

BRIDGET BADE ON ABORTION

Highlights:

- Bridget Bade lifted an injunction allowing Idaho to enforce parts of its near-total abortion ban.
 - Bade's ruling applied the ban to emergency room doctors.
 - The decision was overturned by the 9th circuit.
 - The abortion ban threatened abortion providers with prison time.

Bade Lifted An Injunction Allowing Idaho To Enforce A Near-Total Abortion Ban

2023: BADE LIFTED AN INJUNCTION THAT PREVENTED IDAHO FROM ENFORCING ITS NEAR-TOTAL ABORTION BAN AGAINST MEDICAL PROVIDERS AND HOSPITALS IN SITUATIONS WHERE THE PATIENT'S LIFE OR HEALTH WAS IN JEOPARDY

September 2023: Bade Was Part Of A 9th Circuit Panel Which Allowed Parts Of Idaho's Near-Total Ban On Abortion To Go Into Effect After Lifting An Injunction From A Lower Court. According to Politico, "A federal appeals court has lifted a lower court ruling that prevented the State of Idaho from enforcing aspects of its near-total ban on abortion. The 9th Circuit Court of Appeals issued an order Thursday granting Idaho officials' request to put the injunction against the law on hold while the state appeals the lower judge's decision. The ruling is a blow to the Biden administration's effort to use a federal law mandating emergency room treatment to soften the impact of the Supreme Court's decision last year to overturn the federal constitutional right to abortion established in *Roe v. Wade* in 1973. The Justice Department filed suit against Idaho last August, arguing that the state's tough abortion law was likely to discourage physicians from providing emergency treatment to pregnant patients who need an abortion to preserve their life or health. U.S. District Court Judge B. Lynn Winmill agreed that the state law appeared to run afoul of the federal Emergency Medical Treatment and Labor Act, passed in 1986. Winmill, an appointee of President Bill Clinton, issued a preliminary injunction barring enforcement of the abortion ban against medical providers and hospitals in situations where the patient's life or health is in jeopardy. However, a 9th Circuit panel consisting of three appointees of President Donald Trump said Thursday that the Idaho Supreme Court has since clarified its interpretation of the Idaho statute, so the two laws no longer appear to be in conflict. 'The Supreme Court of Idaho clarified that the text of the exception means what it says: If a doctor subjectively believes, in his or her good faith medical judgment, that an abortion is necessary to prevent the death of the pregnant woman, then the exception applies,' Judge Lawrence VanDyke wrote in an order joined by Judges Bridget Bade and Kenneth Lee." [Politico, [9/28/23](#)]

Bade Ruled That Idaho's Abortion Ban Applied To Emergency Room Doctors

September 2023: Bade Joined An Opinion Ruling That Emergency Room Doctors Were Not Protected From Prosecution For Performing Abortions In Idaho. According to the Idaho Capital Sun, "Emergency room doctors in Idaho are no longer protected from prosecution under the state's abortion ban after the U.S. Ninth Circuit Court of Appeals reversed an order that had been in effect since August 2022. The court granted the Idaho Legislature's appeal after U.S. District Judge B. Lynn Winmill, an appointee of former President Bill Clinton, made the decision and refused to reconsider it in May. The case stems from the U.S. Department of Justice's lawsuit against the state of Idaho, and the injunction went into effect one day before the abortion ban, which applies to all stages of pregnancy, became law. [...] The three appeals court judges, all of whom were appointed by former President Donald Trump, said recent legislative actions and other court rulings have invalidated the original arguments in the lawsuit. The opinion is authored by Judge Lawrence VanDyke and joined by Judges Bridget S. Bade and Kenneth K. Lee." [Idaho Capital Sun, [9/29/23](#)]

The 9th Circuit Subsequently Overruled Bade

October 2023: The Injunction Was Put Back Into Place After Review By The Full 9th Circuit. According to CBS News, "A three-judge panel of the U.S. Court of Appeals for the 9th Circuit then allowed the law to be fully enforced while litigation

continued. But the full 9th Circuit, which reviewed the panel's ruling, reinstated the district court's order in October.” [CBS News, [4/24/24](#)]

2024: The Case Remained Pending Before The Supreme Court. According to CBS News, “The Supreme Court on Wednesday appeared divided as it wrestled with a case pitting Idaho's near-total ban on abortion against a federal law that requires hospitals to provide stabilizing care to patients experiencing medical emergencies. The dispute between the Biden administration and Idaho officials in the case known as *Moyle v. United States* was the second involving abortion that the court has heard in the span of a month. But it marks the first time since the court's decision overturning *Roe v. Wade* in June 2022 that the justices have considered a state law restricting access to the procedure.” [CBS News, [4/24/24](#)]

Idaho’s Abortion Ban Threatened Doctors That Assist In Performing An Abortion With Prison

Idaho’s Abortion Ban Threatens Doctors Who Assist In Performing An Abortion With Up To Five Years In Prison And The Loss Of Their Medical License. According to Reuters, “Idaho's so-called abortion ‘trigger’ law, adopted in 2020, automatically took effect upon *Roe*'s reversal. The state law bans nearly all abortions unless needed to prevent a mother's death, threatening doctors who violate it with two to five years in prison and loss of their medical license.” [Reuters, [4/24/24](#)]