

PUBLISHED

FILED: October 20, 1997

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-1853

PLANNED PARENTHOOD OF THE BLUE RIDGE; HERBERT
C. JONES, JR., M.D.; PLANNED PARENTHOOD OF
METROPOLITAN WASHINGTON; VIRGINIA LEAGUE FOR
PLANNED PARENTHOOD; HILLCREST CLINIC;
RICHMOND MEDICAL CENTER FOR WOMEN; THOMAS
GRESINGER, M.D.; COMMONWEALTH WOMEN'S CLINIC;
PLANNED PARENTHOOD OF SOUTHEASTERN VIRGINIA,

Plaintiffs - Appellees,

versus

JAMES L. CAMBLOS, in his official capacity as
Commonwealth's Attorney for the County of
Albemarle, and as a representative of all the
Commonwealth's Attorneys in Virginia,

Defendant - Appellant.

O R D E R

On March 22, 1997, the Governor of Virginia signed into law Virginia's Parental Notification Act. Va. Code Ann. § 16.1-241(V). The Act prohibits a physician from performing an abortion on an unemancipated minor unless one of the minor's parents or a guardian has been notified within twenty-four hours

prior to the procedure or unless the minor receives judicial approval to forgo notification. Id.

Before the law was to go into effect on July 1, 1997, plaintiffs, several Virginia physicians and interest groups, brought suit in the Western District of Virginia requesting that the operation of the statute be enjoined. The district court granted a preliminary injunction, and the Commonwealth that same day petitioned Judge Luttig for a stay of the district court's injunction. The stay was granted on June 30, 1997, and plaintiffs-appellees now move the Court pursuant to Federal Rule of Appellate Procedure 27(c) and Local Rule 27(f) to vacate the stay of the district court's order pending appeal. The motion was referred to the Court for consideration.

On a poll of the Court, Chief Judge Wilkinson, Judge Russell, Judge Widener, Judge Wilkins, Judge Niemeyer, Judge Luttig and Judge Williams voted to deny the motion to vacate the stay. Judge Hall, Judge Murnaghan, Judge Ervin, Judge Michael and Judge Motz voted to grant the motion to vacate the stay. Judge Hamilton abstained from voting.

As a majority of the Court has voted to deny the motion to vacate the stay of the district court's order pending appeal, the plaintiffs-appellees' motion is hereby denied.

For the Court,

CLERK