20-454 COCHRAN V. MAYOR AND CITY COUNCIL OF BALTIMORE

DECISION BELOW: 973 F.3d 258

LOWER COURT CASE NUMBER: 19-1614

QUESTION PRESENTED:

Title X of the Public Health Service Act, which authorizes federal funding for family planning services, provides that "[n]one of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning." 42 U.S.C. 300a-6. In *Rust v. Sullivan*, 500 U.S. 173 (1991), this Court upheld a regulation that, among other things, prohibited recipients of Title X funds from making elective-abortion referrals in Title X clinics and also required them to maintain physical separation between those clinics and any abortion-related activities. This Court ex- plained that those referral and separation provisions were authorized by statute, the product of reasoned decision making, and consistent with the Constitution. Relying on that decision, the Department of Health and Human Services issued a final rule in 2019 that reinstated materially indistinguishable referral and separation provisions. The questions presented are as follows:

1. Whether the rule falls within the agency's statutory authority.

2. Whether the rule is the product of reasoned decision making.

CONSOLIDATED WITH 20-429 AND 20-539 FOR ONE HOUR ORAL ARGUMENT.

ORDER OF APRIL 26, 2021:

THE ACTING SOLICITOR GENERAL IS DIRECTED TO FILE A LETTER BRIEF ADDRESSING THE FOLLOWING QUESTION: WHETHER THE GOVERNMENT INTENDS TO CONTINUE TO ENFORCE THE CHALLENGED RULE AND REGULATIONS OUTSIDE THE STATE OF MARYLAND UNTIL THE COMPLETION OF NOTICE AND COMMENT; AND, IF FURTHER LITIGATION IS BROUGHT AGAINST THE CHALLENGED RULE AND REGULATIONS OUTSIDE OF MARYLAND, HOW THE GOVERNMENT WOULD INTEND TO RESPOND. THE BRIEF, NOT TO EXCEED THREE PAGES, IS TO BE FILED BY MONDAY, MAY 3, 2021. THE NON-FEDERAL PARTIES AND THE PROPOSED INTERVENORS MAY SUBMIT ANY RESPONSES IN LETTER BRIEFS, NOT TO EXCEED THREE PAGES EACH, BY MONDAY, MAY 10, 2021.

CERT. GRANTED 2/22/2021