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U.S.

Judge Orders Hospital to Remove Pregnant Woman From Life Support

By MANNY FERNANDEZ JAN. 24, 2014

FORT WORTH — A Texas judge ruled Friday that a Fort Worth hospital may not keep a brain-dead pregnant woman on life support against her family's wishes, and ordered doctors to take her off the machines by 5 p.m. on Monday.

The ruling gives the family of the woman, Marlise Muñoz, their first legal victory in a two-month battle over the fate of her body that has raised an emotionally charged national debate over end-of-life care, abortion and a Texas law that prohibits medical officials from withdrawing life support from a pregnant patient.

The judge, R. H. Wallace Jr. of 96th District Court in Tarrant County, ruled that Ms. Muñoz, 33, who has been on life support at John Peter Smith Hospital since November and is now 22 weeks pregnant, was legally dead, agreeing with the family's lawyers that the hospital had erred in its decision to keep her on life support. The hospital had said the Texas law addressing life support for pregnant women prevented it from granting the family's wish, but the judge said the law did not apply to Ms. Muñoz because she is dead.

Judge Wallace set the 5 p.m. Monday deadline, saying he wanted to give the hospital time to file an appeal.

A spokeswoman for the county-owned hospital, which was represented by the Tarrant County district attorney's office, said it would be consulting with its lawyers. The hospital appeared to be considering an appeal.

Lawyers for Ms. Muñoz's husband, Erick Muñoz, said they were provided with medical records that showed the fetus was "distinctly abnormal" and suffered from hydrocephalus — an accumulation of fluid in the cavities of the brain — as well as a possible heart problem.

The hospital acknowledged in court documents that the fetus was not viable.

The hearing Friday, at a courthouse three miles from the hospital, touched on the larger political issues that have underscored her case. In legal filings and in the courtroom, the lawyer for the hospital, Larry M. Thompson, said that Ms. Muñoz met the clinical criteria for brain death two days after she arrived there.

But he argued that the law still applied to her, and that the Texas Legislature's passage of the law showed that the state had a compelling interest in protecting unborn children.

Mr. Thompson wrote in court papers that the Texas Penal Code's definition of an individual stated that an unborn child was alive at every stage of gestation, from fertilization until birth. And he pointed to a bill backed by Gov. Rick Perry that lawmakers passed last year that banned abortions after 20 weeks of pregnancy, based on the theory that the fetus can feel pain at that stage.

"Given the strong interest of the Texas Legislature in protecting the life of unborn children, it is unlikely the Legislature contemplated only the welfare of the mother" when it enacted the law prohibiting the withdrawal of life support for pregnant patients, Mr. Thompson wrote.

He added that it was reasonable to infer that the law was meant to "protect the unborn child against the wishes of a decision maker who would terminate the child's life along with the mother's."

But a lawyer for Mr. Muñoz said Mr. Thompson's argument amounted to a sweeping public policy declaration with broad implications. The lawyer, Heather L. King, said that if the state indeed had such an interest, paramedics who arrived at crash scenes would be required to give dying women pregnancy tests to ensure they were following the law.

Ms. King apologized in the courtroom for putting it so crudely, but told the judge that pregnant women “die every day,” adding: “When they die, their fetus dies with them. That is the way it’s always been, and the way it should be.”

Moments after Judge Wallace made his ruling, Mr. Muñoz, 26, who had been sitting in a bench behind his lawyers, slumped in his seat and began weeping. He was embraced by his relatives.

“There’s nothing happy about today,” Ms. King said outside the courtroom. “This was a sad situation all the way around. We are relieved that Erick Muñoz can now move forward with the process of burying his wife.”

The hearing dealt largely with the blunt issue of Ms. Muñoz’s death. Brain death — the total loss of all brain functions — amounts to a legal state of death. As part of his ruling, the judge ordered the hospital to pronounce Ms. Muñoz dead.

Though Mr. Muñoz did not speak at the hearing, he said in court papers that it has been painful to watch his wife deteriorate from the woman he knew to what he described as a corpse being kept alive against his wishes.

“Over these past two months, nothing about my wife indicates she is alive,” he said in an affidavit.

“When I bend down to kiss her forehead, her usual scent is gone, replaced instead with what I can only describe as the smell of death. As a paramedic, I am very familiar with this smell, and I now recognize it when I kiss my wife. In addition, Marlise’s hands no longer naturally grip mine for an embrace. Her limbs have become so stiff and rigid due to her deteriorating condition that now, when I move her hands, her bones crack, and her legs are nothing more than dead weight.”

Mr. Muñoz’s lawyers had asked the judge to declare the Texas law unconstitutional, arguing that it violated Ms. Muñoz’s rights under the 14th Amendment to make medical decisions about her own body.

The judge said since the law did not apply to Ms. Muñoz, he would make no ruling on its constitutionality.

Ms. Muñoz, who was trained as a paramedic, lived with her husband and their 15-month-old son, Mateo, in nearby Haltom City.

She was at home in the middle of the night on Nov. 26 when she collapsed from an apparent blood clot in her lungs. She had gone to the kitchen to prepare a bottle for Mateo. Her husband later found her on the kitchen floor. She had stopped breathing, but was alive when she arrived at the hospital, according to court documents.

Her parents and her husband's lawyers said she was not breathing for an unknown length of time, possibly as long as an hour or more, which severely harmed the fetus by depriving it of oxygen.

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