



Hodgson v. Minnesota

497 U.S. 417 (1990)

Country: United States

Region: Americas

Year: 1990

Court: Supreme Court

Health Topics: Child and adolescent health, Health care and health services, Informed consent, Sexual and reproductive health

Human Rights: Right to due process/fair trial, Right to liberty and security of person, Right to privacy

Facts

The Appellants brought this case challenging an amendment to the Minors' Consent to Health Services Act (the Act) on the basis that it violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution.

Subdivision 2 of the Act provided, with certain exceptions, that no abortion shall be performed on a woman less than 18 years of age until at least 48 hours after both of her parents had been notified. The two-parent notice requirement was mandatory unless:

The attending physician certified that an immediate abortion was necessary to prevent the woman's death and there was insufficient time to provide the required notice;

Both of her parents had consented in writing; or

The woman declared that she was a victim of parental abuse or neglect, in which case, notice of her declaration must have been given to the proper authorities.Â

Subdivision 6 authorized judicial bypass of the two-parent notice requirement if subdivision 2 was ever "temporarily or permanently enjoined by judicial order.â€• If a pregnant minor could convince a judge that she was "mature and capable of giving informed consent," or that an abortion without notice to both parents would be in her "best interest," the court could then authorize the physician to proceed without parental notification. The Act provided that the bypass procedure was to be confidential and expedited; that the minor had a right to court-appointed counsel; and that she was to be afforded "free access to the court 24 hours a day, seven days a week." An order denying an abortion could be appealed on an expedited basis, but an order authorizing an abortion without notification was not subject to appeal.

The District Court concluded that the two-parent notification requirement and 48-hour waiting period imposed an unreasonable burden on a minor's right to terminate her pregnancy, and that the notification requirement could not be saved by the judicial bypass provision. The Court of Appeals reversed the District Court decision, emphasizing the effect of the judicial bypass in Subdivision 6.

Decision and Reasoning

The Court held that the two-parent notification requirement was constitutionally valid only if applied with reference to the judicial bypass procedure in Subdivision 6. It held that the requirement, which made no exception for parents who were divorced, separated, or unmarried, did not reasonably further any State interest. The Court stated that the State could not require family members to talk with one another, even if the putative purpose of the legislation was to protect the well-being of minors by encouraging them to discuss the decision to have an abortion with their parents. The Court held that the combined force of one parent's separate interest along with the minor's privacy interest outweighed the separate interest of the second parent. It held that the State interest in "protecting a parent's interest in shaping a child's values and lifestyle" did not overcome the liberty interests of a minor acting with the consent of a single parent or court. The Court noted that the two-parent notification requirement was not a legal requirement for many other medical procedures conducted in Minnesota.

The Court considered evidence from State judges involved in judicial bypass proceedings and found that in some cases the notification requirement had proved positively harmful to the minor and her family. It concluded that the requirement disregarded the State interest in "protecting and assisting the minor with

respect to dysfunctional families.â€•

The Court held that the judicial bypass procedure saved the two-parent notification requirement because it provided an alternative way to obtain a legal abortion for minors who would be harmed by that requirement. The Court noted that â€œthe interference with the internal operation of the family required by [the two-parent notification requirement] simply [did] not exist where the minor [could] avoid notifying one or both parents by use of the bypass procedure.â€• It held that the judicial bypass was necessary for minors who were mature and capable of giving informed consent as well as those for whom an abortion was in their best interest.

The Court upheld the 48-hour waiting period requirement as constitutionally valid. The Court held that the 48-hour waiting period (after notifying one parent) imposed only a minimal burden on the right of the minor to terminate her pregnancy. The Court weighed this burden against the State interest, and held that the provision furthered the Stateâ€™s legitimate interest in ensuring that the minorâ€™s decision was â€œknowing and intelligent.â€• The Court noted that â€œimmaturity, inexperience, and lack of judgmentâ€• may sometimes impair the ability of the Stateâ€™s young citizens to exercise their rights wisely.

Decision Excerpts

â€œThere is a natural difference between men and women: Only women have the capacity to bear children. A woman's decision to conceive or to bear a child is a component of her liberty that is protected by the Due Process Clause of the Fourteenth Amendment to the Constitution . . . That Clause, as interpreted in [previous cases], protects the woman's right to make such decisions independently and privately, . . . free of unwarranted governmental intrusion.â€• 497 U.S., p. 434.

â€œIn cases involving abortion, as in cases involving the right to travel or the right to marry, the identification of the constitutionally protected interest is merely the beginning of the analysis. State regulation of travel and of marriage is obviously permissible even though a State may not categorically exclude nonresidents from its borders . . . or deny prisoners the right to marry . . . But the regulation of constitutionally protected decisions, such as where a person shall reside or whom he or she shall marry, must be predicated on legitimate state concerns other than disagreement with the choice the individual has made . . . In the abortion area, a State may have no obligation to spend its own money, or use its own facilities, to subsidize nontherapeutic abortions for minors or adults.â€• 497 U.S., p. 435.

â€œA State's value judgment favoring childbirth over abortion may provide adequate support for decisions involving such allocation of public funds, but not for simply substituting a state decision for an individual decision that a woman has a right to make for herself. Otherwise, the interest in liberty protected by the Due Process Clause would be a nullity. A state policy favoring childbirth over abortion is not in itself a sufficient justification for overriding the woman's decision or for placing â€œobstacles â€œ absolute or otherwiseâ€œ in the pregnant woman's path to an abortion.â€• 497 U.S., p. 435.

â€œWe think it is clear that a requirement that a minor wait 48 hours after notifying a single parent of her intention to get an abortion would reasonably further the legitimate state interest in ensuring that the minor's decision is knowing and intelligent.â€• 497 U.S., p. 448.

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