



ORIGINAL

FILED
SUPREME COURT
STATE OF OKLAHOMA

OCT - 3 2022

Case No. 120,543

JOHN D. HADDEN

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA CLERK

OKLAHOMA CALL FOR REPRODUCTIVE JUSTICE, *et al.*

Petitioners

v.

JOHN M. O'CONNOR, *in his official capacity as* OKLAHOMA ATTORNEY GENERAL, *et al.*

Respondents

AMICUS CURIAE BRIEF OF LORA COLLIER, MD; ALEJANDRA DE SANTIAGO, DO; JOSEPH EBLE, MD; GEORGE ERBACHER, DO, FAOCR; CURTIS E. HARRIS, MS, MD, JD; JAMES J. HUTCHINS, MD; JESSICA KELLER, MD, FAAP, FCP; ABEL LAU, MD; PHYLLIS W. LAUNGER, MD; MICHAEL A. MALLOY, MD; CHRISTY J. MARESHIE, DO; RITA B. SANDERS, DO; FRANK SCHMIDT, JR., MD; MICHAEL TANNER, MD; JESSICA WEBER, DO; LEON J. YODER, DO

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STATEMENT OF INTEREST

Amici Curiae, Lora Collier, MD (OSMA Member); Alejandra De Santiago, DO; Joseph Eble, MD; George Erbacher, DO, FAOCR; Curtis E. Harris, MS, MD, JD (OSMA Member); James J. Hutchins, M.D.; Jessica Keller, MD, FAAP, FCP; Abel Lau, MD; Phyllis W. Lauinger, MD (OSMA Member); Michael A. Malloy, MD; Christy J. Mareshie, DO; Rita B. Sanders, DO; Frank Schmidt, Jr., MD; Michael Tanner, MD; Jessica Weber, DO; and Leon J. Yoder, DO (collectively, “Oklahoma Physicians”), are physicians practicing medicine in Oklahoma, some of whom are past and present members of the Oklahoma State Medical Association (“OSMA”). Oklahoma Physicians are appearing because the OSMA’s views on abortion, expressed in the September 21, 2022 *amicus* brief, do not reflect the views of Oklahoma Physicians and even all of the OSMA’s members. Indeed, the input of current OSMA members was not solicited prior to OSMA’s brief being filed.

ARGUMENT

Oklahoma Physicians’ focus here is narrow. We do not endorse or disavow any particular statute, approach, or exception that regulates abortion. Our views on these likely differ, maybe even substantially. We simply write to emphasize our view that the Oklahoma Constitution does not contain a fundamental and unfettered right to abortion throughout pregnancy, and that the OSMA is incorrect when it analyzes this constitutional question without any reference whatsoever to the unborn child.

Physicians and legislators, in our view, must consider and protect both the woman and unborn child, which is why abortion is not, and cannot be, a fundamental right. But the OSMA completely ignores the reality that a pregnant woman has a separate, unique, and living human being inside her womb. That being’s health must be considered and treated by any Oklahoma

physician, including members of the OSMA. One of OSMA's stated goals is to "promote quality health care for all Oklahomans."¹

All, in our view, must mean all.

OSMA, though, ignores both the health of the unborn and the scientific advances that have enabled physicians to treat the fetus while still in the womb thereby improving the age of viability. This Court must not view the OSMA's position as representative of all its own members, much less all Oklahoma doctors, especially when OSMA failed to poll, or even widely consult, its own members before submitting its brief.

CONCLUSION

Oklahoma Physicians seek to clarify that OSMA's current stated position on abortion is not representative of all physicians in Oklahoma or even all of its own members. The OSMA has ignored the existence of the unborn; abortion should not be considered a fundamental right.

¹Available at:
https://www.okmed.org/web/Online/About_OSMA/Vision__Mission/Online/About_OSMA/Vision__Mission.aspx?hkey=8f74a485-d7dc-4b23-973a-ddb03eeca759

Respectfully submitted,

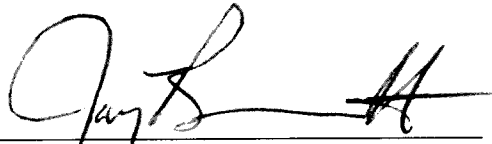
A handwritten signature in black ink, appearing to read "Jay W. Barnett", with a horizontal line extending to the right from the end of the signature.

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CERTIFICATE OF SERVICE

This is to certify a true and correct copy of the above and foregoing document was sent via USPS, first class postage paid, on this 3rd day of October, 2022 to the following:

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Jay W. Barnett