



ORIGINAL

FILED

08/09/2022

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 21-0521

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 21-0521

PLANNED PARENTHOOD OF MONTANA, and
JOEY BANKS, M.D., on behalf of themselves and
their patients,

Plaintiffs and Appellees,

v.

STATE OF MONTANA, by and through AUSTIN
KNUDSEN, in his official capacity as Attorney
General,

Defendant and Appellant.

FILED

AUG 09 2022

Bowen Greenwood
Clerk of Supreme Court
State of Montana

ORDER

This case came before the Court on the State of Montana's appeal of the District Court's preliminary injunction against three bills the 2021 Montana Legislature enacted regulating and restricting abortion services. The case was fully briefed and submitted to this Court for decision on May 11, 2022. On June 24, 2022, the United States Supreme Court decided *Dobbs v. Jackson Women's Health Organization*, 597 U.S. ___ (2022). *Dobbs* overturned *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833 (1992). The State filed a notice of supplemental authority the following Monday, bringing the decision to this Court's attention and inviting the Court "to order supplemental briefing that can fulsomely address *Dobbs*' effect on the issues presented in this appeal."

On August 2, 2022, Governor Greg Gianforte filed a motion for leave to submit an amicus brief addressing *Dobbs* and its impact on the legal landscape in Montana. The motion argues that because of *Dobbs*, the Court must necessarily revisit its decision in *Armstrong v. State*, 1999 MT 261, 296 Mont. 361, 989 P.2d 364, and suggests that "more robust supplemental briefing would meaningfully assist the Court in its task of impartially

navigating this fundamental policy question under the Montana Constitution.” On the same day, the State filed a motion for supplemental briefing on the same grounds. Appellees have responded in opposition.

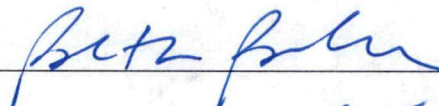
It is the Court’s practice to allow the filing of amicus briefs from interested parties to address questions at issue in the appeal in accordance with M. R. App. P. 12(7). The Court recognizes the potential implications of the *Dobbs* decision and the desire to afford full opportunity to be heard. But, for reasons explained in the Opinion—which was in its final stages of review when the Governor filed his motion—the appeal of this preliminary injunction is not the time for those arguments to be made and considered. The case returns to the District Court for proceedings on the merits. The merits proceedings and review after final judgment will afford opportunity for the issues and arguments to be fully aired.

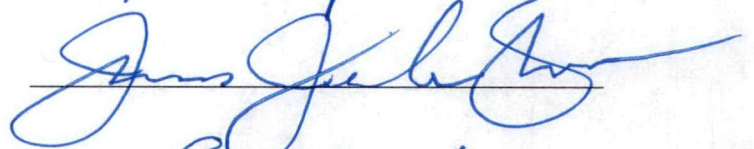
IT IS THEREFORE ORDERED that the Governor’s motion leave to file an amicus curiae brief in this appeal is DENIED.

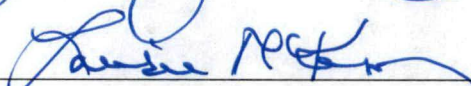
IT IS FURTHER ORDERED that the State’s motion for supplemental briefing on the preliminary injunction appeal is DENIED.

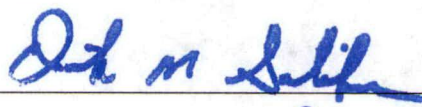
The Clerk is directed to provide copies of this order to all counsel of record.


Dated this 9th day of August, 2022.











Justices