

Pro-Life Movement Scores Historic Victory Over Planned Parenthood in Texas

In what the Thomas More Society heralds 49 years after *Roe v. Wade* as “a major and historic victory for the right to life,” Planned Parenthood has dropped its appeal from approval of an abortion ban enacted by the city of Lubbock, Texas. This ensures that the ordinance, as judicially upheld, will remain in effect and it ends a lengthy courtroom battle over the city’s abortion law.

On January 20, 2022, Planned Parenthood announced that it was dropping its appeal and ending litigation over the ordinance.

The Lubbock ordinance, which outlaws abortion within its city limits, was approved by voters on May 1, 2021 and it took effect on June 1, 2021. This action ended access to abortion in Lubbock and forced Planned Parenthood to halt the provision of abortion-related services within the city. Planned Parenthood sued the city to halt enforcement of the ordinance, but the federal district court dismissed Planned Parenthood’s lawsuit for lack of jurisdiction. Planned Parenthood then appealed that ruling to the 5th Circuit U.S. Court of Appeals. But then it filed an unopposed motion to dismiss their appeal, which was granted.

Tom Brejcha, Thomas More Society President and Chief Counsel, applauded the decision, saying, “We congratulate the city of Lubbock for successfully defending its abortion ban in court. This is a major and historic victory, as it marks the first time that an abortion ban has survived court challenge since the United States Supreme Court’s 1973 *Roe v. Wade* decision.”

The Lubbock ordinance was drafted in a manner similar to the

Texas Heartbeat Act, which outlaws abortion after a fetal heartbeat is detectable but prohibits state officials from enforcing the law. Rather, the Lubbock ordinance authorizes private citizens to sue those who perform, aid or abet illegal abortions. By adopting this private-enforcement scheme, the city of Lubbock made its ordinance immune from typical pre-enforcement lawsuits against local governmental officials because neither the city nor any of its officials has any role in enforcing the law, so they cannot be subjected to lawsuits that challenge the constitutionality of the ordinance.

“This novel and ingenious strategy of enforcing abortion restrictions and saving lives is working,” explained Brejcha. “It is allowing abortion bans to take effect and save lives despite the continued existence of *Roe v. Wade*. We encourage other state or local jurisdictions to use this model to pass and insulate pro-life statutes or ordinances against the usual court challenges filed by abortionists. Lubbock, Texas, has now demonstrated that cities, states, and other localities can outlaw and restrict abortion, without waiting for *Roe v. Wade*’s overruling. We hope and urge that other jurisdictions will follow Lubbock’s example,” and we will help all such efforts!

Read the Certified Order issued January 21, 2022, by the United States Court of Appeals for the Fifth Circuit dismissing the plaintiffs’ appeal in *Planned Parenthood of Greater Texas Surgical Health Services, et al. v. City of Lubbock, Texas* [here](#).

Read the Plaintiff-Appellants’ Unopposed Motion for Dismissal of Appeal in *Planned Parenthood of Greater Texas Surgical Health Services, et al. v. City of Lubbock, Texas*, filed January 20, 2022, with the United States Court of Appeals for the Fifth Circuit [here](#).

Read the original federal order dismissing the case, *Planned Parenthood of Greater Texas Surgical Health Services, et al.*

v. City of Lubbock, Texas, issued June 1, 2021, by the United States District Court for the Northern District of Texas – Lubbock Division [here](#). {eo}

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