Greenville Women’s Clinic v. Bryant, Decided 8-15-2000. Excerpt from opinion of Circuit Judge Niemayer.

 See original document online at: http://law.justia.com/cases/federal/appellate-courts/F3/222/157/478318/

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On June 27, 1996, one day before Regulation 61-12 was to take effect, the Greenville Women's Clinic, the Charleston Women's Medical Clinic, Inc., and Dr. William Lynn (collectively, the "abortion clinics") brought this action seeking a declaratory judgment that Regulation 61-12 is unconstitutional on its face because, among other things, it would violate their due process and equal protection rights, as well as those of their patients. They also sought an order enjoining enforcement of the Regulation and requesting attorneys fees and costs pursuant to 42 U.S.C. § 1988. The district court issued a temporary restraining order on June 19, 1996, which, by consent of the parties, was converted to a preliminary injunction. Finally, on February 5, 1999, the district court declared the Regulation invalid in its entirety. The

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Greenville Women's Clinic, which has operated in Greenville, South Carolina, since 1978, has two licensed physicians who perform a combined average of more than 2,700 abortions per year. The physicians at the clinic testified that even prior to the promulgation of Regulation 61-12, their clinic operated in substantial compliance with its requirements. They estimated that the additional cost of full compliance would be $22.68 per abortion. The district court found that, prior to the Regulation's promulgation, the cost of an abortion was between $325 and $480 if the abortion was not complicated and was performed during the first trimester. The court found that the additional cost of full compliance for Greenville Women's Clinic would be in the range of $23-$32 per abortion.

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The Charleston Women's Medical Clinic, Inc., which has operated in Charleston, South Carolina, for about 28 years, performs, on average, more than 2,400 abortions per year. That clinic is operated by a licensed physician and a licensed practical nurse. The district court found that compliance with Regulation 61-12 by the Charleston Women's Medical Clinic would cost between $36 and $75 per abortion.

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Dr. William Lynn, who is a licensed physician, has conducted his practice since 1980 from two locations -- in Beaufort, South Carolina (approximately 70 miles southwest of Charleston) and in Greenville, South Carolina. Dr. Lynn performs, on average, more than 900 abortions each year at the two sites. He testified that Regulation 61-12 would require him to undertake costly modifications to his Beaufort facility, and the district court found that his cost per abortion would increase by an amount between $116 and $368. The district court also concluded that the increased costs for Dr. Lynn's Beaufort facility would "likely force [Dr. Lynn] to cease performing abortions in his Beaufort office." Greenville Women's Clinic v. Bryant, 66 F. Supp. 2d 691, 717 (D.S.C. 1999).