



Written by [Dave Bohon](#) on April 17, 2014

Federal Judge Overturns N.D.'s Historic Six-week Abortion Ban

A federal judge has ruled that North Dakota's ban on most abortions after the sixth week of pregnancy is an unconstitutional obstacle to a woman's right to kill her unborn baby. The legislation, which was signed into law last year by Republican Governor Jack Dalrymple, also banned sex-selective abortions, as well as abortions on pre-born babies suffering from genetic abnormalities such as Down Syndrome.



U.S. District Judge Daniel L. Hovland, who last August enforced a temporary injunction against the pro-life law, wrote in his latest decision that the state's "strict ban on abortions at the time when a 'heartbeat' has been detected — essentially banning all abortions as early as six weeks of pregnancy — cannot withstand a constitutional challenge. A woman's constitutional right to terminate a pregnancy before viability has been recognized by the United States Supreme Court for more than 40 years. The United States Supreme Court has clearly determined the dispositive issue presented in this lawsuit. This court is not free to impose its own view of the law."

When he signed the bill in March 2013, Dalrymple predicted that legal issues might arise, but implemented the law on moral and constitutional principle. "Although the likelihood of this measure surviving a court challenge remains in question, this bill is nevertheless a legitimate attempt by a state legislature to discover the boundaries of *Roe v. Wade*," he said upon affixing his signature.

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In June of last year Fargo, North Dakota's Red River Women's Clinic, the state's sole abortion provider, filed suit to have the new law blocked. Hovland later granted the clinic's request to drop the part of the suit challenging the gender and genetic defects abortion ban, after clinic officials conceded that they don't perform such abortions anyway.

Two months later Hovland granted a temporary injunction against the law, writing that there was "no question" that the pro-life measure was "in direct contradiction to a litany of United States Supreme Court cases addressing restraints on abortion. [It] is clearly an invalid and unconstitutional law based on the United States Supreme Court precedent in *Roe v. Wade* from 1973 ... and the progeny of cases that have followed."

In his ruling that was harshly critical of North Dakota's efforts to protect defenseless pre-born children, Hovland wrote that the state "has extended an invitation to an expensive court battle over a law restricting abortions that is a blatant violation of the constitutional guarantees afforded to all women. The United States Supreme Court has unequivocally said that no state may deprive a woman of the choice to terminate her pregnancy at a point prior to viability."

Hovland's April 16 ruling was a mere formality, affirming his earlier ruling to allow the Red River abortuary to continue with its abortion business.



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Nancy Northup of the pro-abortion Center for Reproductive Rights applauded Hovland's teamwork, saying she hoped that the judge's decision had sent "a strong message to politicians" that a woman's right to kill her baby "cannot be legislated away."

Last year, when Hovland issued his original injunction blocking the law, Marjorie Dannenfelser of the pro-life [Susan B. Anthony List](#) responded with a few choice words over the judge's decision to ride roughshod over the will of the North Dakota electorate. "A single district judge is thwarting the pro-life legislation brought about by a surge of grassroots momentum ... and passed by the majority of the North Dakota state Legislature," said Dannenfelser, noting that Hovland had ignored scientific findings that offer clear evidence on the beginnings of human life in the womb. "Judge Hovland is blocking the will of the people of North Dakota to protect unborn children and women," she added.

North Dakota State Representative Bette Grande, who sponsored what was known as North Dakota's "heartbeat bill," said that her intention with the legislation was to make it clear that a fetal heartbeat signals life for a pre-born baby. "We don't stop beating hearts in our society," she said. "We do everything to save the beating heart. The life is that beating heart. It doesn't matter if we have one clinic in North Dakota or 50 clinics in North Dakota."



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