

Catholics decry court ruling requiring doctor to inseminate lesbian

WASHINGTON - A California Supreme Court decision upholding the rights of a lesbian to be artificially inseminated despite the religious objections of her physician violates the physician's rights of religious freedom and freedom of speech, according to officials of the California Catholic Conference.

"No one has the right to demand a nonemergency medical procedure from someone who finds that procedure morally unacceptable - or religiously objectionable," said Auxiliary Bishop Thomas J. Curry of Los Angeles following the court's Aug. 18 ruling in North Coast Women's Care Medical Group v. Guadalupe T. Benitez.

"This case did not involve a life-and-death situation but only a possible inconvenience - one which required the patient to 'walk across the office,' " added Bishop Curry, who chairs the conference's Religious Liberty Committee.

James F. Sweeney, legal counsel for the California Catholic Conference, agreed.

"To even suggest that a physician's religious and moral conscience must yield to the directives of a patient regarding a nonemergency procedure is so clearly contrary to traditional notions of individual liberty and religious freedom that there should have been no question that the court would defer to the constitutional rights of the involved doctors," he said.

In the case, Ms. Benitez and her partner, Joanne Clark, met with Dr. Christine Brody at North Coast Women's Care Medical Group in August 1999 in Vista, Calif., to

discuss Benitez's desire to become pregnant. Dr. Brody told Ms. Benitez her religious beliefs would preclude her from performing a procedure called intrauterine insemination, but others in her medical practice could perform it.

Dr. Brody said her objections were based on the fact that Ms. Benitez was unmarried; Ms. Benitez and Ms. Clark contend that it was because they were lesbians.

The California anti-discrimination law requires businesses to provide "full and equal accommodations, advantages, facilities, privileges or services" to all persons regardless of their "sex, race, color, religion, ancestry, national origin, disability or medical condition." A ban on discrimination based on marital status was added to the law in 2006.

Another physician at North Coast, Dr. Douglas Fenton, then became involved in Benitez's medical treatment but was unsuccessful in helping her to become pregnant. She then sought treatment from a third physician and conceived a child in June 2001. She sued North Coast, Dr. Brody and Dr. Fenton in August 2001, alleging discrimination based on sexual orientation.

The court's 7-0 decision, written by Justice Joyce Kennard, begins: "Do the rights of religious freedom and free speech, as guaranteed in both the federal and California constitutions, exempt a medical clinic's physicians from complying with the California Unruh Civil Rights Act's prohibition against discrimination based on a person's sexual orientation? Our answer is no."

The court's ruling relied heavily on its 2004 decision in *Catholic Charities of Sacramento v. Superior Court*, which said Catholic Charities agencies in California were not exempt from a state law requiring employers that provide prescription drug insurance coverage for their employees to include coverage for prescription

contraceptives. The U.S. Supreme Court later turned down an appeal of that decision.

“Thus under the United States Supreme Court’s most recent holdings, a religious objector has no federal constitutional right to an exemption from a neutral and valid law of general applicability on the ground that compliance with that law is contrary to the objector’s religious beliefs,” the state high court said.

The California Catholic Conference had filed a friend-of-the-court brief in the Benitez case, as had Americans United for Life, the American Association of Pro-Life Obstetricians and Gynecologists, Human Life International, the Islamic Medical Association of North America, several rabbis, the Thomas More Law Center and other organizations.

Robert Tyler, general counsel for Advocates for Faith & Freedom, which represented the doctors and their medical practice in the lawsuit, said the organization would “review our options to seek review from the U.S. Supreme Court.”

“This decision may have a big impact on California’s Proposition 8, the initiative to protect traditional marriage, as voters begin to recognize the radical agenda of our opposition,” Mr. Tyler added in a statement.