

Ohio Supreme Court dismisses AG Yost's appeal, clears path for abortion ban to be blocked

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A month after Ohio voters approved a constitutional right to abortion, the state Supreme Court dismissed an appeal that could have led to reinstating a ban on most abortions.

Justices dismissed the appeal "due to a change in the law."

The move on Friday comes shortly after attorneys for Ohio's abortion clinics asked a Hamilton County judge to block the abortion ban permanently.

That law bans doctors from performing abortions after cardiac activity is detected, which is about six weeks gestation. The ban took effect for several months last year after the U.S. Supreme Court overturned Roe v. Wade, sending decisions about abortion access back to state lawmakers and judges.

That ban has been on hold since September 2022, when a Hamilton County judge blocked it temporarily. Ohio Attorney General Dave Yost, a Republican, appealed the decision to the Ohio Supreme Court.

The court initially agreed to look at two issues: whether abortion clinics could sue on behalf of patients and whether Yost appealed too soon. After Ohioans approved the abortion rights measure on Nov. 7, Yost still wanted the justices to address those two legal questions.

But attorneys challenging the law on behalf of Ohio abortion clinics asked the Ohio Supreme Court to dismiss the appeal. They argued the issue was moot because Issue 1 invalidated the abortion ban.

"As of Dec. 7, 2023, the Ohio Constitution expressly forbids the state from prohibiting abortion prior to viability," attorneys wrote. "There is no question that (Senate Bill) 23 bans abortion prior to viability."

The court dismissed Yost's appeal. The decision comes after Ohioans, in a 57%-43% vote, added a right to abortion and other reproductive decisions to the state constitution.

All but one judge supported dismissing the case. Judge Matthew Byrne with the Twelfth District Court of Appeals would have proceeded with the case. He was filling in for Justice Joe Deters who recused himself.