

The Man and His Work

Celebrating a Life of Prayer, Study, and Constant Striving to Be Open to the Spirit of Truth



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I was honored to be asked to write an article for this special *Health Progress* section commemorating the life and work of our colleague and my dear friend, Fr. Kevin O'Rourke, OP, JCD, STM. But the pride of being asked quickly gave way to a sense of both inadequacy and dread. As I pondered how to capture adequately the more than six decades of the life and ministry of this remarkable yet humble and prayerful man, I knew I had to go beyond what appears to be the already expansive topic I was assigned, because Fr. O'Rourke's work in the world of health care ethics is but a piece of a much bigger life of ministry in the church. And it is the other pieces of the whole reality that have shaped, formed, and prepared him for his very significant role in Catholic health care ethics.

So, at the risk of being edited out of this issue, I propose to address the following in this article. In Part One, which will be quite brief, I will speak of Fr. O'Rourke's early life in the context of his loving and thoroughly Irish family. Part Two will address his life and ministry following his entrance into the Dominican family, from 1954 through the years before he became associated with Catholic health care in 1973. In Part Three, I will consider what most of us would sum up with the colloquialism "and the rest is history" with regard to his work in Catholic health care ethics. In Part Four, I will review briefly Fr. O'Rourke's involvement with several landmark cases involving removal of life support. Finally, I will offer a brief personal reflection as a person

who has been mentored by, in critical conversation with, and edified and challenged by him for the past 15 years.

PART I: THE EARLY YEARS

David O'Rourke (known later in religious life as Fr. Kevin) was born at home to second-generation Irish parents on March 4, 1927, in Park Ridge, IL. He was, having been preceded by six sisters and a brother, the lastborn of the eight children of William and Winifred O'Rourke. His father died when David was three years old and he was raised by his mother and sisters, who instilled in him the faith that has nourished, informed, and shaped this son of the church for all his life. Fr. O'Rourke's last sibling, Sr. Winfrida, RSM, died on October 19, 2006, at age 90. He and his sister had become quite close over the past several years. He reflects often on being the "only one left," with both a remembrance of many fond memories as well as a tinge of real sadness.

PART 2: CANONIST AND THEOLOGIAN

Young David O'Rourke's first encounter with the Dominicans was at Fenwick High School in Chicago. The years he spent there planted the seed that would lead him, after a brief stint in the Navy and two years at the University of Notre Dame, to enter the Dominican Order in 1947. After his ordination in 1954, the new priest was sent to Rome to study canon law at the Angelicum, where he gained, among other things, a thorough grounding in the *Summa Theologica* of Thomas Aquinas. Fr. O'Rourke's immersion in and love for the thought and insights of Thomas have nourished and shaped his own theology over the years and have clearly found expression in his work in health care ethics, a matter to which I will return.

When Fr. O'Rourke returned from Rome in 1958, he joined the faculty of Aquinas Institute of Theology in Dubuque, IA, where he taught canon law; was dean of the theological faculty; and, from 1968 to 1972, served as president of the institute. In these roles, he helped initiate changes that were unheard of in Roman Catholic seminary education in the United States at the time. For example, in 1963, Fr. O'Rourke was involved in initial conversations with the leadership of Wartburg Seminary of the American Lutheran Church and the U.S. Presbyterian seminary at the University of Dubuque. These conversations led to a full-blown ecumenical cooperative effort among the three schools. Inspired by the transformational insights of the Second Vatican Council, the schools cosponsored seminars featuring such theologians as Karl Rahner, Yves Congar, Martin Marty, and Ceslaus Spicq, to name just a few. In the closing years of the 1960s, the schools formed common departments and brought the faculties together in disciplines such as Scripture and systematic theology. In 1966, the schools formed a new corporation, recognized under Iowa law as the Schools of Theology in Dubuque. This ecumenical endeavor thrived for many years.

The innovation dearest to my heart occurred at the end of that decade when the first women students were admitted to the institute. Fr. O'Rourke admits that, in doing so, he had no great vision of a fuller recognition of women in the church. He simply thought it was the right thing to do, and now readily admits that the presence of women students changed for the better the overall atmosphere at Aquinas.

PART 3: HEALTH CARE ETHICIST

After serving as president of Aquinas for four years, Fr. O'Rourke asked for a sabbatical to study moral theology. He planned to spend the first part of 1973 with the Jesuit moral theologian Fr. Richard McCormick and the influential Protestant scholar James Gustafson. He intended to spend the second half of the year at Catholic University in Washington, DC, studying with Charles Curran. His plan was to return then to Aquinas Institute in Dubuque and teach moral theology. To prepare for this year of study, Fr. O'Rourke

spent three months of individual work reading articles on moral theology in *Theological Studies*, re-immersing himself in the *Summa* of St. Thomas and in the works of Aristotle. His focus was on the theory of moral decision making and the role of conscience with regard to moral norms, considerations that were at the heart of the debate that was beginning to brew in Catholic moral theology in light of the renewal of the discipline called for by the Second Vatican Council.

Fr. O'Rourke did study with Fr. McCormick and Gustafson from September through December of 1972. But, just one month after he had completed his study, he realized that his life and ministry would be taking a new and dramatically different course. On January 22, 1973, the U.S. Supreme Court handed down decisions in *Roe v. Wade* and *Doe v. Bolton*. CHA, which was very concerned about the implications of these decisions for Catholic hospitals, immediately began a search for a credible moral theologian to join its staff.

CHA's president, Sr. Mary Maurita Senglelaub, RSM, offered Fr. O'Rourke the position, but, as he now admits, he was not very impressed with the offer. However, when he consulted with his provincial and good friend Fr. Clem Collins, OP, he was told to think about helping CHA out for a few years. So Fr. O'Rourke said a reluctant yes and became the first director of medical-moral affairs at CHA.

He never returned to Aquinas, and the irony of the situation was that, in June of the same year, Congress passed the Church Amendment, which allowed religiously sponsored hospitals to follow the teachings of their church with regard to abortion without fear of losing federal funding. Although legalized abortion was no longer an issue for Catholic hospitals, Fr. O'Rourke decided to stay on at CHA because he had become interested in many other ethical issues and it was clear to him that the Spirit had led him to this new venue for his ministry.

One of the first ethical and administrative issues that attracted his attention was the need for greater involvement of laypeople in the governance of Catholic hospitals. While this notion is commonplace today, in the 1970s it was quite out of the ordinary. Working with his colleagues

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Chuck Steib, JD; Paul Donnelly, PhD; and Ed Spillane, PhD; Fr. O'Rourke advised many religious congregations to incorporate their hospitals as civil corporations recognized as such by the state. He further suggested that the bylaws of these new corporations provide for two levels of governance. The first should be a board comprising members of the sponsoring congregation. The board would retain certain reserved powers, including retention of ownership of the buildings and property; control of the alienation of property in accord with the norms of canon law; appointment and removal of trustees; and control of the institutions' mission, philosophy, charter, and bylaws.

The second level of governance, he said, should be a board of trustees, comprising both religious and laity, which would be responsible for the everyday governance of the institution.

In 1977, after becoming well-acquainted with the range of ethical issues that Catholic hospitals were dealing with, Fr. O'Rourke decided to write a book explaining the set of ethical directives for Catholic hospitals that had been revised by the American bishops six years before. He enlisted the help of his Dominican brother Fr. Benedict Ashley, OP, PhD, and thus was born *Health Care Ethics: A Theological Analysis*. The fifth edition of this substantially revised work was published at the end of 2006.

In 1979, Fr. O'Rourke was recruited by George Thoma, MD, to begin a program in medical ethics at Saint Louis University's Health Sciences Center. At that time, most medical schools did not include ethics in their curricula, so Fr. O'Rourke was something of a pioneer in this effort. He established the Center for Health Care Ethics, offering the center's services to the schools and students on the medical center campus. For the center, he recruited and mentored several young ethicists, among them the late Fr. Dennis Brodeur, PhD; Philip Boyle, PhD, STL; Fr. Patrick Norris, OP; Sr. Louise Lears, SC; and me.

After 20 years, Fr. O'Rourke left the center to return to Chicago, where he joined the faculty of the Neiswanger Institute for Bioethics and

Health Policy at Loyola University Chicago. He continues to teach, write, and speak on issues of ethics in health care.

PART 4: LANDMARK CASES

A quick perusal of a bibliography of Fr. O'Rourke's writings reveals the wide range of issues he has addressed during his career. But one issue in particular has consumed much of his attention over the last 30 years, and that is the question of the removal of life support.

In April 1975, Karen Anne Quinlan fell into a coma—later diagnosed as a persistent vegetative state (PVS)—after consuming alcohol and taking some kind of tranquilizing drug. She was admitted to a hospital in New Jersey and placed on a ventilator because she was unable to breathe on her own. Nine days later, she was transferred to a Catholic hospital, St. Clare's in Denville, NJ, where at some point a feeding tube was inserted. After several months, it became clear to Karen's physicians and parents (who were Catholic) that there was little chance that she would ever recover. After consulting with the family's pastor and being assured by him that the request was in keeping with church teaching, Karen's father asked to have the life support, the ventilator, removed, even though he knew that his daughter might die as a result.

The administration of St. Clare's consulted with CHA about the morality of complying with Karen's father's request. Fr. O'Rourke was the director of medical-moral affairs at the time, and he confirmed that Mr. Quinlan's request was consistent with church teaching. However, in 1975, the American Medical Association equated decisions to remove life support (in order to allow death to come) with decisions to intentionally kill. The physicians caring for Karen reflected this perspective. Unfortunately, the hospital's board of trustees and administration took the side of the physicians, refusing to allow the removal of the ventilator. The Quinlans sought legal relief, obtaining it only after the New Jersey Supreme Court overturned a lower court decision that equated the removal of the ventilator with homicide.

As is now widely known, the physicians in the Quinlan case did not fully comply with the court order to discontinue the ventilator. Rather, they weaned Karen from the device, and, as a result, she breathed on her own when it was finally

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removed. However, she never regained consciousness and lived another 10 years, her life being sustained by artificial nutrition and hydration (ANH). Karen's parents never sought to have the ANH removed.

In the years during and after the Quinlan case, Fr. O'Rourke devoted a good deal of time studying, writing, and speaking about the distinction between allowing to die and killing (that is, between foreseeing an outcome while not intending it, on one hand, and intending it, on the other) and about the absence of an ethical difference between withholding a life-sustaining medical intervention and withdrawing it once started in order to allow death to come. He focused particular attention on the question of removing ANH from persons diagnosed as being in PVS.

Fr. O'Rourke convincingly pulled together various threads from the Catholic tradition and wove them into one of the clearest and most useful approaches for addressing the difficult question of assessing the use of life-sustaining interventions. Drawing on Scripture, St. Thomas, other Catholic theologians, and his own experience, Fr. O'Rourke argued (and continues to argue today) that any and all medical interventions proposed to sustain life in the face of a fatal pathology must be evaluated in light of their potential to allow the person some reasonable capacity to pursue the purposes of human life.

For Fr. O'Rourke, as for St. Thomas, the ultimate purpose of human life is friendship with God and with all others in God. Thus he proposes that, in the presence of a fatal pathology, two questions must be asked about the use of any life-sustaining intervention.

■ First, will the intervention be of benefit insofar as the integrated functioning of the person is concerned? In other words, will use of the intervention restore, enhance, and/or sustain the person's relational capacity to the extent that he or she can experience life in a reasonably meaningful and fulfilling way?

■ Second, will use of the medical intervention entail a burden to the extent that it undermines the person's ability to experience life in a meaningful and fulfilling way?

And, following the lead of Pope Pius XII, Fr. O'Rourke insists that the assessment of burden must include burden experienced by the person's

family and community of concern.

In 1987, Fr. O'Rourke was called upon by William Colby, the attorney for the parents of Nancy Beth Cruzan, to sponsor an amicus curiae brief in support of Nancy's parents' request to have her feeding tube removed. At that time, Nancy had been in a PVS for more than four years. The Cruzans had been entangled in a very public and painful court battle and were being accused by some of trying to murder their daughter. In order to lend support to the Cruzan's effort, Fr. O'Rourke asked to visit Nancy and confer with her parents. At the time, there were many ethicists who were quite willing to condemn the parents and claim, without ever being in Nancy's presence, that sustaining Nancy's life offered her great benefit. Fr. O'Rourke, on the other hand, offered a compassionate, pastoral presence to Nancy's family as they struggled to make the right decisions on her behalf.

In the same year that Fr. O'Rourke was called upon to consult on the Cruzan case, 17-year-old Christine Busalacchi suffered extensive brain damage in a car accident. She underwent many surgeries to relieve pressure on her brain, had a gastrostomy tube inserted to provide her with ANH, and received aggressive rehabilitative therapy. All of this was to no avail in terms of returning her to consciousness. For some unexplained reason, physicians at the Missouri Rehabilitation Center, in Mount Vernon, MO, where Chris was cared for, did not perform the diagnostic tests necessary to determine either a sound diagnosis of her condition or a long-term prognosis.

After three years Peter (Pete) Busalacchi, Chris's father, decided to have Chris transferred to a hospital in Minnesota where she could be evaluated thoroughly by a neurologist, Ronald Cranford, MD, then one of the nation's leading experts on coma and unconsciousness. Although Pete was very aware of the Cruzans's painful journey, he had made the decision that if his beloved Chris was found to be in a PVS he would ask that her feeding tube be removed and that she be allowed to die.

Pete sought Fr. O'Rourke's counsel with regard to the decision he was contemplating. Was it consistent with the teaching of the church? (Pete was Catholic.) Was it the right and loving thing to do for the daughter he loved so much? Fr. O'Rourke said yes to both of Pete's questions.

Fr. O'Rourke said yes to both of Pete's questions. More importantly, he provided ongoing pastoral and compassionate presence to this grieving and conflicted father, who grappled with questions that no parent should ever have to address.

Unfortunately, Pete was barred in his attempt to move Chris out of the state for further evaluation, and Chris' case ended up mired in the judicial system that had proven itself woefully inadequate in the Cruzan case to deal with such complexities. Finally, in January 1993, after much judicial and political wrangling, the state finally withdrew its opposition to the removal of Chris' ANH.

However, St. Louis archdiocesan officials remained opposed. Both the director of Pro-Life Activities of the archdiocese and the archbishop argued that removing Chris' ANH would be an act of euthanasia. Officials at the rehab center in St. Louis where she was being cared for did not want the ANH discontinued while she was a patient there. None of the Catholic hospitals in the area offered to accept her as a patient, perhaps for fear of a negative reaction on the part of archdiocesan officials.

In the end, Christine was transferred to Barnes Hospital in St. Louis, which is affiliated with Washington University School of Medicine. She was given a thorough neurological examination and was determined to be in a PVS. Because of the public nature of this case and because it became common knowledge that the ANH was to be discontinued, there were constant concerns about her security and that of her family. She was cared for on a unit where there were no other patients and where an armed security guard scrutinized all who sought access. The street outside the hospital's main entrance was lined with protesters carrying signs decrying Chris's father as a murderer and accusing hospital personnel of killing her.

During the final days of Chris's life, Fr. O'Rourke and members of the staff of the Center for Health Care Ethics visited Chris and her family daily to offer support and keep prayerful vigil. Christine died peacefully on March 7, 1993. In the days, months, and years since then, Fr. O'Rourke has been routinely vilified and accused of being a dissident Catholic ethicist bent on undermining the teaching of the church with regard to prolonging human life. Nothing could be farther from the truth. He endures these assaults with great equa-

nimity, seeking only to engage his detractors in reasoned and respectful dialogue hoping to help them come to a deeper knowledge and appreciation of the authentic teaching of the church on the issue of prolonging life.

Fr. O'Rourke offered the same kind of reasoned analysis and pastoral and compassionate presence in the case of Stephen Becker. This case involved another young person left in a PVS, in this case following the rupture of a large hydrocephalic cyst. It also involved a court battle between Stephen's wife, Chris, who sought the removal of Stephen's ANH, and his mother and many of the same people who protested the removal of life support from Nancy Cruzan and Christine Busalacchi.

The twist in this case was that Stephen was being cared for in a Catholic hospital in St. Louis. When the court cleared the way for the discontinuance of ANH, then-Archbishop Justin Rigali refused to allow the feeding tube removal in the Catholic facility. So Stephen's wife decided to take him home and allow him to die there. She, her family, and those caring for him were subject to much harassment and many threats. During Stephen's final days, Fr. O'Rourke visited the Becker home to offer support and, as with Christine Busalacchi, to keep prayerful vigil. Stephen died peacefully at home on October 10, 2000.

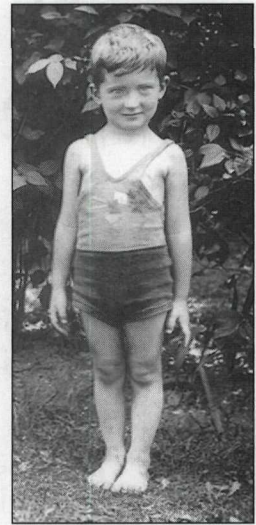
AN OPENNESS TO THE SPIRIT OF TRUTH

This article in no way does justice to the life and work of Fr. O'Rourke. It touches on only a few of the high points along the way. There is much more that people should know about him if they are to really understand the man and his contributions to the areas of canon law, theological education, ethics, Catholic health care, and others. His knowledge of the Catholic tradition and his ability to apply it in reasoned and compelling ways to ethically complex and challenging cases have been of invaluable assistance to health care professionals, patients, family members, and the many students who have been blessed to have him as teacher.

I think the most important thing to know about Fr. O'Rourke is that his passion for his work and for those it serves is rooted in and nourished by a deep and profound life of prayer, study, and a constant striving to be open to the Spirit in the pursuit of truth. ■



1928, Dave—who would become Fr. Kevin 26 years later—sits on his father's lap surrounded by the rest of his family.



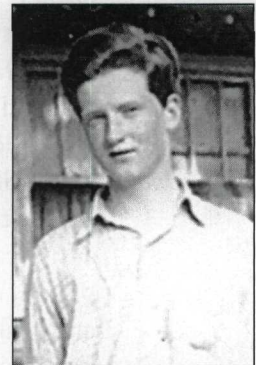
Age 4



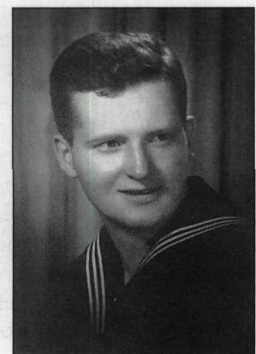
Age 3, with his father and older brother Bill.



1930, with his mother and father.



Age 14



1945, in the Navy.

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