

FILED
SEP 09 2024
DUVAL CLERK OF COURT

IN THE CIRCUIT COURT OF THE FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: (To Be Assigned)

DIVISION: (To Be Assigned)

IN RE: THE MATTER OF THE UNBORN CHILD OF CHERISE DOYLEY

ORDER GRANTING EMERGENCY PETITION FOR DECLARATORY JUDGMENT

This matter came to be heard on September 8, 2024, upon the Emergency Petition for Declaratory Judgment of the State of Florida ("Petitioner"), with respect to the care and treatment of the unborn child of Cherise Doyley ("Unborn Child") and Cherise Doyley ("Mother"). Testimony was taken of Dr. Erin Burnett (the "Attending Physician"), the attending physician at UF Health Jacksonville (the "Hospital"). Testimony was taken of the Mother.

The Court, having considered the testimony, argument and positions presented during the emergency hearing, and otherwise being duly advised of the premises herein, hereby finds:

1. Mother is currently a patient at the Hospital.
2. Mother is currently pregnant with Unborn Child.
3. The Mother of the Unborn Child is not consenting to the performance of a Caesarean Section at this time, but, based on her testimony at the hearing on September 8, 2024, is consenting to the performance of a Caesarean Section in an emergency situation.
4. The Attending Physician is an attending physician at the Hospital.
5. According to the Attending Physician, within a reasonable degree of medical certainty:
 - i. Mother's pregnancy is at full term, and she is actively in labor;
 - ii. Mother is unable to vaginally deliver the unborn child;

- iii. The performance of a Caesarean Section is now or will soon become medically necessary;
- iv. Without the performance of a Caesarean Section Unborn child will die or will suffer serious and potentially life-threatening bodily injury; and
- v. There are no known medical alternatives available to provide Unborn Child with a chance to survive other than through the performance of a Caesarean Section.

6. Petitioner has a compelling interest in the preservation of the life of an unborn child and the protection of innocent third parties, such as Unborn Child, who may be harmed by the parental refusal to allow or consent to life-saving medical treatment. Harrell v. St. Mary's Hospital, Inc., 678 So.2d 455, 457 (Fla. 4th DCA 1996) (wherein the court held that the State Attorney's Office is the proper party to bring this petition); In re: Matter of Dubreuil, 629 So. 2d 819, 822 (Fla. 1994) ("among the factors we have identified in determining whether to give force to a patient's right to refrain from medical treatment is the protection of innocent third parties"); and In the Interest of Ivey, 319 So. 2d 53, 58 (Fla. 1st DCA 1975) ("the state, as *parens patriae*, may step in and protect the rights of a child threatened with death because its natural parents will not consent to medical treatment because of religious beliefs or otherwise"). Burton v. State, 49 So. 3d 263, 266 (Fla. Dist. Ct. App. 2010) ("The test to overcome a woman's right to refuse medical intervention in her pregnancy is whether the state's compelling state interest is sufficient to override the pregnant woman's constitutional right to the control of her person, including her right to refuse medical treatment.") Pemberton v. Tallahassee Mem'l Reg'l Med. Ctr., Inc., 66 F. Supp. 2d 1247, 1254 (N.D. Fla. 1999) ("Because of the very substantial risk that

the course Ms. Pemberton was attempting to pursue would result in the death of her baby, requiring her to undergo an unconsented caesarean section did not violate her constitutional rights.”)

7. In the event that the Attending Physician, or any other attending physicians at the Hospital, determines that Mother’s condition has deteriorated to the point that treatment, including the performance of a Caesarean Section, is required, such physicians and hospital staff have indicated that they are not willing to proceed with such treatment over Mother’s objection without a court order authorizing them to do so.

Therefore, it is **ORDERED AND ADJUDGED:**

1. The Petition for Declaratory Judgment is **Granted**.
2. The Court, in doing so, has considered and weighed the Mother’s interest and the State’s interest in preserving the life of the Unborn Child. The Court considered the Mother’s interest based upon the severity of the medical condition, the likelihood that the treatment proposed will be successful, the Unborn Child’s chance of survival with and without the treatment, the invasiveness of the treatment, and the treatment’s effect on both the Mother and the Unborn Child.
3. Petitioner has a compelling interest in the preservation of the life of the Unborn Child.
4. The Unborn Child is viable at 41 weeks and meets the definition of viability under Burton v. State, 49 So. 3d 263, 266 (Fla. Dist. Ct. App. 2010)
4. Treatment, including the performance of a Caesarean Section may be performed on the Mother as deemed necessary by the Attending Physician, or Unborn Child’s other attending physicians, to attempt to save Unborn Child’s life, until medically discharged from the Hospital at emergency events, including but not limited to emergencies or emergent situations such as fetal

bradycardia, fetal heart tracing category 3, or signs of uterine rupture,.

5. No civil or criminal liability shall attach to Petitioner, the Attending Physician, other attending physicians, or to the Hospital and its officers, agents, employees, or staff providing treatment, including the performance of a Caesarean Section without patient consent.

6. The Attending Physician, the Unborn Child's other attending physicians and the Hospital, may share limited information with Petitioner and the Court as reasonably necessary to follow Mother and Unborn Child's hospitalization to determine whether further judicial intervention is necessary.

7. This Order shall be reviewed no later than thirty (30) days from the date of its entry to determine if the declaratory judgment is still necessary and appropriate based upon the status of the medical conditions of the Mother and Unborn Child.

8. A continuation of this hearing is scheduled for 8:00 AM tomorrow September 9, 2024 to review the medical status of the mother and unborn child via ZOOM at <https://zoom.us/j/2276858461> Meeting ID Number 227 685 8461.

DONE AND ORDERED in Jacksonville, Duval County, Florida, this 8th day of September 2024.



Circuit Court Judge

Copies to:

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