

Court ruling upholding Texas abortion law called 'long-awaited victory'

HOUSTON (CNS) – A spokeswoman with Texas Right to Life said a federal appeals court ruling upholding the Texas Dismemberment Abortion Ban is a “long-awaited victory” Texans are celebrating.

“Anyone can see the cruelty of dismemberment abortions, ripping a child’s body apart while her heart is still beating,” said Kimberlyn Schwartz, the organization’s Director of Media and Communication. “We’re grateful the judges recognized this horror.”

The Aug. 18 ruling from the full U.S. Court of Appeals for the 5th Circuit, based in New Orleans, upheld the state’s 2017 law, reversing previous court rulings that blocked it. It also reversed an earlier ruling by a three-judge panel of the 5th Circuit upholding a block on it.

Texas Attorney General Ken Paxton appealed the panel’s ruling and the full court agreed to hear the case.

A majority of the 14 judges who heard the case ruled in favor of Texas; three judges on the 5th Circuit recused themselves. The case is expected to be appealed to the Supreme Court.

The law was first passed and signed into law in 2017 but has never gone into effect because of court challenges.

Except in cases of medical need for the mother, the law effectively bans a common second-trimester abortion procedure called a D&E for “dilation and evacuation” by physicians. Texas uses the terminology “dismemberment abortion.”

“Dismemberment is not a medical term (but) it is often used to

describe the process by which the abortion is committed on the unborn child,” according to an “Issues Analysis” paper by the Family Research Council.

The National Abortion Federation Abortion Training Textbook says D&E “remains the most prevalent method of second-trimester pregnancy termination in the USA.”

The Texas law requires doctors to stop the heart of the fetus with intrafetal digoxin, or cause what they called “fetal demise,” before the commonly used dilation and evacuation abortion procedure.

Planned Parenthood of Greater Texas and other opponents of the law object to this, claiming use of digoxin puts an “undue burden” on the woman because it “causes demise slowly over a 24-hour period,” resulting in additional trips for the woman.

According to a story in *The Texan*, a statewide political news organization, the majority ruling disagreed with that assessment, pointing to the fact “consent forms at a number of abortion clinics – including some that sued – call digoxin safe.”

The majority said, therefore, the 2017 law did not violate the U.S. Supreme Court’s 1992 ruling in *Casey v. Planned Parenthood*, which stressed that a state regulation on abortion could not impose an “undue burden” on a woman “seeking an abortion before the fetus attains viability.”

The 5th Circuit’s ruling used the description “dismemberment” for this abortion procedure, saying these abortions “are self-evidently gruesome” and said alternative second-trimester abortion methods are just as safe.

“It has long been illegal to kill capital prisoners by dismemberment. ... It is also illegal to dismember living animals,” the ruling said. The state urges that (the law) would simply extend the same protection to fetuses.”

“Texas is a national leader in protecting and fostering respect for human life, including unborn life. I will defend the state’s lawful authority to protect the dignity of unborn children by prohibiting these barbaric dismemberment abortions,” Paxton said in a statement.

“During the trial, we demonstrated that this law is constitutional and consistent with acceptable medical ethics.” he said.

Another of the state’s pro-life laws, the Texas Heartbeat Act, is scheduled to take effect Sept. 1. It bans most abortions in the state as early as six weeks, “when the baby’s heartbeat is detectable by the most common methods,” said Texas Right to Life.

The law allows any citizen to hold an abortion accountable for violating the law through private lawsuits.

On Aug. 23, Dallas attorney Michelle Simpson Tuegel filed suit in a Texas court against the law and requested a temporary restraining order to block its enforcement.