

# Biden Versus Trump Judges: Abortion and Reproductive Justice

As a direct result of the Republican Senate confirming three Trump nominees to the Supreme Court, the Court overturned *Roe v Wade* and deprived all American women of the constitutional right to abortion and reproductive freedom. Trump nominees Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett cast decisive votes in the 5-4 *Dobbs v Jackson Women's Health Organization* decision that upheld a restrictive Mississippi abortion law and overturned *Roe*.

Both before and after *Dobbs*, Trump lower court judges have also issued rulings harming reproductive choice. For example, Trump judge James Ho cast the deciding 2021 vote in [US v Texas](#), which allowed a harmful Texas law that set up a "bounty hunter" enforcement scheme to go into effect. Under that law, any person can seek to punish someone who performed or helped someone get an abortion by filing a civil lawsuit and obtain at least \$10,000 plus fees and costs.



In fact, Texas Attorney General Ken Paxton recently encouraged Texans to use the law against anyone who helped Kate Cox, who left Texas to obtain an abortion in the [tragic case](#) where Texas state courts refused to permit an abortion of a fetus with a fatal abnormality that was determined medically necessary for her to have children in the future.

Since *Dobbs*, Trump district judge Matthew Kaczmaryk has taken aim at a method used by millions of women to obtain an abortion by issuing an injunction earlier this year that effectively [banned](#) the abortion pill mifepristone, even though it was approved by the FDA decades ago. On appeal, Trump judges James Ho and Cory Wilson, two Trump Fifth Circuit judges supported a [ruling](#) that severely restricted the abortion pill, although it did not go quite as far as the district court injunction. Astonishingly, Ho argued that doctors challenging abortion can somehow claim "aesthetic injury from the destruction of unborn life." The Supreme Court stayed these rulings as it considers the case and is expected to issue a decision by July 2024. The potential harm to reproductive rights if the Court approves either decision is devastating.





Reversing the FDA's approval of the abortion pill would have nationwide effects even in states that permit abortion, harming reproductive rights and "health care for millions" of women. This demonstrates the dangerous impact of Trump judges.

On the other hand, despite the limits on reproductive freedom imposed by *Dobbs* and restrictive state laws, Biden judges have had some positive impact on reproductive rights. This occurred in a case involving the federal Emergency Medical Treatment and Labor Act (EMTALA), which, according to the Justice Department, guarantees access to abortions when necessary to stabilize emergency medical conditions that put a person's health in serious jeopardy, even in states that have severely restricted abortion. Idaho argued to the contrary, and a three-judge panel of Trump judges let Idaho enforce its restrictive law as the case went forward.

The Justice Department then obtained a full court rehearing by eleven judges to consider that issue. Biden Ninth Circuit judges Lucy Koh and Salvador Mendoza [cast deciding votes](#) in a 7-4 ruling that blocked enforcement of Idaho's law and preserved abortion rights in emergency situations while the case goes forward. In response to Idaho's request, however, the Supreme Court has recently effectively [reinstated](#) the restrictive Idaho law and will hear the case on the merits in April this year. The reproductive rights and health of countless women will be at stake.

The record is clear. More Trump judges on the federal courts starting in 2025 can only further harm millions of people by restricting abortion and reproductive rights. In contrast additional Biden judges will likely protect these freedoms for real people across the country.

