 2002. On December 19, 2002 the Jury released the following recommendations:

SELECTED INQUEST RECOMMENDATIONS

For the complete 14 recommendations and rationales please visit http://dawn.thot.net/Kimberly_Rogers/ online at the Justice with Dignity website.

TO: The Government of Ontario - The Minister of Community, Family and Children's Services

The zero tolerance lifetime ineligibility for social assistance as a result of the commission of welfare fraud, pursuant to Ontario Works Act, 1997, O. Reg. 134/98 Section 36, should be eliminated. The temporary ineligibility in the instance of offences that have occurred prior to April 1, 2000, should also be eliminated.

TO: The Government of Ontario - The Minister of Community, Family and Children's Services

The Ministry of Community, Family and Children's Services and the Ontario Works Program should assess the adequacy of all social assistance rates. Allowances for housing and basic needs, should be based on actual costs within a particular community or region. In developing the allowance, data about the nutritional food basket prepared annually by local health units, and the average rent data prepared by the Canadian Mortgage and Housing Corporation should be considered.

TO: The Government of Ontario - The Minister of Corrections - Probation and Parole

When someone is serving a custodial sentence of house arrest, the government should ensure that adequate housing, food and/or medication is provided to the person.

TO: The Government of Ontario - The Minister of Community, Family and Children's Services

Ontario Works benefits for drug therapy for the treatment of medical conditions that threaten life or cause serious symptoms should not be discontinued during any Ontario Works suspension.

What People Are Saying

"Kimberly was a courageous woman and we honour her today. This government must repeal the lifetime ban, increase social assistance benefits, allow social assistance recipients to receive both social assistance and student loans, increase funds for employment and training and eliminate restrictions that make it difficult for people in need to qualify. It is shocking that even after Kimberly's death, the province has done nothing to prevent poor people from dying in exactly the same circumstances."

Professor Jennifer Keck, May 14, 2002

"The Ontario Tories have made social assistance rates so low, and the rules so restrictive, that people can barely survive. Kimberly Rogers was punished by this government, and died as a result, because she was poor."

James Clancy, President,
National Union of Public and General Employees, May 14, 2002

"The inquest into the death of Kimberly Rogers provides an opportunity to examine in detail how a fellow Ontarian was victimized rather than helped by her government. Like the murder of Dudley George and Walkerton, it is a graphic example of the human cost of the policies of the Harris-Eves Government at Queen's Park."

Wayne Samuelson,
President, Ontario Federation of Labour, October 9, 2002

"The ban humiliates and demoralizes those subjected to it. If a person has no other source of support, this is tantamount to a sentence to go on the street, turn to crime or take your own life."

Dr. Sakinofsky, Suicide Expert,
Testifying at the Inquest Into the Death of Kimberly Rogers, November 19, 2002

"If your life circumstances change, even if you become disabled, you are still subject to the ban."

Ian Morrison,
Ontario Social Safety Network, November 21, 2002

"Poverty is a huge underlying component...to health status...[H]ow wealth is shared in society is one of the principal determinants of differing health status among wealthy societies such as [Canada]. The more equally wealth is shared, the higher the overall health status of a society/country."

Dr. Penny Sutcliffe, Medical Officer of Health – Sudbury
Testifying at the Inquest Into the Death of Kimberly Rogers, November 22, 2002

"The way that social assistance policies operate expose people to fraud. The regulations are a mess. They are sometimes vague. Someone on welfare is...always breaking a rule that they don't know about. If I accept a second-hand couch from my sister, will I be defrauding the system?"

Professor Margaret Little,
Testifying at the Inquest Into the Death of Kimberly Rogers, December 6, 2002

What People Are Saying

"I applaud the five ordinary Canadians on the Sudbury coroner's jury who yesterday released their findings on the death of Kimberly Rogers and urged the government of Ernie Eves to take another look at social assistance rates in Ontario, and end the life-time ban on receiving social assistance in cases of so called welfare 'fraud'. The jury made other recommendations consistent with good sense."

Buzz Hargrove,
President, Canadian Auto Workers, December 20, 2002

"The Peterborough Social Planning Council welcomes the jury's recommendation to end lifetime and temporary bans for anyone convicted of welfare fraud. The province's lifetime ban for people convicted of welfare fraud is unduly harsh, and, as Kimberly Rogers' death sadly shows, may result in extreme hardship to the point of death. Given that the province has not introduced similar penalties for other types of fraud (e.g. tax evasion, over-billing by doctors, ministerial misuse of expense funds), it is clear that the ban unjustly targets people receiving social assistance."

News Release, December 20, 2002

"As Osgoode Hall tax professor Neil Brooks once observed: 'I'd bet more fraud takes place on any given night at the SkyDome than at all the welfare offices in Ontario. And when prominent people are caught ripping off the public purse in one way or another, they're rarely subject to lifetime punishments.'"

Linda McQuaig, Columnist Toronto Star,
December 22, 2002

"The jury was right. The government should act immediately to stop the lifetime ban and increase the rates so our fellow citizens are not condemned to such unhealthy, stressful lives. The government should also heed the jury's call to put in place a system to monitor the health of anyone facing a situation similar to Rogers'. The most sobering thought of all: The system in place when Rogers died is still in place."

Toronto Star Editorial, December 23, 2002

"But how dumb a policy is this: You can't live on Ontario student loans, and yet you're a criminal if you get welfare at the same time. Kim was pregnant — and she needed welfare because, battling ill health, she couldn't work. In Ontario, while inflation leaped 15 per cent and rents by 26 per cent, welfare rates remained frozen for seven years at \$520 a month for a single person."

Michele Landsberg, Columnist
Toronto Star, January 25, 2003

What You Can Do

Social assistance needs a major overhaul to meet the needs of people.

To get started, the provincial government must:

- Repeal any and all bans after a conviction of welfare fraud
- Set social assistance benefits at adequate levels relevant to local costs
- Increase funds for training and employment programs to pre-1995 levels (adjusted for cost of living)
- Allow social assistance recipients to receive both social assistance and full student loans
- Eliminate restrictions that make it difficult for people in need to qualify
- Implement the recommendations of Kimberly Rogers' Inquest
- Stop violating Canada's human rights commitments and international treaty obligations

Send these demands to your MPP and:

The Honourable Brenda Elliott,
Minister of Community, Family and Children's Services,
Queen's Park, Toronto, Ontario, M7A 1E9

The federal government must:

- Restore rights previously established under Canada Assistance Plan
- Increase and target transfer payments for social assistance
- Ensure every level of government upholds Canada's human rights commitments and international treaty obligations

Send these demands to your MP and:

The Honourable Jane Stewart, Minister for Human Resources Development Canada,
House of Commons, Ottawa, Ontario, K1A 0A6

Municipal governments must:

- Lobby the provincial government to increase social assistance rates
- Refuse to implement legislation that causes undue hardship for Ontario Works clients
- Refuse to prosecute welfare fraud cases until any and all bans are eliminated
- Refuse to violate Canada's human rights commitments and the rights guaranteed under the Charter of Rights and Freedoms

How You Can Help:

- Speak out.
- Write to your federal, provincial and municipal politicians
- Join a local, provincial or national anti-poverty organization
- Organize an event at your workplace, community centre, union or place of worship to discuss local poverty issues and the need for social assistance reform
- Talk to your friends, family, neighbours, co-workers and employers



Organizations and groups that support the Justice with Dignity campaign:

Action Centre for Youth
Canadian Association of Elizabeth Fry Societies
Canadian Council on Social Development
CAW Mine-Mill Local 598
CUPE Local 2191
CUPE Local 2484
DAWN Ontario
Elizabeth Fry Society (Sudbury)
Hastings and Prince Edward Legal Services
Income Security Advocacy Centre/ Centre d'action
pour la securite du revenu
Laurentian University Faculty Association
Laurentian University School of Social Work
Laurentian University Students' General Assembly
Myths and Mirrors Community Arts
National Anti-Poverty Organization
National Union of Public and General Employees
North Bay and District Labour Council
North Bay Network for Social Action
Northern Ontario Newspaper Guild Local 232
Ontario Association of Social Workers – Sudbury
Branch
Ontario Coalition for Social Justice
Ontario Common Front-Sudbury
Ontario Federation of Labour
Ontario Social Safety Network
OPSEU Local 655
Parkdale Community Legal Services
Social Planning Council of Sudbury
Sudbury Area CUPE Council
Sudbury Coalition for Social Justice
Sudbury Community Legal Clinic
Sudbury District Labour Council
Sudbury Global Justice
Sudbury Sexual Assault Crisis Centre
Sudbury Women's Centre
SWAN (Ottawa)
Toronto District CUPE Council
Women's Committee (USWA Local 6500)
YWCA (Sudbury)

This leaflet was produced by the *Justice with Dignity Campaign Committee*, (formerly the *Committee to Remember Kimberly Rogers*) a community organization located in Sudbury Ontario. We are committed to ensuring that another tragedy like this does not happen again. For more information about the group's work or to receive leaflets please contact: Peter at 705-671-2439 desilets48@sympatico.ca or Laurie at 705-674-0282 myths@vianet.ca

Online Resources

Justice with Dignity

<http://dawn.thot.net/KimberlyRogers/>

Income Security Advocacy Centre

http://www.incomesecurity.org/index_1.html

Disabled Women's Network Ontario

<http://dawn.thot.net/links.html>

SWAN (Ottawa)

<http://www.swchc.on.ca/>

Ontario Coalition for Social Justice

<http://www.ocsj.ca/>

National Anti-Poverty Organization

<http://www.napo-onap.ca/>

Women's Legal Education and Action Fund (LEAF)

<http://www.leaf.ca/>

Workfare Watch

<http://www.welfarewatch.toronto.on.ca/>

Canadian Association of Elizabeth Fry Societies

<http://www.elizabethfry.ca/>

Created with Union Labour

With thanks to members of
USWA Local 2020 and NONG 232
Paid for by the Justice with Dignity Campaign Committee
and the Sudbury Community Legal Clinic