

State Supreme Court reverses abortion case ruling

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MONTGOMERY — The Alabama Supreme Court reversed a lower court's decision Friday and ruled a Birmingham nurse charged with illegally performing abortions can claim she acted with a doctor's permission.

Janet F. Onthank King faces misdemeanor charges of wrongfully performing abortions at Summit Medical Center in Birmingham, which was closed in 2006 after health officials found numerous violations there.

Attorney Richard Jaffe said his client had a collaborative practice agreement with Dr. Deborah Lyn Levich that allowed her to administer an abortion-inducing drug without the physician being there.

Prosecutors had appealed a circuit judge's ruling allowing the agreement to be entered as evidence. They argued the agreement was irrelevant because the state's Women's Right to Know Act says abortions can only be performed by doctors.

The Alabama Court of Criminal Appeals sided with the state in July, but King appealed to the Supreme Court.

The justices noted King's assertion that the order of the Court of Criminal Appeals was without precedent in "any other court at any other time in the history of our Republic."

Jaffe said he and his client were "ecstatic that the appropriate ruling was made."

"It would have created some pretty dangerous precedent if the government could do that. Basically they would be micromanaging the trial court and the trial court is the forum who rules on evidentiary matters," he said.

"That's why this case is so important not just for Janet King, but for all of us."

Chris Bence, chief of staff for Attorney General Troy King, said the agency was reviewing the court's decision.

"We are disappointed in the court's ruling," he said. "We think it is a bad precedent and it will be somewhat of a setback for the prosecution but we are fully committed and intend to see this through and hold Ms. King accountable for her actions."

Levich and King were working at Summit when it was closed in June 2006 after an investigation by the Alabama Department of Public Health revealed "egregious lapses in care." Levich surrendered her Alabama medical license last July but hasn't been charged in the case.

Investigators said a Summit nurse gave a pregnant woman the RU 486 abortion drug even though her blood pressure was too high and the baby was nearly full-term. The woman later went to an emergency room and delivered a stillborn infant.

King, who is a registered nurse and certified nurse practitioner, was serving as the clinic's medical director at the time and was later charged with three misdemeanors: Two counts of knowingly or recklessly performing abortions as a non-physician, and a third for making false entries into equipment sterilization reports.

The Summit case cast light on a rash of problems at abortion clinics in Alabama and led to increased inspections at the clinics, some of which hadn't been reviewed in more than five years.