

Court Says Pharmacists Must Dispense Plan B Pill

✖ A federal appeals court ruled Wednesday that pharmacists cannot refuse to dispense the Plan B pill, even if they are personally opposed to the “morning after” contraceptive on religious grounds, the *Los Angeles Times* reported.

Family-owned Ralph’s Thriftway in Olympia, Wash., and two pharmacists employed elsewhere sued Washington state officials to block 2007 regulations that required all Washington pharmacies to stock and dispense the pills.

The Christian plaintiffs objected to dispensing the pills on religious grounds, saying Plan B amounts to abortion because it can prevent implantation of a recently fertilized egg.

Arguing that pharmacists’ First Amendment rights were being violated, the drugstore’s owners, Stormans Inc., and pharmacists Rhonda Mesler and Margo Thelen won a temporary injunction from the U.S. District Court in Seattle pending trial on the constitutionality of the regulations, the *Times* reported.

But on Wednesday, a three-judge panel of the U.S. Ninth Circuit Court of Appeals lifted the injunction, writing in their decision that the constitutional right to exercise one’s religion “does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability.”

“Any refusal to dispense-regardless of whether it is motivated by religion, morals, conscience, ethics, discriminatory prejudices, or personal distaste for a patient-violates the rules,” the judges wrote.

Joyce Roper, an assistant attorney general for Washington state, told the *Times* that the Ninth Circuit ruling means the requirement that pharmacies stock and dispense Plan B takes

immediate effect.

Stormans and the two pharmacists, however, secured an agreement with the state that it would not penalize them for refusing to dispense Plan B until other challenges to the regulations were decided at trial.

"The case is certainly ominous for pro-life pharmacists in the state of Washington, but the case goes on," said Steven H. Aden, senior legal counsel to the Alliance Defense Fund, which filed the lawsuit on Stormans behalf. "It was only an initial ruling."

He believes his clients will prevail at trial, noting that an Illinois court ruled in favor of pro-life pharmacists in a similar case

"The good news is that most states still recognize in some form the right of pro-life pharmacists to refuse to dispense Plan B," Aden said. "There are conflicting decisions nationally, and we do expect that ultimately the longstanding right of pharmacists to practice according to their conscience will be recognized and affirmed in the courts."

He said, ultimately, the burden of ensuring that patients receive the controversial contraceptive drug should not be placed on pharmacists.

"The key to these [cases] is whether by legislation or by court decision that the right of conscience be recognized and that ... the onus does not fall on the pharmacist, but rather that the pharmacy make other arrangements or the patient ... go to the next available pharmacy," he said. "The point is that we do not sacrifice a pro-life pharmacist's right of conscience for the sake of convenience, and that is really what we're talking about here."

Aden said he is hopeful the case will be resolved by next spring.