



JUNE MEDICAL V. RUSSO:

Implications for Maryland abortion providers, advocates, & allies

SUMMARY

On March 4, 2020, the Supreme Court heard *June Medical Services, LLC v. Russo*, a case which had the potential to undermine abortion access across the country by legalizing restrictive laws that force clinics to close and prevent patients from accessing vital reproductive healthcare. In a 5-4 ruling on June 29, 2020, the Supreme Court struck down Louisiana's hospital admitting privileges requirement for abortion providers, and reaffirmed the right for a third party (in this case, an abortion clinic) to represent its clients. While the Fifth Circuit Court of Appeals never should have allowed such an unjust, unconstitutional law to stand, we are grateful that the Supreme Court made the right call to protect abortion access in Louisiana, as well as third party standing.

BACKGROUND INFORMATION

In 2014, the state of Louisiana passed a law requiring “that every physician who performs or induces an abortion shall ‘have active admitting privileges at a hospital that is located not further than thirty miles from the location at which the abortion is performed or induced.’” Approximately 10,000 people seek abortion care in Louisiana each year, and this ruling would've closed all but one of the state's abortion providers. Fortunately, the law was never allowed to go into effect; after the initial ruling, a federal district court judge challenged the decision. The anti-choice Fifth Circuit Court of Appeals then reinstated the law, but the Supreme Court voted 5-4 in 2019 to block the law from going into effect until it was reviewed by the country's highest Court.

Requiring abortion providers to have admitting privileges at a hospital is an example of a Targeted Regulation of Abortion Provider (TRAP) law. These are medically unnecessary restrictions which are often introduced under the guise of "protecting women's health," but their sole purpose is to close abortion clinics and limit access to the full-spectrum of reproductive health care. In order to have hospital admitting privileges, hospitals will often require that a physician be able to send a given number of people to that particular hospital for care; however, given the safety of abortion care, this is a nearly impossible standard for full-time abortion providers to meet.

Furthermore, the Supreme Court had *already* decided on this issue. *June Medical v. Russo* is essentially identical to *Whole Woman's Health v. Hellerstedt (WWH)*, a 2016 case in which the Supreme Court struck down a Texas hospital admitting privileges law nearly identical to Louisiana's. In WWH, the Court found that requiring doctors who provide abortions to have hospital admitting privileges would impose an “undue burden” on abortion access without producing any medical benefits to justify that burden. Based on judicial precedent, this case truly should never have been allowed to take effect.



OUTCOME OF THE CASE

In *June Medical v. Russo*, the Court ruled on two different, important legal issues: the constitutionality of Louisiana's admitting privileges requirement, as well as Third Party Standing. Justice Breyer delivered the Court's decision, and was joined by Justices Ginsburg, Sotomayor, and Kagan. Chief Justice Roberts concurred with the opinion, but gave his own reasoning. Thus, in a 5-4 decision, the majority ruled that the Louisiana law must be struck down based on the precedent of the Court's decision in the 2016 *Whole Woman's Health v. Hellerstedt* case. Furthermore, the majority stated that, in this case, June Medical Services, LLC does have standing to serve as plaintiff, based on the previous decisions regarding third parties' rights.

In summary, the Court's decision means that Louisiana's three abortion providers will be able to remain open and serve patients without obtaining admitting privileges at a nearby hospital. While we at NARAL Pro-Choice Maryland are delighted with the Court's June 20th ruling, we want to acknowledge that abortion care is still incredibly difficult- indeed, often impossible- for folks in Louisiana and other predominantly anti-choice states to access,

WHAT DOES THIS MEAN FOR MARYLANDERS?

During a 2019 needs assessment conducted by NARAL Pro-Choice Maryland, the state's independent abortion providers reported seeing a small to moderate increase in out-of-state patients coming to Maryland for their abortion care in recent months and years. This is likely due to the shrinking abortion care landscape (exacerbated by hostile gestation bans and TRAP laws) that pregnant individuals face in states to the south and west.

Furthermore, the Maryland / D.C. area is home to two of the country's four clinics dedicated to providing later abortion care. The compounding implications of the covid-19 pandemic and anti-choice regulations has had, and will continue to have, a devastating and wide-spread impact on individuals' ability to make decisions about their bodies, families, and lives. The bottom line: We in Maryland must continue to remain strong in all things relating to abortion care (and, more generally, reproductive justice), both for Marylanders, as well as folks in other states in need of reproductive health care.

WHAT CAN YOU DO TO HELP?

Help make abortion an attainable reality, not just theoretically "legal," for all people living in the U.S.!

- Donate to abortion funds and patient navigation organizations, which assist folks seeking abortion care with transportation, lodging, childcare, translation, and escorting services.
- Support independent abortion providers! In Louisiana and five other states, the only remaining abortion providers are independently owned and operated. Click here to learn more about "indies."
- Talk with your family, friends, and colleagues about the importance of abortion access! Email us at info@prochoicemd.org if you are interested in learning more about our "Talking About Abortion in Challenging Spaces" forum.



Questions? Comments? Contact NARAL Pro-Choice Maryland Fund at info@prochoicemd.org or by calling 443-869-2970