

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES
Submitted July 18, 2022
Decided July 27, 2022

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge**

No. 17-2428

PLANNED PARENTHOOD OF
INDIANA AND KENTUCKY, INC.,
Plaintiff-Appellee,

v.

KRISTINA BOX, Commissioner, Indiana
State Department of Health, et al.,
Defendants-Appellants.

Appeal from the United States District
Court for the Southern District of
Indiana, Indianapolis Division.

No. 1:17-cv-01636-SEB-DML

Sarah Evans Barker,
Judge.

ORDER

In June 2017, the district court issued a preliminary injunction barring Indiana officials from enforcing several provisions of Senate Enrolled Act 404, enacted in 2017, which would have imposed new requirements affecting minors seeking abortions in Indiana. *Planned Parenthood of Indiana and Kentucky, Inc. v. Commissioner*, 258 F. Supp. 3d 929 (S.D. Ind. 2017). The State officials appealed and challenged the portion of the

* Circuit Judge Kanne was a member of this panel in earlier stages of this appeal but died on June 16, 2022, before the remand from the Supreme Court. This order is being issued by a quorum of the panel pursuant to 28 U.S.C. § 46(d).

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injunction blocking enforcement of a new parental notice provision in the judicial bypass procedure established under several portions of Ind. Code § 16-34-2-4, including subsections (b), (d), and (e). Another portion of the preliminary injunction barred enforcement of new identification requirements in cases where a parent or guardian consents to the minor's abortion (Ind. Code § 16-34-2-4(a)(3) and (k)) as unconstitutionally vague. Yet another portion barred enforcement of a provision that would prevent plaintiffs from advising minors about legal abortion practices in states other than Indiana (Ind. Code § 16-34-2-4.2(c)) as a violation of the First Amendment. The appellant State officials did not challenge in this appeal those other portions of the injunction.

In August 2019, we affirmed the injunction. *Planned Parenthood of Indiana and Kentucky, Inc. v. Adams*, 937 F.3d 973 (7th Cir. 2019). The Supreme Court vacated that decision and remanded for consideration of the issues in light of *June Medical Services LLC v. Russo*, 140 S. Ct. 2103 (2020). On remand, we again affirmed the preliminary injunction. *Planned Parenthood of Indiana and Kentucky, Inc.*, 991 F.3d 740 (7th Cir. 2021).

On June 30, 2022, the Supreme Court granted the State officials' petition for writ of certiorari and remanded the case for further consideration in light of the Court's decision the previous week in *Dobbs v. Jackson Women's Health Organization*, 142 S. Ct. 2228 (2022). The appellant officials then moved for an immediate stay pending resolution of this appeal. We held the motion until we received the Supreme Court's certified judgment or mandate.

We have now received the Supreme Court's certified judgment. It is clear that *Dobbs* requires that the portion of the preliminary injunction barring enforcement of the parental notice requirement in the judicial bypass procedure in Ind. Code § 16-34-2-4(b), (d), and (e) must be and hereby is VACATED. The other portions of the preliminary injunction present different constitutional issues, have not been challenged on appeal, and remain in effect. This case is REMANDED to the district court for further proceedings. IT IS FURTHER ORDERED that the appellants' motion to stay is DENIED as unnecessary.