



B., A. S. et al. v. DIBA

B. 280. XLIX.

Country: Argentina

Region: Americas

Year: 2014

Court: Supreme Court of Justice [Corte Suprema de Justicia de la Nación Argentina]

Health Topics: Health care and health services, Health systems and financing, Sexual and reproductive health

Human Rights: Right to family life, Right to health, Right to life

Facts

The plaintiff filed a guarantee of protection of individual constitutional rights (amparo protection) against the Social Security and Health Office of the Navy [DIBA - Direcci3n de Salud y Acci3n Social de la Armada] to condemn coverage for all expenditures that could arise from a reproductive assisted treatment in the PROAR Medical Institute, limiting the reproductive assistance to two procedures.

The First Instance Federal Court [Juzgado Federal n3 1 de Rosario] dismissed the claim. The plaintiff brought the case to the Federal Court of Appeal of Rosario [C3mara Federal de Apelaciones de Rosario], which revoked the first instance judgement and granted the amparo protection. The respondent filed an extraordinary appeal with the Supreme Court of Justice.

Decision and Reasoning

The Supreme Court of Justice held that since the 2013 federal legislation (Law 26. 862) was passed establishing that all health service providers (public or private) should guarantee access to reproductive health technology and treatment, it was unnecessary for the court to pronounce the judgement.

Decision Excerpts

"En este nuevo r3gimen se establece que "todos aquellos agentes que brinden servicios m3dico asistenciales a sus afiliados independientemente de la figura jur3-dica que posean, incorporar3n como prestaciones obligatorias y a brindar a sus afiliados o beneficiarios, la cobertura integral e interdisciplinaria del abordaje, el diagn3stico, los medicamentos y las terapias de apoyo y los procedimientos y las t3cnicas que la Organizaci3n Mundial de la Salud definen como de reproducci3n m3dicamente asistida" Paragraph 3

"This new regime establishes that "all those agents that provide medical assistance services to their affiliates independently from the legal entity they poses they will incorporate as mandatory services the comprehensive coverage, the diagnosis the medicines the support therapies, the procedures and the techniques the World Health Organization define as assisted reproductive medicine [...]" Paragraph 3