

SUPREME COURT OF OKLAHOMA

Oklahoma Call for Reproductive Justice v. State of Oklahoma

2023 OK 60 (Okla. 2023) · No. 120376 · Decided May 31, 2023

SUMMARY

The Oklahoma Supreme Court assumed original jurisdiction over a challenge to Oklahoma Senate Bill 1503 and House Bill 4327, which restricted abortion and provided for civil enforcement. The Court held both statutes unconstitutional under the Oklahoma Constitution, granted declaratory relief, and denied injunctive relief and a writ of prohibition. The decision relied principally on stare decisis following Oklahoma Call for Reproductive Justice v. Drummond.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Per curiam; Kauger; Winchester; Edmondson; Combs; Gurich; Darby; Kane; Rowe; Kuehn
JURISDICTION	Oklahoma
DECIDED	May 31, 2023
DOCKET	120376
DISPOSITION	other
PROCEDURAL POSTURE	Petitioners applied for the Oklahoma Supreme Court to assume original jurisdiction and sought declaratory and injunctive relief and a writ of prohibition challenging two abortion statutes.
STANDARD OF REVIEW	Not expressly stated; the Court exercised original jurisdiction and decided the constitutional challenge as a matter of law.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential
PARTIES	Oklahoma Call for Reproductive Justice, Tulsa Women's Reproductive Clinic, LLC, Alan Braid, M.D., Comprehensive Health of Planned Parenthood Great Plains, Inc., Planned Parenthood of Arkansas & Eastern Oklahoma v. The State of Oklahoma, Nichole Cooper, Tammi Miller, Angela Nuttall, Tammie Patzkowsky, Donna Howell, Christy Malti, Donna Alexaner, Patti Barger, Marie Hirst, Renee Bryant, Lesa Rousey-Daniels, Laura Sumner, Metzi Brown, Marilyn Williams, LaDonna Flowers, Robert Morales, Terry Kelley, Deborah Mason, Amanda Vanorsdol, Staci Hunter, Caroline Weaver, Rachelle Rogers,

Sally Wayland, Janelle Sharp, Laura Lee, Lisa Hannah, Deana Kilian, Jeanna Scott, Stacy Macias, Susan Breon, Tina Okas, Ashley Sanford, Tina Swailes, Kimberly Berry, Cassandra Slover, Marilee Thornton, Lisa Markus, Kay Richards, Melinda Brinlee, Melba Hall, Cindy Kirby, Cheryl Smith, Wendy Holland, Shauna Hoffman, Wanda Pierce, Jenifer Clinton, Kristel Gray, Kathy Gray, Lisa Rodebush, Jodi Jennings, Robyn Boswell, Hillary Vorndran, April Frauenberger, Sherri Foreman, Rick Warren, Charly Criner, Jennifer Burd, Cassie Key, Ila Potts, Lori Allen, Pam Smith, Karen Dunnigan, Valier Ueltzen, Tina Freeman, Jan Bailey, Cathi Edwards, Kimberly Davis, Gina Cox, Melody Harper, M. Renee Ellis, Kevin Stevens, Don Newberry, Jim Hight, Jill Spitzer, Lynda Vermillion, Staci Davey, Tammy Roberts

TOPICS

constitutional law

appellate jurisdiction

declaratory judgment

equitable relief

remedies

PRACTICE AREAS

constitutional law

health law

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the Oklahoma Supreme Court should assume original jurisdiction over the challenge to S.B. 1503 and H.B. 4327.
2. Whether S.B. 1503 violates the Oklahoma Constitution by restricting a pregnant woman's inherent right to terminate a pregnancy when necessary to preserve her life.
3. Whether H.B. 4327 violates the Oklahoma Constitution for the same reason.
4. Whether the unconstitutional portions of H.B. 4327 could be severed.
5. Whether petitioners were entitled to injunctive relief or a writ of prohibition.

HOLDINGS

1. The Oklahoma Supreme Court assumed original jurisdiction over petitioners' constitutional challenge.
2. S.B. 1503 is unconstitutional under the Oklahoma Constitution because its abortion prohibition impermissibly restricts the inherent right of a pregnant woman to terminate a pregnancy when necessary to preserve her life.
3. H.B. 4327 is unconstitutional under the Oklahoma Constitution because it impermissibly restricts the inherent right recognized in *Oklahoma Call for Reproductive Justice v. Drummond*.
4. The unconstitutional provisions of H.B. 4327 could not be severed without either creating a more restrictive statute or eliminating the bill's enforceable meaning, and the Court would not rewrite the statute.

5. Petitioners were not entitled to injunctive relief or a writ of prohibition.

KEY QUOTATIONS

“In this case, if the Court were to sever the language allowing for medical abortions only in case of a medical emergency in H.B. 4327, the Court would create an even more restrictive statute like S.B. 1503, which was in further violation of the Oklahoma Constitution.” (¶ 6)

“In order to attempt to salvage the rest of H.B. 4327, this Court would have to re-write the entire statute, which is not our purview.” (¶ 6)

FACTUAL BACKGROUND

S.B. 1503 prohibited abortions after detection of a fetal heartbeat except when a physician believed a medical emergency prevented compliance. H.B. 4327 imposed a broader abortion ban, with exceptions for a medical emergency or a pregnancy resulting from rape, sexual assault, or incest reported to law enforcement. Both statutes created private civil enforcement mechanisms and barred enforcement by the State, its subdivisions, and agents.

PROCEDURAL HISTORY

The proceeding was brought directly in the Oklahoma Supreme Court. The Court assumed original jurisdiction, declared S.B. 1503 and H.B. 4327 unconstitutional and unenforceable under the Oklahoma Constitution, and denied injunctive relief and the requested writ of prohibition.

DISPOSITION

other

CASES CITED

- Oklahoma Call for Reproductive Justice v. Drummond, 2023 OK 24, 526 P.3d 1123
- Fent v. Contingency Review Board, 2007 OK 27, 163 P.3d 512
- Hunsucker v. Fallin, 2017 OK 100, 408 P.3d 599