



National Organization for Women v. Scheidler, 537 U.S. 393 (S.Ct. 2003)

Topics Covered: Physician Safety, Abortions

Outcome: Very Unfavorable

Issue

This case concerned the power of the federal courts to enjoin persons who, in the course of abortion protests, intimidate and commit acts of violence against pregnant women seeking medical services at abortion clinics, the physicians and other persons who provide such services, and the abortion clinics themselves.

AMA Interest

The AMA supports the right of access to medical care and opposes violence and acts of intimidation directed against patients, physicians, other healthcare providers, and medical facilities, including abortion clinics.

Case Summary

The National Organization for Women (NOW) and two abortion clinics sued Joseph M. Scheidler, Operation Rescue, and several other militant anti-abortion activists in 1986 in the United States District Court for the Northern District of Illinois, in Chicago. While a part of the defendants' activities involved legitimate expression of opinion, another part involved illegal conduct. Protestors sat or lay down in abortion clinic doorways, entered the clinics and destroyed medical equipment, and chained their bodies to operating tables to prevent their use. In some instances, protestors physically assaulted clinic staff and patients. The defendants also issued letters and statements to other clinics threatening to engage in such illegal conduct at those clinics unless they voluntarily shut down. NOW claimed that the defendants' anti-abortion protests violated the Racketeer Influenced and Corrupt Organizations Act (RICO) through criminal acts of intimidation and violence.

In 1994, the Supreme Court held that RICO provided a remedy against the defendants' actions. *NOW v. Scheidler*, 510 U.S. 249. Following the Supreme Court decision, the case was remanded to the district court for a trial. After a seven-week trial, a jury found for the plaintiffs. The trial court awarded a total judgment of slightly in excess of \$250,000. In addition, the court entered a permanent, nationwide injunction prohibiting the defendants from using violence or threats of violence against abortion clinics, their employees, volunteers, or patients. The injunctive relief was far more significant than the monetary damages, because the defendants, being impecunious, were largely impervious to monetary damages.

On Feb. 26, 2003, the Supreme Court reversed, holding for the abortion protesters. The Court reasoned that to violate the Hobbs Act (a federal anti-extortion statute), a perpetrator must obtain actual possession of a victim's property. The abortion protesters, however, merely interfered with the clinics' use of their property. Thus, they did not violate the Hobbs or the RICO Act. The Court never reached the issue of whether private litigants could secure an injunction under RICO.

Litigation Center Involvement

The Litigation Center, on behalf of the AMA and several state and specialty societies, filed an amicus curiae brief in support of NOW and the other plaintiffs. It primarily argued that the defendants had violated the Hobbs Act and that in so doing, they had supplied the necessary predicate for a RICO violation.

United States Supreme Court brief