



Written by [Dave Bohon](#) on October 25, 2017

Appeals Court: Illegal Minor Must Be Allowed to Have Abortion

In a 6-3 vote October 24, the U.S. Court of Appeals for the District of Columbia has ruled against the Trump administration's pro-life efforts, affirming an earlier court ruling that the federal government must "promptly and without delay" allow a 17-year-old illegal immigrant to kill her unborn baby.

While conceding the Supreme Court's 1973 *Roe V. Wade* decision giving women the "right" to abort their babies, the Trump administration had held firm on its decision not to allow pregnant minors in federal custody to abort their babies. The appeals court ruling could affect similar cases, with pro-abortion groups poised to challenge the administration on other pregnant teens in federal custody.

The "Jane Doe" immigrant teen, who had crossed the border into Texas in September, was eleven weeks pregnant when a court-appointed guardian helped her win a Texas judge's permission to abort her baby.

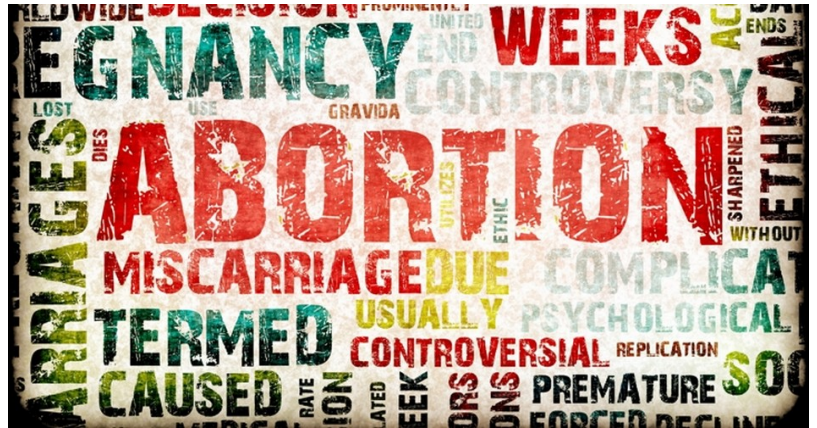
But because the teen came into the U.S. as an unaccompanied minor, her case came under the jurisdiction of the Office of Refugee Resettlement, part of the Department of Health and Human Services. The head of the office, E. Scott Lloyd, refused the abortion request, explaining that federally-funded shelters housing such immigrant minors were not allowed to take "any action that facilitates an abortion."

Trump administration attorneys argued that "for every minor in HHS custody, the agency retains responsibility to ensure that the minor's interests are considered in the decision-making about her case." They added that in the case of the "Jane Doe" teen, Lloyd had "declined to permit Ms. Doe to leave her shelter for purposes of obtaining the abortion."

On October 18 a federal district judge ruled that Lloyd must allow the teen to be transported to an abortion facility for "counseling" and, assumedly, an abortion. While Trump administration attorneys won a temporary appeal of the ruling on October 20, four days later the DC appeals court ruled that the teen must be allowed to procure the abortion she sought.

That 6-3 split decision came on party lines, with the six majority judges all appointed by Democrat presidents, and the three dissenters being Republican appointees — including Judge Brett M. Kavanaugh, who has been identified as a leading candidate for President Trump's next Supreme Court selection.

In his dissent, Kavanaugh, a George W. Bush appointee, wrote that "the Supreme Court has repeatedly said that the government has permissible interests in favoring fetal life, protecting the best interests of the minor, and not facilitating abortion, so long as the government does not impose an undue burden on





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the abortion decision.”

In a separate dissent, Judge Karen LeCraft Henderson, appointed by President George H. W. Bush, wrote that an illegal immigrant minor does not have the same right to an abortion that a U.S citizen has, adding that “under today’s decision, pregnant alien minors the world around seeking elective abortions will be on notice that they should make the trip” to the United States.

But writing in support of the majority decision, Judge Patricia Millett, an Obama appointee, said that “surely the mere act of entry into the United States without documentation does not mean that an immigrant’s body is no longer her or his own.”

“Jane Doe’s” ACLU attorney, Brigitte Amiri, took an opportunity to deride President Trump’s commitment to the unborn, declaring that “every step of the way, the Trump administration has shown their true colors in this case. It’s clear that their anti-woman, anti-abortion, anti-immigration agenda is unchecked by basic decency or even the bounds of the law.” She added that “no one should have to go to court to get a safe, legal abortion.”

By contrast, Marjorie Dannenfelser of the pro-life Susan B. Anthony List said that the ruling is “outrageous and sets a dangerous precedent. The U.S. Department of Health and Human Services took a simple position that it would protect the life and dignity of the teenage girl and her unborn child while in their care.”

Dannenfelser added that the ruling “plays into the broader agenda of the ACLU, which is recklessly exploiting a teenage girl in order to make the United States a sanctuary state for abortion. We urge the Justice Department to appeal this ruling.”



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