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The Supreme Court Decision on EMTALA and Abortion

As the Supreme Court of the United States (SCOTUS) wrapped up its term, decisions came fast and furiously last week. On June 27, SCOTUS issued its decision on two consolidated cases, *Moyle vs. United States* and *Idaho vs. United States* (referred to as “*Moyle*” throughout), that address access to abortions in emergency circumstances. At the heart of these cases is the question about whether and how federal law protecting access to emergency health care preempts state abortion bans in certain circumstances.

In a 6-3 decision, SCOTUS decided to dismiss the cases, meaning that the lower court’s order to block Idaho from enforcing its abortion ban in emergency medical situations is now active. The upshot of the decision is that, at least for now, abortions cannot be criminalized in emergency situations in Idaho. However, by not ruling on the merits of the case, SCOTUS kicked the can down the road, meaning significant questions about how state abortion laws and federal emergency access laws interact remain. Read on to learn more.

What Was at Issue in the Case and How Did the Court Rule?

At issue in *Moyle* was a potential conflict between the federal [Emergency Medical Treatment and Labor Act \(EMTALA\)](#) and an Idaho law criminalizing abortions. Idaho’s abortion law is one of the most sweeping in the country, outlawing all abortions except in limited circumstances, including cases of incest, rape, or when “necessary to prevent the death of the pregnant woman.” The law imposes criminal penalties on doctors who perform abortions. Because of the risk of prosecution under the law, obstetricians in Idaho have facilitated [emergency airlifts](#) so that patients can access medical care in other states without restrictive bans.

EMTALA is a sweeping federal law that requires hospitals receiving certain federal funding to screen patients to determine if there is an emergency health condition present, and if an emergency does exist, to provide stabilizing treatment. The United States government sued Idaho after the state abortion ban took effect, arguing that the law conflicted with EMTALA because it prohibited providers from providing abortions in response to an emergency

What is EMTALA?

EMTALA is a federal law passed in the 1980s in response to the rampant “patient dumping” happening at private hospitals, where patients who were low-income and uninsured were turned away and often shuttled to charity hospitals. EMTALA requires hospitals receiving Medicare payments to screen every patient to determine if a medical emergency is present and to offer stabilizing treatment if an emergency is present.

medical situation. The Constitution requires that when a federal law conflicts with a state law, the federal law trumps the state law and the state law cannot be enforced.

The federal government argued that the exception in Idaho's law allowing abortions in cases necessary to prevent the death of a pregnant person was too narrow and would not cover some emergency situations protected by EMTALA, including when a pregnant person might suffer grave harm without access to a medically necessary abortion. The federal district court agreed with the federal government and issued a preliminary injunction so that Idaho could not enforce its abortion criminalization statute in instances that conflicted with EMTALA. Idaho appealed and the case eventually made its way to SCOTUS. SCOTUS, however, decided that the Idaho law should be in full effect while it heard the appeal, removing the lower court's injunction prohibiting full application of the law.

When was the decision issued?

In an unusual error for an institution characterized by process and confidentiality, an earlier draft of the decision in *Moyle* was mistakenly published on the Court's website briefly on June 26th. It was quickly removed, and the Court noted that it had been posted accidentally. The final decision posted on June 27th does not differ from the one posted on June 26th.

Which brings us to the SCOTUS decision issued last week. The Court issued a "per curiam" opinion, where the opinion was issued by the Court and not a particular justice. The Court did not reach the merits of the case, meaning this decision was about process and not about any substantive questions of law. A majority of justices believed the case came to the Court too soon in the process and an appeals court should have ruled first. While it is typical for a case to be heard by an appeals court before SCOTUS, that is not always the case. In *Moyle*, the case made its way directly to SCOTUS following two federal district court rulings on the issue. One does have to wonder why SCOTUS accepted the case in the first place, only to decide it was not ripe for them to rule on merits (a point echoed in the

dissents). The case will now go to the Ninth Circuit Court of Appeals to make its decision and will undoubtedly wind its way back to SCOTUS in the future.

In the meantime, and in a glimmer of positive news for abortion rights supporters, the Court removed the stay it placed on the lower court's injunction. As discussed above, this injunction prevented the application of Idaho's abortion ban in cases where EMTALA applies. In other words, as a result of SCOTUS's decision, Idaho cannot enforce its abortion ban in cases where patients require an abortion in emergency situations, even if that emergency situation does not threaten the life of the patient.

What's Next?

This is now the second SCOTUS decision this term, after the [case regarding access to mifepristone](#), that dodges saying anything definitive about abortion rights and instead punts the issue back to lower courts on procedural grounds. How far states may go in their abortion bans, including whether they are allowed to block access to abortions in emergency situations, is far from decided. While Idaho, at least for now, cannot enforce its abortion ban in emergency situations, this case does not provide similar protections for people in other states. We are still likely months, if not years, away from resolution of the host of new health care access issues set in motion by the now infamous [Dobbs decision](#).

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