



Court Challenges to Federal Funding of Embryonic Stem-cell Research Continue

Obama's executive order had permitted federal funding of research involving embryonic stem cells but not the process of extracting the stem cells, which involves the destruction of the embryo. Lamberth ruled that "if one step or 'piece of research' of an [embryonic stem-cell] research project results in the destruction of an embryo, the entire project is precluded from receiving federal funding" on the basis of the Dickey-Wicker Amendment, which bans federal funding of any "research in which a human embryo or embryos are destroyed, discarded or knowingly subjected to risk of injury or death."

The Obama administration appealed the ruling and asked Lamberth to issue an emergency stay of his injunction so that funding of embryonic stem-cell research could proceed until the appeals court was able to rule on the matter. On September 7, Lamberth [denied](#) the administration's request, saying that "a stay would flout the will of Congress," which "has mandated that the public interest is served by preventing taxpayer funding of research that entails the destruction of human embryos." Lamberth added that the administration was "incorrect" about its supposed "parade of horrors" that would result from his injunction.

Two days later, a three-judge panel of the U.S. Circuit Court of Appeals for the District of Columbia issued an [administrative stay](#) of Lamberth's injunction "to give the court sufficient opportunity to consider the merits of" the administration's request for an emergency stay, further stating that the administrative stay "should not be construed in any way as a ruling on the merits of that motion."

That same day [Advocates International](#), part of the public-interest legal team that brought the case over a year ago, [announced](#) that their clients had "filed a comprehensive summary judgment motion" asking Lamberth "to enter a final declaratory judgment declaring invalid" the National Institutes of Health's guidelines for public funding of embryonic stem-cell research. It requests that the guidelines be declared invalid "on the grounds that these guidelines violate federal law expressly barring such funding and were in any event improperly promulgated in violation of the Administrative Procedure Act."

Advocates International's reluctance to challenge the fundamental issue of the constitutionality of federal funding of scientific research is understandable though unfortunate. Its case was permitted to proceed on the basis that the doctors serving as plaintiffs have "competitive standing" to sue because they are competing for federal dollars for adult stem-cell research. Therefore, challenging the constitutionality of this funding might jeopardize the entire case. Furthermore, the plaintiffs might then choose not to proceed seeing that they had nothing to gain by doing so. Still, there is no question that such funding is blatantly unconstitutional, and tackling that issue head-on, if successful, would be of far greater consequence than taking on specific types of research funding.

Advocates International's press release notes that "plaintiffs are hopeful that the federal district court will favorably rule on our just filed motion for summary judgment and issue its permanent injunction before the end of the year."

Taxpayers should not be forced to fund research that they find morally repugnant. A favorable ruling on this case would put an end to one particularly egregious instance of such funding.



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