Deborah's choice

SEPTEMBER 27, 1998

ONSET, Mass.—Deborah Gaines sees him still, his face framed by black curly hair, his dark eyebrows arched. He is a contradiction. He is evil and benevolent. He is a murderer and a savior. He is the abortion clinic gunman, and his face haunts her.

She remembers running out of the clinic that cold December morning. He, the shooter, is chasing her, the patient. He is firing his semiautomatic rifle. The bullets are spraying all around her, banging into the metal gate through which she is trying to escape. He is staring at her as she desperately pulls at the gate, trying to get it open, trying to run. He is standing only three feet away, yet the bullets seem to bend around her and ricochet, *ding-ding-ding,* off the black steel gate.

She hears him saying something like "Darn, I'm sorry I missed you."

She keeps clawing and yanking at the gate. It finally opens and she runs for her life—but not for the life that is now about seven weeks old within her womb.

She runs and runs, pulling herself over another fence and falling flat on her back. She gets up. She doesn't know how, but she finds her feet beneath her. She is not looking back. She believes he, the man in black, is after her. She does not stop running until she crosses the street, pulls open an apartment building door and frantically pushes all the buzzers, crying for anybody to help.

Behind her, in the Preterm Health Services Clinic in the Boston suburb of Brookline, blood is pooling on the first floor. An antiabortion zealot named John Salvi III has pumped bullets into three staffers. One of them, receptionist Lee Ann Nichols, is dead.

On that day in that place, fates got up and exchanged places. One life ended and another life received a reprieve: a baby who was not yet wanted, but who would come to be named Vivian Gaines.

Deborah Gaines remembers Dec. 30, 1994, as if it happened an hour ago. She remembers it every time she looks into the small honey-colored face of her

daughter, the child she now loves dearly but the same child she went to the abortion clinic that morning to get rid of because she could not afford to raise her.

Gaines, 31, is sitting at her kitchen table in the white clapboard house she rents next to a busy highway in this town on the edge of Cape Cod. The child she never wanted to have is sitting in her high chair refusing to eat her morning bowl of Cheerios. Vivian is 3; her soft brown hair is carefully pulled into a ponytail high on her head.

The pretty little girl squeals. She communicates, but with few words. She can barely say her sisters' names. She has developmental problems—emotional, physical and intellectual deficits. Doctors say that at 22 months, Vivian had the cognitive ability of a 6-month-old. She is hyperactive. She likes to grab a face and sink her nails in and not let go. "Vivian, be nice," her mother says. "Nice, nice, Vivian." The girl is a trial for her mother, who never married and has three other children.

All this helps explain why Deborah Gaines has become something of a local celebrity. People here are talking about the suit she filed against the abortion clinic, seeking damages for the trauma she says she suffered that day. It also seeks to recoup the cost of raising her child. Her suit relies on the concept of "wrongful life," making the rather novel and controversial argument that Vivian should never have been born, and therefore the clinic should defray the cost of raising an unwanted child. The suit says the clinic failed to protect clients against madmen like John Salvi and foreclosed Gaines's option to have an abortion—an argument the clinic's lawyers call patent nonsense.

The mother folds her hands on the white table that has been scrubbed clean in the white kitchen with white stucco walls. She is wearing a black pantsuit. Her soft face is troubled. She is thinking. It is all so complicated; the issues raised here are shaded in gray. But on one level, to her, it is quite simple.

"It shouldn't have happened to me," Gaines says. And somebody's got to pay for what she went through.

She looks at her daughter. She cherishes the little girl, but she knows that Vivian would not be here had Salvi not chosen that clinic in Brookline to air his rage against abortion. Salvi, 23, a devout Roman Catholic,

justified killing as part of a militant mission to protect the unborn. Gaines once viewed her daughter's survival as a "sign from God," but now she's convinced what Salvi did was the work of the Devil.

"God don't kill anyone," she says. "God don't put a blessing on a murderer coming into the clinic and shooting people up."

But the troubling questions don't end there. There are these: Who is responsible for Vivian's life? Is she solely Gaines's burden? What about the father? How much responsibility does the clinic have, if any? Or the state?

Gaines doesn't fully understand all the legal issues, but says she doesn't feel she's shifting responsibility with this suit. She quotes something her mother told her when she was pregnant with her first child: "You decided to lay down and have them. You take care of them."

A WOMAN SCORNED

People who don't know Gaines are judging her life and her decisions. She picks up a local newspaper. A columnist who never called her to find out her story has labeled Gaines a welfare mother who deserves no money—and deserves to be in the sorry situation she is in. A man on the street yells that she should have just gone back the next day to the clinic and gotten the abortion.

It's true that she was receiving federal Aid to Families With Dependent Children when she became pregnant with Vivian. She knew that she could not afford to have another child. She didn't want to make her life any more difficult.

"No one knows how hard it is raising four kids by yourself," she says. No one knows how hard it is to find a job without a high school diploma. They don't know how difficult it is to find a babysitter for Vivian. How difficult it is to keep a job when she can't keep a babysitter. How difficult it is to make ends meet when the rope is too short to begin with. In her world, there are no safety nets for bad choices. In her world, when you fall there is nothing to catch you—except what's left of the welfare system.

People are talking, but they have not lived for one moment underneath her skin. Those people don't know her pain, the intense fears. They are not with her when she wakes up in the middle of the night with the nightmare visions of John Salvi shooting at her, and the medicated child she did not want to have is screaming at the top of her lungs.

Yes, she loves Vivian. Yes, she wants Vivian. The conflict is that Vivian exists.

Gaines's lawyer, Chris A. Milne, puts it this way: "The resentment is there. The love is there. It's inconsistent but she feels them both."

At the kitchen table, he flips through a report from Gaines's counselor. It shows that one month after the shooting, she was terribly confused: worried about the impact of having the baby but fearful of going back to another abortion clinic.

Milne is a well-known Boston area child advocacy lawyer who specializes in setting up trusts for children hurt in accidents and shootings. He says he is seeking between $100,000 and $500,000 for Vivian's care.

His suit, filed last year in Superior Court, argues that the owners of Preterm, aware of shootings at other clinics and the fierce and continual protests outside the clinic's own doors, should have seen Salvi, if not someone else, coming—and they should have been prepared with "full-time armed security guards, police presence, metal detectors and locked doors to protect patients such as Deborah Gaines, who were entering the clinic to exercise their lawful right to an abortion."

The lawsuit also says that Gaines suffered "post-traumatic stress disorder" after the attack, with symptoms including "frequent crying episodes, headaches, cold sweats, flashbacks, sleep irregularity, psychic numbness."

The filing anticipates the public response that she could have gone elsewhere, and argues that "she could not go back to an abortion clinic because she fears for her life."

Earlier this month, Judge Patrick F. Brady rejected a request by Preterm to dismiss the suit, allowing the case to go forward even while pronouncing himself "very, very, very, very skeptical" of the arguments.

In the past 25 years, various courts have granted damages to parents who have claimed "wrongful life." Many of those cases involved failed sterilization procedures or amniocentesis tests that failed to determine that a child would be born with genetic defects. Other cases have been won by women who felt they "lost the opportunity to terminate a pregnancy," Milne says.

In 1990, the Supreme Court of Massachusetts ruled in a landmark medical negligence case in favor of a couple who sued a doctor who had failed to sterilize the woman properly. The woman gave birth to a "normal and healthy, but unwanted, child after the physician had performed a sterilization procedure that the mother had sought for reasons founded on economic or financial considerations," the judges wrote in the case.

After the baby was born, the court ruled that the parents could receive damages to cover the cost of rearing the child to adulthood, "offset by the benefit, if any, that the parents receive or will receive from having the child."

Preterm, which has settled two cases brought by shooting victims and their families against the clinic, argues it has no responsibility to Gaines or her daughter. Says Adrian Sevier, an attorney for the clinic: "Preterm had no notice a madman like John Salvi would enter the premises and open fire. Their security was adequate and there is nothing they could have done to have prevented John Salvi's actions, and there is nothing Preterm did or did not do that caused any harm to Deborah Gaines."

At the heart of the case, to hear the lawyers tell it, is a word that has defined the abortion issue for decades: choice.

"The argument is essentially that Deborah Gaines chose not to have an abortion after December 30, 1994," Sevier says. "She was free to go to any clinic of her choice and have an abortion. She chose not to do so and she is therefore responsible for her decision."

Says Milne: "The responsibility starts with Deborah at Preterm exercising her right to have an abortion.... It's legal and she had the full right to expect that she would be given one. She was exercising her right to choose."

ONE WOMAN'S STORY

Deborah Gaines's black eyebrows are drawn on perfectly. Her hair is just so. Today she is wearing tight curls. There is still a trace of the girlish vivacity that probably impressed the judges when she won the Duncan Projects Beauty Pageant back in New Jersey, when she was 14 and she still had hope.

That was before she had her first baby at 17, before she had her second baby and her mother put her out of the house. Before she moved to a trailer park, before she fell in love and out of love and couldn't find a job and lived in a house with no heat and lived in a shelter and received a Section 8 housing certificate and then tried to live on meager checks from AFDC.

"Life just got rougher and rougher," she says. Whenever she talks to her own mother she finds strength. "My mother always says, 'Hold it to the road.' Take care of things. Be strong."

Deborah Gaines was born in the Jersey City projects, the youngest of five children. Her father was a boxmaker. Her mother was a homemaker.

Deborah learned to fight early and to defend herself. She says she was in a "little" gang. She dropped out of high school. She lived with a sister in Cherry Point, N.C., before her boyfriend found a job at a nuclear power plant in Plymouth, Mass. She packed up her son and daughter and moved north to be with the man.

"But things didn't work out and I went into a shelter for the homeless." She and her children were living in assisted housing when she met a house painter named Michael Richardson at a nice restaurant in Plymouth.

"We started talking. I was having dinner with my girlfriends. After dinner, he asked me to dance." That was May 7, 1989. "We've been together since then," Gaines says. Richardson is the father of her third child, Debbie, and of Vivian.

Over the years, Richardson has helped out almost daily with the kids, but he didn't marry Gaines or move in—that would have cut off the AFDC checks. He says he felt he couldn't make as much to support the family to offset the loss of the welfare benefits.

Gaines did hair in her kitchen, pressing and curling and braiding. And she tried to make a home for the fam-

ily: Once she moved into a cottage with a nice little yard on the waterfront. They found a picket fence and painted it white. They got a dog named Rex and brought him home. They called him "Rex, Malcolm X."

But she had to move from that house on the shore because it was very cold, and she couldn't afford the oil heat. Once to keep warm she and the kids huddled together under blankets with a blow dryer.

In the early '90s, she found an apartment with wood floors, a patio, a small deck. There was just enough room for her and her three children. She had no intention of moving again. Then she woke up one morning with a familiar queasy feeling.

"I just didn't want to know what I knew—but you know I knew. So I went to a clinic in North Plymouth and they did a pregnancy test for me." It came back positive. (Gaines won't discuss whether she was using birth control at the time.)

"I just shook my head...I was feeling like, 'Debbie, you done messed up.' I mean I had so many. I was living this fantasy, you know. I always dreamed about having my own and doing for my own...and when I felt that I was pregnant I was totally devastated."

It happened just when she was trying to get herself together. She had already started to study for her GED and was planning to get a job—a result, she says, of a personal epiphany, not the pressure of welfare-to-work reform. She already had filled out the paperwork at the unemployment office.

Richardson, now 36, didn't seem eager to have another child, either. And it was coming at a bad time. He recalls thinking, "Deb's pregnant. She's trying to get ahead in life. She was going to school."

"He didn't want to say go ahead and have it or don't have it," Gaines says. "It was more like 'Make your own decision from here on.'"

"I said something has to go. I mean I can't go through this and have another child, and there's so much that I want to do."

She made her choice. She found a telephone book and made an appointment at Preterm Health Services, where an abortion would take about an hour. She was scheduled for 9 a.m.

KILLING TIME

That morning John Salvi drove his black Toyota pickup, the one with pictures of dead fetuses taped to the back window, into Brookline from New Hampshire. Dressed in black, he walked into a Planned Parenthood clinic around 10.

A woman asked Salvi whether he needed help.

"Is this Planned Parenthood?" he asked.

When the woman told him it was, he pulled out a .22-caliber semiautomatic and opened fire, killing receptionist Shannon Elizabeth Lowney. A female counselor and two male volunteer escorts in the waiting room were wounded in the spray of bullets.

Salvi calmly walked out of the clinic, got back in his truck and drove a mile west to Preterm.

Gaines and two friends, Debbi Davis and James Magazine, had arrived late at the clinic around 9:10. They parked across the street from the squat red brick building, they fed the meter quarters, and Gaines hurried to the first floor. The receptionist told her the doctors were running behind and asked if she wanted to reschedule.

"I want to go on with it today," Gaines told her.

The receptionist gave her a form that explained the procedure. After filling it out, Gaines took an elevator to the fourth-floor waiting room. It was crowded, she remembers, maybe a dozen people sitting there, holding on to their own secrets. In the uncomfortable silence, she grabbed something to read.

Around 10 a.m., Gaines impatiently put down her magazine, got up and asked, "Do you know how long it will be?"

"You're going to be next," the receptionist told her.

"I was wondering, can I step downstairs to smoke a cigarette?"

"Okay, Miss Gaines," the woman answered, "but don't be long."

Gaines raced downstairs and found her friend Magazine and asked him for a cigarette. He reached in his pocket but didn't have any.

Together they went looking for Davis, who they thought was in the car parked across the street.

About that time—10:10—John Salvi walked into

Preterm's first-floor reception area and was stopped at the front desk.

"Is this Preterm?" he asked a woman answering phones.

She told him yes.

He reached into his duffel bag, pulled out the rifle and shouted in a voice like a preacher: "This is what you get! You pray the rosary!"

He shot Lee Ann Nichols.

"Then he took a step to his left, lifted his gun and shot me," Jane Sauer, a patient administrator, remembered. Sauer rolled behind a column and heard Salvi yelling as he pumped 10 more bullets into Nichols.

Gaines, who was outside, hadn't heard those shots. She still couldn't find Davis, or the cigarettes, so she turned around to go back into the clinic.

Right inside, right away, she heard what she thought was a firecracker. Then she saw women running her way, trying to escape. They knocked her over.

She saw a man running down the hallway, firing a gun. Nothing made sense. Her instincts told her to run.

"I jumped down the steps and landed on my knees." She dropped her pocketbook but didn't bother to gather it. Everyone else, it seemed, ran to the left of the entrance. For some reason, she ran to her right. Salvi followed her.

He was still firing, maybe seven shots, but gave up the chase after she finally escaped through the black steel gate. She ran to the apartment building and somehow her friend James Magazine had ended up there, too.

"We fell to the floor. I told James, 'Please, don't make a noise.'"

But he insisted on going out to check out the chaos.

"He came back and said, 'It's okay.' He grabbed me and said, 'It's okay.'"

What happened next was a blur for Gaines. All of a sudden reporters were pushing microphones in front of her and the FBI wanted her to look at photographs. She picked Salvi out of a lineup and somehow ended up back home, she doesn't remember how.

For days, Gaines says, she was afraid to leave the house, afraid to turn the lights off, afraid to open the windows because she had pointed out Salvi. He or

someone connected with him was certain to be coming after her, she thought.

Two weeks later, she found herself sitting in a mental health counselor's office. Now more than two months pregnant, she wanted help.

In a report dated Jan. 17, 1995, a therapist at the Mayflower Counseling Center wrote, "Ct. [client] has experienced intense fears that (pro-lifers) someone is going to kill her. She has had nightmares and is also experiencing flashbacks. [Client] states feelings of overwhelming guilt and confusion and fear.

"[Client] states that she is unsure of whether or not she should terminate the pregnancy. She feels it may be a sign from God to keep the child, but she states that this is an unplanned pregnancy and she doesn't want it to hold her back (planning to start school, seeking employment).

"[Client] states that she will not go back to a clinic to have an abortion because she fears for her life."

Later, a psychiatrist prescribed Ativan for Gaines's anxiety.

A follow-up reports states: "[Client] has made decision to give birth to child and not abort."

A NEW LIFE

Vivian Victoria Gaines was pushed into the world Aug. 7, 1995, arriving at a healthy 6 pounds 5 ounces.

"Oh, it's a girl!" Gaines cried. She held her and gave her a little kiss on the forehead. "I was very happy. I loved her immediately."

In the kitchen of her home, Gaines flips through a photo album that she says will someday be given to Vivian as proof of the family's love for her. Gaines is pointing to the pictures of Vivian and her sisters, Octavia and Deborah, and brother Davon. She comes across a newspaper article that she framed. The headline says, "'This beautiful child': Clinic shooting changed many lives profoundly."

Gaines is quoted as saying that she would never for a moment give credit to Salvi for saving Vivian: "I know ignorant people out there are going to say if it weren't for John Salvi, this baby wouldn't be here. But this does not make him a hero."

The shooter escaped from Brookline that day and went on to fire 20 rounds at a building housing an abortion clinic in Norfolk; he was later convicted of two murders and five counts of armed assault with intent to murder. Salvi was found dead Nov. 28, 1996, in his maximum-security prison cell with his hands and feet tied and cotton stuffed in his mouth. Authorities called it a suicide but Salvi's lawyer said he was beaten to death.

Little Vivian walks over to the table and points at the pictures. She sees herself in a pink dress, sitting in her mother's lap at 4 months. In the snapshot, Vivian has a juicy drool. Her mother is smiling.

"When Vivian was born, she had it all, like all of my children," Gaines says. "Vivian is very much loved." Michael Richardson nods and says, "She's here now, and I love her."

Gaines has put a baby gate between the porch railings to keep Vivian from running out into the heavy traffic. Her constant fear is that somehow the child will manage to open the door and run out there to her death.

She turns her back to the table for a second. Vivian darts through the living room to the front door. Gaines turns around.

"Did the baby run out there?" She gasps. Her stomach drops. She drops the album and runs after her. She catches her. Holds her hand gently. Walks the child back to safety.

CHOICES

Gaines looks at her watch. It is the first day of school for her older daughters. The school buses come, and Gaines and her three girls go to the park up the road. The mother sits on a wooden bench, watching the children play on a clear blue afternoon. The scent of saltwater is in the wind. Blowing with it is the question:

Has she ever thought about the irony of all this? Had the shooting never happened, Vivian would not even be here. Then how would she feel?

She thinks about the question. She decides it is impossible to answer. Of course Vivian wouldn't be here. But why ponder? It doesn't even make sense. Who can change history?

"I can't go back." She made choices. Choices were made for her. Things happened that were out of her

control. She can't dwell on the what-ifs. The what-ifs won't feed this baby.

Maybe her life would be different if Vivian weren't here. Maybe she would really have completed her GED. She probably would have a full-time job by now. That would mean she could deal with these overdue bills, like the one for $189 for cable TV installation. Maybe she could find the $400 to fix her car and go to her uncle's funeral. It certainly would be easier to find a sitter. And maybe other parents would bring their children over to play because they wouldn't be afraid that Vivian would stroke their faces, then without warning sink her fingernails into their skin and not let go.

The child is running through the park now, oblivious, climbing up the slide. Vivian, in a blue jumpsuit with a yellow Big Bird on the front, comes speeding down fast. Her hands are in the air. She's wearing new black Hush Puppies. They have been buckled with care by her mother. Her clean white socks with the lace edges have been neatly turned down.

"Whee!" Vivian cries. Her mother is excited by this moment of pure happiness.

"But wait!" She runs to catch her. Before she can, the girl plants her feet, her new shoes, in a deep puddle. Then she races back up the ladder to the top of the slide.

"I think I'm a good mom," Gaines says. "I take care of them the best I can."

She already is planning her speech, preparing for the day Vivian asks.

"I know the question will come up: 'Mommy, if you love me now, why did you decide to get rid of me?' And I'll explain it to her like I explained it to other people. Hopefully she will understand. I'll tell her I was there to have an abortion. But things happened. Then I'm going to show her all the pictures we took."

Vivian comes down the slide again, this time backward. She bumps her head slightly. She cries. She runs to her mother. Gaines kisses her head. Holds her close.

So forget the questions. Gaines pauses and says what is the absolute truth in her head: "If she wasn't here, she wouldn't be here for a good reason."

First she chose not to have Vivian. But ultimately she chose to have her. It's a contradiction she'll have to live with.

Writers' Workshop

Talking Points

1) Note the use of short and long sentences in the first few paragraphs. What effect does this have?

2) The author asks a question in the story: Has Gaines thought about the fact that without the shooting, her daughter would not be here? Does it seem artificial for Brown to ask the question in the story? How satisfying is the answer?

3) Which section of the story do you find most powerful? How do your feelings about Gaines change in these sections?

4) Does Brown have an opinion about Gaines? What evidence in the tone and language leads you to your conclusion?

Assignment Desk

1) Abortion is one issue on which few people are neutral. Interview those who represent both views of the issue about this lawsuit and write a story.

2) Experiment with the length of sentences in your own stories. When are short sentences effective? When do you use long sentences?