

Florida courts deny teen access to abortion without parental or guardian approval

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A Florida appellate court upheld a circuit judge's decision denying a pregnant 16-year-old's request to waive a state law requiring minors get parental consent for an abortion. The ruling on Monday is the latest high-profile case of a pregnant girl being denied the procedure after the Supreme Court's *Dobbs v. Jackson Women's Health Organization* decision ripped away the constitutional right to abortion, making the procedure effectively illegal in dozens of states.

The three-judge panel of the state's First District Court of Appeal, which covers northern Florida, sided Monday with an August 10 ruling by lower Circuit Judge Jennifer Frydrychowicz, which blocked the minor, identified in court papers as Jane Doe 22-B, from having an abortion without the consent of a parent or guardian as required by Florida law.

According to court documents Doe was 10 weeks pregnant when she petitioned the Escambia County Circuit Court to waive the parental requirement. Among the reasons cited in her request was the father being unable to support her, that she is "not ready to have a baby," does not have a job and is still in school. She also acknowledged that she "was not ready for the emotional, physical, or financial responsibility of raising a child."

Florida currently bans most abortions at 15 weeks and requires physicians to notify and obtain written consent from a minor's parent or legal guardian before performing the operation. Under the law, a minor is allowed to petition a circuit court to waive these requirements.

In cases where a minor is seeking a waiver for the restriction, the court needs to consider factors such as the minor's age, "overall intelligence," "credibility and demeanor as a witness," ability to assess the consequences of their decision, and whether they understand the medical risks, according to the state law.

Judge Scott Makar dissented in part from the opinion, but still agreed with the conclusion. He said, "Reading between the lines, it appears that the trial court wanted to give the minor, who was under extra stress due to a friend's death, additional time to express a keener understanding of the

consequences of terminating a pregnancy."

The appellate judge added: "Her other alternative, frankly, is to go out of state, to go to another jurisdiction where she could make this decision and be entitled to terminate her pregnancy."

Makar made additional efforts to justify the utterly harsh nature of the decisions. Citing the lower court's hearing transcript and written order, Makar claimed Frydrychowicz "displayed concern for Doe's situation during the hearing by asking questions "in a compassionate manner" and moving quickly to prepare her "thoughtful" written order so she could hand Doe a copy after the hearing.

He also noted Doe was "parentless," and living with a relative, and told the circuit court that her legal guardian is "fine with what [she] wants to do."

Makar stated Doe was "pursuing a GED with involvement in a program designed to assist young women who have experienced trauma in their lives by providing educational support and counseling." He wrote further that "The minor experienced renewed trauma (the death of a friend) shortly before she decided to seek termination of her pregnancy."

Despite the awful conditions facing the teen, appellate judges Harvey Jay, Rachel Nordby, and Makar affirmed Frydrychowicz's decision and argued that the circuit judge had dismissed the pregnant teen's petition because Doe, "had not established by clear and convincing evidence that she was sufficiently mature to decide whether to terminate her pregnancy."

The trial court transcript, however, admitted Doe was knowledgeable about the relevant considerations, had considered the pros and cons of getting abortion, done research online and read a pamphlet from a medical clinic about her medical options and their consequences. According to Makar, the trial judge described Doe as credible and forthcoming with her answers and acknowledged her "valid concerns about her ability to raise a child."

Florida is one of just six states that require parents to be notified of their child's intent to seek an abortion and obtain

parental consent for the procedure itself. This came after Florida Governor Ron DeSantis signed Senate Bill (SB) 404 in June 2020, changing Florida's requirement that girls only notify a parent or guardian before an abortion to mandating written consent for it.

Laws that require mandatory parental or guardian involvement in abortion decisions are opposed by most leading health and medical professionals and organizations, from the American Medical Association and Society for Adolescent Medicine to the American Public Health Association and the American Academy of Pediatrics.

Requiring parental consent is universally condemned because of the tremendous risks posed to the health and well-being of adolescent girls. According to Planned Parenthood, studies have found that of the young people who do not seek advice from parents, nearly half—45 percent—experience significant negative consequences when a parent finds out about pregnancy, from punishment, emotional abuse, and physical violence to being forced to leave home or continue an unwanted pregnancy.

Moreover, bills like SB 404 almost always create further delays in accessing care, which leads to far more invasive, expensive and harder to access later-term abortions. Restricting young people's access to abortion tends to push the procedure later in pregnancy and carries a greater risk of health complications.

A spokeswoman for the Department of Children & Families said that Doe remains under the care of the agency until her 18th birthday. She declared that the agency was not involved in the court case and that administrators "respect Judge Frydrychowicz's ruling and recognize her decision to prioritize the health and safety of Floridians as she performs her duties to the state."

The trial court and appeals court decisions roused cheerful celebrations among ultra-right religious zealots. Lynda Bell, a former Miami-Dade County commissioner and lobbyist for the anti-abortion Florida Right to Life claimed the circuit judge in this case likely heard something in her conversation with Doe that raised a "red flag" and that it was "now time to support her."

The rejection of the teen's request for a waiver is more extraordinary since the trial court order relayed little detail regarding Frydrychowicz's decision, except to say the judge believed Doe lacked the "maturity" to proceed with the procedure. The explanation offered by Makar that Frydrychowicz was concerned with the "stress due to a friend's death" is suspect at best given the circumstances facing the teen, who would have to endure the disastrous financial and emotional afflictions from an unplanned pregnancy.

Makar merely notes that Frydrychowicz's decision

"makes some sense" since the minor, at least at one point, said she was open to having a child. But this point is later invalidated after he admits Doe "changed her view" after considering her "inability to care for a child in her current station in life."

The court decision in Escambia comes weeks after the Supreme Court abolished the precedent set by *Roe v. Wade* in 1973, thus granting states sweeping powers to ban the procedure and opening the way for a far-reaching assault on this basic democratic right. What has followed the decision in *Dobbs* is a nightmarish reality facing tens of millions.

A wave of abortion bans and severe restrictions across the country have led to an influx of desperate patients to states where the procedure remains more accessible. One abortion clinic in Tallahassee, Florida reported in late July that it saw its patient load triple in the weeks after the Supreme Court's decision, rising an extra 30-40 percent.

Earlier this week, a Louisiana woman, Nancy Davis, who is 13 weeks pregnant, reported that she was being forced to choose between carrying a fetus that lacks a skull and the top of its head to term, or travel several states over for a legal abortion. Louisiana's Democratic governor, John Bel Edwards, signed an outright abortion ban with very limited exceptions into law in June.

Even after she was told the fetus would not survive, Davis was counseled to carry the birth to term and have a nonviable fetus or travel to Florida, the closest state where abortion is still legal. Since Florida bans the health service after 15 weeks, Davis only has two weeks to organize her plans and leave for Florida.

Florida's assault against abortion rights reached a new stage in May when the DeSantis administration signed HB 5, the Reducing Fetal and Infant Mortality Act, prohibiting all abortions after 15 weeks of gestation. Two national developments that helped spur the legislation were the Texas "fetal heartbeat bill" of last September which prohibits abortions after fetal cardiac activity and a Mississippi law that also bans abortions after 15 weeks.

The US Supreme Court declined to stop the Texas law from going into effect and ruled to uphold the Mississippi restriction in June, a move that was the climax of a decades-long efforts to repudiate all pro-abortion precedents, including *Roe v. Wade*.



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