

US Supreme Court stays restrictions on abortion pill pending appeals of anti-abortion rulings

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On Friday evening, the US Supreme Court granted an emergency request from the Biden Justice Department to leave in place Food and Drug Administration (FDA) approval and expanded access to a widely used abortion pill, pending the outcome of litigation over a ruling by a far-right, anti-abortion judge banning the pill.

Following the initial ruling on April 7 banning the pill mifepristone by US District Judge Matthew Kacsmaryk, a religious bigot and anti-abortion fanatic appointed by Trump, the Biden administration and the manufacturer of the drug, Danko Laboratories, filed an emergency appeal with the Fifth Circuit Court of Appeals.

Kacsmaryk's decision, the first-ever ruling by a judge overturning the approval of a drug by the FDA, marked a new milestone in the assault on democratic rights in the US. It was a naked assertion of religious dogma over medical science aimed at depriving millions of women access to the most widely used and safest means of terminating pregnancy in its early stages. The use of mifepristone followed by a second drug, misoprostol, has become the most common form of abortion in the US. More than 500,000 women used the drug regimen last year.

The ruling opened the way for right-wing forces to challenge other FDA-approved treatments, including vaccines against COVID-19 and other deadly diseases. Four hundred CEOs of pharmaceutical companies signed a letter warning that the ruling would throw the entire system of developing and approving drugs into chaos. The ruling also gave a green light to the banning of all forms of birth control.

The same day as Kacsmaryk's ruling, a federal judge in Washington state issued an opposed ruling rejecting any restrictions on access to mifepristone in a suit brought by the Democratic attorneys general of 17 states and the District of Columbia. The conflicting rulings all but guarantee that the issue will end up in the US Supreme Court for a final resolution.

On April 12, a three-judge panel of the Fifth Circuit Court of Appeals, which covers Kacsmaryk's court in Amarillo, Texas, issued a 2-1 ruling clearly sympathetic to the trial judge and accepting all of his religion-based arguments. It rejected only Kacsmaryk's claim that overturning FDA approval of the abortion pill 23 years after it was granted did not violate the statute of limitations.

On this basis the panel overturned the blanket ban on the pill, but also overturned measures taken by the FDA since 2016 significantly increasing access to the medication, including extending its use to the tenth week of pregnancy instead of the seventh, requiring only one visit to a medical practitioner instead of three, allowing the pill to be prescribed by a medical assistant rather than a doctor and allowing the pill to be accessed by mail.

At that point, the Biden Justice Department applied to Justice Samuel Alito, the Fifth Circuit's interlocutor on the high court, for emergency relief to maintain the status quo for the pill until the issue was adjudicated. On April 14, Alito put a stay on the lower court decisions until 11:59 p.m. Wednesday, April 19, and then extended the deadline two additional days to this Friday at midnight.

The one-paragraph order was unsigned. There were two public dissents: Justices Alito and Clarence Thomas.

In a brief statement Alito said he would have left in place the ruling issued last week by the three-judge panel of the Fifth Circuit, significantly restricting access to the abortion pill. Thomas gave no explanation for his opposition to the Justice Department's request.

These two justices are arguably the most consistently anti-democratic and reactionary on a court that is dominated by a six-person bloc of right-wing Republicans, including three Trump appointees. Alito authored last June's decision overturning *Roe v. Wade*, the first-ever Supreme Court decision revoking a constitutionally guaranteed democratic right, the right to abortion.

Thomas is at the center of an expanding corruption scandal

exposing his illegal receipt of millions of dollars in gifts from billionaire Republican donor and Hitler-admirer Harlan Crow. Both Alito and Thomas are implicated in the failed attempt by Donald Trump to overturn the 2020 election and remain in power as dictator.

It is not known if other Republican justices on the court voted against temporarily keeping access to mifepristone in place, since the individual votes were not revealed.

The process of adjudicating the original April 7 ruling by Judge Kacsmaryk will now move back to the Fifth Circuit Court in New Orleans, where the Justice Department's appeal will be heard by the entire court. Opening arguments are scheduled for May 17.

President Biden praised the Supreme Court's action and then followed the Democratic Party line of seeking to use the strong majority public support for abortion rights to hustle votes in the 2024 elections.

He issued a statement declaring: "The stakes could not be higher for women across America. I will continue to fight politically-driven attacks on women's health. But let's be clear—the American people must continue to use their vote as their voice, and elect a Congress who will pass a law restoring the protections of *Roe v Wade*."

This is a fraud. The Democratic Party has done nothing to counter the attack on abortion rights or any other democratic right. And the Supreme Court's decision holding in abeyance the sweeping and completely arbitrary attack on abortion pills that have been tested and proven safe over decades must not be taken as a signal that the far-right offensive is flagging.

As the *World Socialist Web Site* explained in its Perspective statement published on April 10:

The response of the White House has been to comply with these judicial outrages, rather than challenging them and exposing the process as illegitimate. Biden and the Democratic Party have no concern over the hundreds of thousands of working class women who will be denied the simplest and least risky procedure for accessing abortion, and who may soon be denied any access at all.

The privileged upper middle class layer that constitutes the social basis of the Democratic Party, along with Wall Street and the Pentagon, will be able to access abortion services, through private resources or travel to another country if necessary, regardless of the legal counterrevolution being pursued by the ultra-right in the United States.

The mantra of Biden since his inauguration in the aftermath of the fascist storming of Congress instigated by Trump and his Republican allies in Congress has been to foster a "strong" Republican Party and bipartisan unity. The living standards of the working class, the legal rights of immigrants and the right to abortion have all been sacrificed to assure bipartisan support for the war against Russia in Ukraine and the war preparations against China. Trillions more have been spent to prop up the banks and super-rich in the latest financial crisis.

Meanwhile, most abortions are now banned in 13 states following the Supreme Court's decision to overturn *Roe v. Wade*. Georgia bans abortion at about six weeks of pregnancy, before many women know they are pregnant, and Florida Governor Ron DeSantis has signed a similar law.

Half of the states are expected to seek to enact bans on abortion or gestational limits on the procedure. Abortions are now banned in Alabama, Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, South Dakota, Tennessee, Texas, West Virginia and Wisconsin. Gestational limits have been imposed in Georgia, Arizona, Florida, Utah and North Carolina.

This is in direct defiance of the overwhelming will of the population. The *Wall Street Journal* reported Friday that a poll it conducted this month showed voters by a large margin were opposed to overturning FDA approval of mifepristone. Some 66 percent said they did not want to see approval of the pill reversed, compared to only 25 percent who supported reversal. Even among Republican voters, support for banning the pill polled only a narrow majority of 46 percent to 39 percent.

Democratic rights can be secured only through the mass independent mobilization of the working class against the Biden administration, both big business parties and the capitalist oligarchy they serve.



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