Summary of SC99966, *Planned Parenthood of the St. Louis Region, et al. v. Robert Knodell, in His Official Capacity as Acting Director of the Missouri Department of Social Services, et al.*

Appeal from the Cole County circuit court, Judge Jon E. Beetem
Argued and submitted November 8, 2023; opinion issued February 14, 2024

Attorneys: The state was represented by Joshua M. Divine and Maria A. Lanahan of the attorney general's office in St. Louis, (573) 571-3321. Planned Parenthood was represented by Charles W. Hatfield, Alixandra S. Cossette, Alexander C. Barrett and Greta M. Bax of Stinson LLP in Jefferson City, (573) 636-6263.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: The state appeals from a judgment finding an appropriation bill unconstitutional. In a decision written by Judge W. Brent Powell and joined by five judges, the Supreme Court of Missouri affirms the circuit court's judgment. The Medicaid service provider had standing to challenge the appropriation bill, did not waive its right to challenge the bill in its participation agreement, and did not have to exhaust its administrative remedies prior to seeking declaratory relief. This Court must affirm the circuit court's decision because the state failed to appeal from all bases on which the circuit court entered judgment in the service provider's favor.

Judge Zel M. Fischer concurs in a separate opinion. He agrees with the principal opinion but writes separately to reiterate his belief that article III, section 23 of the state constitution unambiguously exempts appropriation bills from the single subject requirement.

Facts: The MO HealthNet division of the department of social services administers Missouri's Medicaid program. Health care providers sign a participation agreement to be reimbursed for providing Medicaid-eligible individuals with services. Planned Parenthood provides health care services, including physician and family planning services, to Medicaid-eligible individuals and submits claims for reimbursement to the state. The legislature funds Missouri's Medicaid program through appropriation bills. During its 2021 session, the legislature passed House Bill No. 11, which appropriated approximately $12.6 billion for MO HealthNet for fiscal 2022. During its 2022 session, the legislature passed House Bill No. 3014, which provided supplemental appropriation for MO HealthNet. HB 3014 also included language appropriating zero dollars for medical and health-related services performed by a place or facility, other than hospitals, in which abortions are performed. The MO HealthNet division subsequently informed Planned Parenthood by letter that it was ineligible for payments pursuant to HB 3014. Planned Parenthood then sued the state, alleging HB 3014 violated the state constitution's single subject requirement and equal protection clause. The circuit court agreed and found in Planned Parenthood's favor on both constitutional claims. The state appeals.

AFFIRMED.

Court en banc holds: (1) Planned Parenthood had standing to bring the declaratory judgment action. In a declaratory judgment action, a claimant has standing if the claimant has a legally protectable interest at stake in the outcome of the litigation. A legally protectable interest exists if the claimant is directly and adversely affected by the action in question or if the claimant's interest is conferred by statute. The letter from the state informing it no longer would reimburse Planned Parenthood for services provided establishes Planned Parenthood would be directly and adversely affected by HB 3014 and the state's implementation of the supplemental appropriation bill.

(2) Planned Parenthood's provider agreement with the state was not a waiver of its constitutional claims. A party may contractually waive or relinquish rights to seek adjudication for suffered injuries, but the contract terms must be unequivocal, plain and clear. Under the agreement, Planned Parenthood agreed to accept pro-rata payment when there was insufficient funding. Here, however, there was not insufficient funding to reimburse Planned Parenthood for the covered services it provided; rather, the state deemed Planned Parenthood ineligible for payments. The language in the agreement, therefore, does not unequivocally, plainly or clearly waive Planned Parenthood's right to seek relief in this case.

(3) Planned Parenthood was not required to exhaust its administrative remedies before seeking declaratory and injunctive relief from the circuit court. A party must exhaust administrative remedies before raising a challenge against an agency in circuit court. When a constitutional challenge to a statute forms the only basis for granting declaratory judgment, however, exhaustion of administrative remedies is not required. Only courts within the Missouri judiciary, not tribunals under the state's executive branch, have the authority to determine a statute or legislative enactment to be unconstitutional. Had Planned Parenthood first pursued its claims before the administrative hearing commission, the commission would not have been able to provide the relief requested.

(4) This Court must affirm the circuit court's judgment because the state failed to challenge the circuit court's finding HB 3014 violated the equal protection clause. Allegations of error not briefed properly or at all shall not be considered in any civil appeal. This Court must refrain from addressing the state's single subject constitutional argument given the circuit court's judgment can be affirmed on an alternative basis.

Concurring opinion by Judge Fischer: The author agrees with the principal opinion but writes separately to reiterate his belief that article III, section 23 of the state constitution unambiguously exempts appropriation bills from the single subject requirement. He emphasizes this Court's role in constitutional interpretation is to interpret the provisions according to their natural and original meaning, even if policy considerations justify a different interpretation. He finds the text of article III, section 23 clearly states the general requirement that a bill cannot contain more than one subject and then provides an exception for general appropriation bills.