



Appeals court upholds Kentucky ultrasound abortion law

BY NATHANIEL WEIXEL - 04/04/19 04:36 PM EDT

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A federal appeals court on Thursday upheld a Kentucky law requiring doctors to show and describe a fetal ultrasound to patients before performing an abortion.

In a 2-1 decision, the 6th Circuit Court of Appeals ruled the law does not infringe on the First Amendment rights of physicians.

A lower court had issued an injunction blocking the law last year, with a federal judge citing the psychological harm it could cause a patient.

But the decision was appealed by the administration of Gov. Matt Bevin (R).

Writing for the majority, Judge John Bush, an appointee of President Trump, said the Kentucky law “provides truthful, non-misleading, and relevant information aimed at informing a patient about her decision to abort unborn life.”

The law does not interfere with the doctor-patient relationship, Bush wrote, and nothing prevents the doctor from informing the patient that the disclosures are required by Kentucky rather than made by the doctor's choice.

Therefore, Bush wrote, the law does not violate doctors' First Amendment rights.

The law was one of the first policies passed in 2017 when Republicans took control of the Kentucky state legislature for the first time in nearly a century. It was quickly challenged by the American Civil Liberties Union (ACLU).

The ACLU sued on behalf of EMW Women's Surgical Center, the only licensed outpatient abortion provider in Kentucky. The suit said Kentucky's

law was almost identical to a North Carolina law that was struck down by the 4th Circuit Court of Appeals in 2014.

According to the Kaiser Family Foundation, four states require a provider to show and describe a prenatal ultrasound before performing an abortion. Nine other states require abortion providers to offer a woman the option of an ultrasound before terminating a pregnancy.

In the dissent, Judge Bernice Donald, an appointee of President Obama, said the law "has no basis in the practice of medicine" and would require physicians to violate their professional and ethical obligations.

"The Commonwealth has coopted physicians' examining tables, their probing instruments, and their voices in order to espouse a political message, without regard to the health of the patient or the judgment of the physician," Donald wrote.

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