NOT RECOMMENDED FOR FULL-TEXT PUBLICATION
File Name: 09a0539n.06

Nos. 06-4422, 06-4423

FILED
Aug 06, 2009
LEONARD GREEN, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PLANNED PARENTHOOD SOUTHWEST OHIO REGION; PLANNED PARENTHOOD OF NORTHEAST OHIO; PLANNED PARENTHOOD OF CENTRAL OHIO; PRETERM; DR. ROSLYN KADE; AND DR. LASZLO SOGOR,	)	
Plaintiffs-Appellees,	)	**ON APPEAL** FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO
v.	)	
TED STRICKLAND, Governor of the State of Ohio,	)	
Defendant,	)	**O R D E R**
RICHARD CORDRAY, Attorney General of Ohio, and JOSEPH T. DETERS, Hamilton County Prosecuting Attorney,	)	
Defendants-Appellants.	)	

Before: MOORE, ROGERS, and McKEAGUE, Circuit Judges.

KAREN NELSON MOORE, Circuit Judge. This case involves the constitutionality of Ohio Revised Code ("O.R.C.") § 2919.123, which regulates the use of mifepristone to provide medical abortions. In 2004 the district court issued a preliminary injunction because it found that the statute lacked a health exception. *Planned Parenthood Cincinnati Region v. Taft*, 337 F. Supp.

2d 1040 (S.D. Ohio 2004). We vacated the injunction in part and remanded to the district court for further consideration of the breadth of the injunction and of the other arguments raised by the parties. *Planned Parenthood Cincinnati Region v. Taft*, 444 F.3d 502 (6th Cir. 2006). On remand, the district court granted summary judgment and a permanent injunction in favor of plaintiffs based on its conclusion that § 2919.123 was unconstitutionally vague. *Planned Parenthood Cincinnati Region v. Taft*, 459 F. Supp. 2d 626 (S.D. Ohio 2006).

On appeal from the permanent injunction, we issued an order certifying two questions to the Ohio Supreme Court: "(1) Does O.R.C. § 2919.123 mandate that physicians in Ohio who perform abortions using mifepristone do so in compliance with the forty-nine-day gestational limit described in the FDA approval letter?" and (2) "Does O.R.C. § 2919.123 mandate that physicians in Ohio who perform abortions using mifepristone do so in compliance with the treatment protocols and dosage indications described in the drug's final printed labeling?" *Planned Parenthood Cincinnati Region v. Strickland*, 531 F.3d 406 (6th Cir. 2008). The Ohio Supreme Court recently answered both of these certified questions. *Cordray v. Planned Parenthood Cincinnati Region*, Slip Op. No. 2009-Ohio-2972. In light of this opinion by the Ohio Supreme Court, we **VACATE** the permanent injunction issued by the district court. The preliminary injunction that we **AFFIRMED** in part remains in force as per our previous opinion. *See Taft*, 444 F.3d at 518. We **REMAND** the case to the district court for consideration of the Ohio Supreme Court's opinion as well as issues identified in our previous remand and any other issues that the parties may raise.