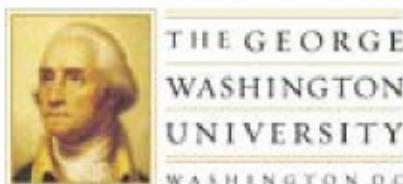


The Burger Court Opinion Writing Database

Williams v. Zbaraz

448 U.S. 358 (1980)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 23, 1980

Dear Potter:

I join.

Regards,

WesB

Mr. Justice Stewart

Copies to the Conference

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Black
Mr. Justice Rehnquist
Mr. Justice Powell
Mr. Justice Stevens
Mr. Justice Souter

No. 79-4, WILLIAMS v. ZBARAZ

From: Mr. Justice Stewart

79-5, MILLER v. ZBARAZ

Circulated: 11 JUN 1980

79-491, UNITED STATES v. ZBARAZ

Recirculated:

Mr. Justice Stewart delivered the opinion of the Court.

This suit was brought as a class action under 42 U.S.C. § 1983 in the District Court for the Northern District of Illinois to enjoin the enforcement of an Illinois statute that prohibits state medical assistance payments for all abortions except those "necessary for the preservation of the life of the woman seeking such treatment."^{1/} The plaintiffs were two physicians who perform medically necessary abortions for indigent women, a welfare rights organization, and Jane Doe, an indigent pregnant woman who alleged that she desired an abortion that was medically necessary, but not necessary to save her life. The defendant was the Director of the Illinois Department of Public Aid, the agency charged with administering the State's medical assistance programs.^{2/} Two other physicians intervened as defendants.

The plaintiffs challenged the Illinois statute on both federal statutory and constitutional grounds. They asserted, first, that Title XIX of the Social Security Act, commonly known as the "Medicaid" Act, 42 U.S.C. § 1396 et seq. (1976 ed. and Supp. II), requires Illinois to provide coverage in its Medicaid plan for all medically necessary abortions, whether or not the life of the

1, 3, 4, 7, 8, 9

From: Mr. Justice Stewart

Circulated: _____

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

Nos. 79-4, 79-5, AND 79-491

Jasper F. Williams and Eugene F. Diamond, Appellants,

79-4 v.

David Zbaraz et al.

Jeffrey C. Miller, Acting Director,
Illinois Department of Public
Aid, et al., Appellants.

79-5

David Zbaraz et al.

United States, Appellant.

79-491

David Zbaraz et al.

On Appeals from the
United States District
Court for the Northern
District of Illinois,

[June 1, 1980]

MR. JUSTICE STEWART delivered the opinion of the Court.

This suit was brought as a class action under 42 U. S. C. § 1983 in the District Court for the Northern District of Illinois to enjoin the enforcement of an Illinois statute that prohibits state medical assistance payments for all abortions except those "necessary for the preservation of the life of the woman seeking such treatment."¹ The plaintiffs were

¹ The statute is codified as chapter 23 of the Illinois Annotated Statutes (Smith-Hurd 1979 Supp.). It provides in relevant part:

"Sec. 5-5. Medical services. The Illinois Department, by rule, shall determine the quantity and quality of the medical assistance for which payment will be authorized, and the medical services to be provided, which may include all or part of the following: [listing 16 categories of medical services], but not including abortions, or induced miscarriages or premature births, unless, in the opinion of a physician, such procedures

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice O'Connor

From: Mr. Justice Stewart

Circulated: _____

Recirculated: 23 JUN 1980

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 79-4, 79-5, AND 79-491

Jasper F. Williams and Eugene F. Diamond, Appellants,

79-4

David Zbaraz et al.

Jeffrey C. Miller, Acting Director,
Illinois Department of Public
Aid, et al., Appellants.

79-5

David Zbaraz et al.

United States, Appellant.

79-491

David Zbaraz et al.

On Appeals from the
United States District
Court for the Northern
District of Illinois.

[June —, 1980]

MR. JUSTICE STEWART delivered the opinion of the Court.

This suit was brought as a class action under 42 U. S. C. § 1983 in the District Court for the Northern District of Illinois to enjoin the enforcement of an Illinois statute that prohibits state medical assistance payments for all abortions except those "necessary for the preservation of the life of the woman seeking such treatment."¹ The plaintiffs were

¹ The statute is codified as chapter 23 of the Illinois Annotated Statutes (Smith-Hurd 1979 Supp.). It provides in relevant part:

"Sec. 5-5. Medical services. The Illinois Department, by rule, shall determine the quantity and quality of the medical assistance for which payment will be authorized, and the medical services to be provided, which may include all or part of the following: [listing 16 categories of medical services], but not including abortions, or induced miscarriages or premature births, unless, in the opinion of a physician, such procedures

4, 5, 7, 8, 10

From: Mr. Justice Stewart

Circulated: _____

3rd DRAFT

Recirculated: 25 JUN 1980

SUPREME COURT OF THE UNITED STATES

Nos. 79-4, 79-5, AND 79-491

Jasper F. Williams and Eugene F. Diamond, Appellants,

79-4

David Zbaraz et al.

Jeffrey C. Miller, Acting Director,
Illinois Department of Public

Aid, et al., Appellants,

79-5 v.

David Zbaraz et al.

H. J. S. G.

United States, Appellant,
72-101

75-491

David Zbaraz et al.

On Appeals from the
United States District
Court for the Northern
District of Illinois.

[June —, 1980]

MR. JUSTICE STEWART delivered the opinion of the Court.

This suit was brought as a class action under 42 U. S. C. § 1983 in the District Court for the Northern District of Illinois to enjoin the enforcement of an Illinois statute that prohibits state medical assistance payments for all abortions except those "necessary for the preservation of the life of the woman seeking such treatment."¹ The plaintiffs were

¹ The statute is codified as chapter 23 of the Illinois Annotated Statutes (Smith-Hurd 1979 Supp.). It provides in relevant part:

"Sec. 5-5. Medical services. The Illinois Department, by rule, shall determine the quantity and quality of the medical assistance for which payment will be authorized, and the medical services to be provided, which may include all or part of the following: [listing 16 categories of medical services], but not including abortions, or induced miscarriages or premature births, unless, in the opinion of a physician, such procedures

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 16, 1980

Re: Nos. 79-4, 79-5 & 79-491 -
Williams v. Zbaraz, etc.

Dear Potter,

Please join me.

Sincerely yours,



Mr. Justice Stewart
Copies to the Conference
cmc

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 16, 1980

79-4 Williams v. Zbaraz
79-5 Miller v. Zbaraz
79-491 U.S. v. Zbaraz

Dear Potter:

Please join me.

Sincerely,

Lewis

Mr. Justice Stewart

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 16, 1980

Re: Nos. 79-4, 79-5, & 79-491 - Williams v. Zbaraz

Dear Potter:

Please join me in your opinion of the Court.

Sincerely,



Mr. Justice Stewart

Copies to the Conference