

JOHN STACHOKUS,
Petitioner

Vs.

TANYA MEYERS,
Respondent

Vs.

TRACEY CURRY,
Respondent

IN THE COURT OF COMMON PLEAS
OF LUZERNE COUNTY

CIVIL ACTION -- LAW

No. 67 - E OF 2002

FILED
PROTHONOTARY
LUZERNE COUNTY
2002 AUG -5 PM 12:39

DECREE NISI

AND NOW, this 5th day of August, 2002 at 14:15 o'clock P.M.. it is hereby ORDERED, ADJUDGED and DECREED NISI, that the Special Injunction entered on July 29, 2002 is hereby DISSOLVED.

It is further ORDERED, DIRECTED and DECREED that the Motion for Preliminary Injunction and Complaint for Declaratory Judgment are DENIED and DISMISSED; Summary Judgment being entered on behalf of Respondent, Tanya Meyers, on the Complaint for Declaratory Judgment.

It is further ORDERED, DIRECTED and DECREED that this Decree Nisi shall become the Final Decree in this case, unless Exceptions be filed to said Decree Nisi within ten (10) days following the date of filing of the Decree.

It is further ORDERED, DIRECTED and DECREED that the Prothonotary of Luzerne County shall provide notice of the filing of this Decree Nisi as mandated by the Pennsylvania Rule of Civil Procedure 1517.

BY THE COURT:

Mr. J. Conahan, P.J.

John Williamson, Esquire
1974 Sproul Road, Suite 208
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FINDINGS OF FACT

1. John Stachokus, Petitioner, is a legally competent adult individual.
2. Tanya Meyers, Respondent, is a legally competent adult individual.
3. Meyers had no notice prior to being served with the Special Injunction that Stachokus intended to pursue legal remedies against her to coerce her to continue her pregnancy.
4. As a result of the issuance of the Special Injunction, Meyers was prevented from obtaining an abortion procedure that she had scheduled for July 30, 2002.
5. Petitioner and Respondent previously had a romantic relationship and during the course of that relationship engaged in sexual relations.
6. As a result of the relationship between the parties, Respondent became pregnant.

7. Petitioner and Respondent no longer have a romantic relationship.
8. Petitioner and Respondent are unmarried.
9. Respondent is approximately nine (9) to ten (10) weeks pregnant.
10. Respondent is in her first trimester of pregnancy.
11. Respondent desires to have an abortion.
12. Petitioner objects to the proposed abortion by Respondent.
13. Respondent testified that she has made the decision to have the abortion after she considered all the ramifications of the decision.
14. Respondent testified that she was not subject to coercion, either positively or negatively, and that the decision to have the abortion was her own decision.
15. Respondent testified that she had seen a film concerning the abortion procedure, had read material provided to her and that as a result of this effort she had no questions that she desired to discuss with anyone, and, further, that she did not desire counseling in relation to her decision.
16. Being prevented from getting her scheduled abortion has caused Meyers significant and extreme emotional distress. She is having difficulty eating, sleeping and concentrating.
17. Respondent testified that she did not suffer from any mental or emotional condition that would impair her judgment or interfere with her decision making ability concerning her pregnancy and the decision to have an abortion.

18. Respondent suffers from no impairment which would effect her judgment and her ability to make a rational choice concerning the proposed abortion.
19. The choice of the Respondent is not the subject of any coercion or other like undue influence.
20. The choice of the Respondent to have an abortion was a knowing and voluntary decision by her.
21. The testimony of the Respondent was credible and sincere.
22. The testimony of the Petitioner was credible and sincere.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of this matter.
2. The right to privacy guaranteed by the Fourteenth Amendment to the United States Constitution encompasses a woman's right to choose to have an abortion prior to viability. *Planned Parenthood v. Casey*, 505 U.S. 833, 846 (1992).
3. This right is not subject to being vetoed by a woman's husband or partner, *Id.*; *Planned Parenthood v. Danforth*, 428 U.S. 52, 69-71 (1976).
4. Neither an ex-boyfriend nor a fetus has standing to interfere with a woman's choice to terminate her pregnancy. *Larrimore v. Doe*, 1989 WL 225735, Pa. D. & C. 4th 186 (Pa. Com. Pl. 1989).
5. Stachokus has failed to cite any authority establishing that he has a clear right to relief, and no such authority exists. To the contrary, numerous courts have rejected similar attempts to prevent women from exercising their right to obtain an abortion. See *Doe v. Smith*, 486 U.S. 1308 (1988)(Stevens, Circuit Justice); *Larrimore v. Doe*, 1989 WL 225735, PA. D. & C. 4th 186 (Pa. Com. Pl. 1989); *Doe vs. Smith*, 527 N.E. 2d 177, 178 (Ind. 1988); *Doe v. Doe*, 314 N.E. 2nd 128 (Mass. 1974); *Jones v. Smith*, 278 So. 2d 339 (Fla. Dist. Ct. App. 1973); *Steinhoff v. Steinhoff*, 531 N.Y.S. 2d 78, 79 (Sup. Ct. 1988); *Rothenberger v. Doe*, 374 A.2d 57, 59 (N.J. Super. Ct. Ch. Div. 1977); see also *Coe v. County of Cook*, 162 F.3d 491 (7th Cir. 1998).

6. The balance of the equities weighs heavily in favor of Meyers. The delay in her procedure has inflicted significant and extreme emotional distress on Meyers, and she faces increased medical risks due to the delay in her procedure. Furthermore, the denial of her constitutional right to effectuate her abortion decision is in itself immediate and irreparable harm. Cf. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

7. The question of whether Meyers's abortion provider will have complied with 18 Pa. C.S.A. §3205 is not before this Court. The Complaint does not allege a violation of the Pennsylvania Abortion Control Act and Stachokus lacks standing to bring any such claim.

8. Stachokus has failed to show that he has a right to relief; therefore, the Special Injunction issued by this Court on July 29, 2002 and continued on July 31, 2002, is hereby DISSOLVED.

9. Stachokus had failed to state a claim upon which relief may be granted; therefore, the Petition and Complaint are dismissed with prejudice.