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SWLC applauds the *June Medical Services v. Russo* decision

Today, In *June Medical Services, LLC v. Russo*, the United States Supreme Court (“the Court”) found that Louisiana’s Act 620, requiring physicians performing abortions to have admitting privileges at a hospital within 30 miles of the facility in which an abortion is being performed, was an undue burden in accessing abortion care. This finding reinforces the Court’s 2016 decision in *Whole Woman’s Health v. Hellerstedt*¹, where the Court found that a Texas law nearly identical to Louisiana’s Act 620, presented an undue burden to those seeking abortion care. The Southwest Women’s Law Center (SWLC) applauds the Court’s decision! While the decision in *June Medical Services* goes squarely in the “win” category and is something to celebrate, we in the abortion rights community cannot let up for even one second in the fight to protect access to abortion.

The Court’s majority decision can be divided roughly into three parts. The first is an analysis of the “undue burden” standard, established in *Planned Parenthood of Southeast PA v. Casey*² and relied on in *Whole Woman’s Health*. In *June Medical*, a plurality of the Court found that Act 620 did not serve the stated purpose of the law—to protect women’s health and safety, and found that Act 620 placed a substantial obstacle in the way of a woman seeking abortion care because requiring providers to have admitting privileges at a local hospital would result in the closure of most, if not all of Louisiana’s abortion clinics. Putting those together, no benefit and a substantial obstacle, required a finding that Act 620 is unconstitutional. The second part of this decision is the reinforcement of the long-standing use of third-party standing in abortion rights and other cases. Finally, Chief Justice John Roberts, who provided the fifth vote in *June Medical*, wrote in a separate concurring opinion about reliance on precedent, or *stare decisis*.

The legal doctrine of *stare decisis* requires us, absent special circumstances, to treat like cases alike. The Louisiana law imposes a burden on access to abortion just as severe as that imposed by the Texas law, for the same reasons. Therefore[,] Louisiana’s law cannot stand under our precedents.³

Chief Justice Roberts noted that he believed that *June Medical* was wrongly decided, but joined the majority due to the ruling in *Whole Woman’s Health* in 2016. This was a narrow victory, but a victory nonetheless.

The Court’s decision in *June Medical* is an important affirmation that abortion access is a right. It is also an affirmation that thinly veiled statutory schemes placing obstacles to accessing abortion

¹ 136 S. Ct. 2292 (2016)

² 505 U.S. 833 (1992)

³ 591 U.S. ____ (2020) (Roberts, C.J. concurrence, slip op. at 2)

care, dressed up as paternalistic concern for the health and safety of women, will not be tolerated. The admitting privileges statutory scheme in Louisiana creates a substantial obstacle to abortion access and, as such, is an “undue burden” on patients. Notwithstanding the window dressing, Louisiana lawmakers imposed this restriction to stigmatize abortion care and create obstacles for patients, not out of concern for anyone’s health and safety.

The Louisiana legislature’s use of the health and safety pretext in Act 620 is a cover for yet another obstacle to accessing abortion care, clearly unsupported by any set of facts, especially given that abortion is one of the safest medical procedures being performed today. Abortion is much safer in fact, than childbirth, where there is an average of 700 deaths per year.⁴ Compare that with induced abortion, with an average of 10 deaths each year.⁵ The SWLC trusts women and their healthcare providers to know what is best for themselves and their families.

Unfortunately, the Court’s holding in *June Medical* is not the end of the war on the right to reproductive choice. While it is true that we have won this battle, there are presently numerous abortion rights cases making their way through the lower courts and some will end up in the Supreme Court. And simply because the Court has found Act 620 to be an undue burden on accessing abortion care does not mean that reproductive choice is a reality for most people. Black and brown communities, and people struggling financially still face tremendous challenges in accessing not only abortion care, but all healthcare. The Court’s decision does not change that reality.

The decision in *June Medical* comes in the midst of a national uprising against police violence, a global pandemic, and an economic crisis which disproportionately affects Black and brown communities who already face health inequities and barriers to care. People are rising for racial justice all over the country and fighting for a future in which we can control our own bodies, safely care for our families, be free from violence and systemic racism.

The SWLC shares this vision of a more just future and we are committed to making it a reality for all New Mexicans. But we cannot do this alone. We need the support of those who are dismayed at the continual erosion of the rights we hold dear and the rights that some have never enjoyed. We are living in troubled times, but we are also living in an exciting time where an opening has been created where hope lives, hope for a better future for all New Mexicans, where every single person can reach their individual potential and live their best life, which includes if and when to parent.

Please help us keep abortion safe and legal in New Mexico. To support the SWLC’s efforts to keep abortion safe and legal, please donate at <https://tinyurl.com/SWLCdonate>.

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⁴ <https://www.cdc.gov/reproductivehealth/maternalinfanthealth/pregnancy-relatedmortality.htm>

⁵ <https://www.statista.com/statistics/658555/number-of-abortion-deaths-us/>