

With Ohio Supreme Court dismissal, abortion ‘heartbeat’ ban now back in lower court

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COLUMBUS, Ohio – With the Ohio Supreme Court’s Friday evening dismissal of an appeal in the so called “heartbeat” abortion case, all eyes are now on a state court that could strike down the law altogether, an attorney representing abortion providers said.

Shortly after 5 p.m. Friday, [the state’s top court dismissed](#) an appeal brought by the state in the case. The appeal wasn’t focused on the overall constitutionality of the heartbeat law but whether clinics have the right, or standing, to challenge abortion laws without pregnant women as plaintiffs, and whether certain judicial orders, such as preliminary injunctions, can be appealed.

With the Ohio Supreme Court no longer considering the appeal, the next step is in the court of Hamilton County Common Pleas Judge Christian Jenkins, who has been asked to decide the constitutionality of heartbeat law.

[Abortion providers recently filed an amended complaint](#) arguing that, with the passage of a state constitutional amendment last month generally allowing abortions until fetal viability, or around 22 weeks into a pregnancy, the heartbeat law has to be permanently blocked. A fetal heart tone can be detected at around six weeks.

Even Ohio Attorney General Dave Yost, a Republican, [said in filings in the Supreme Court appeal](#) that the heartbeat ban is unlikely to stand now that the amendment is in effect.

“It’s kind of just a question of timing, because we have to wait for the state to answer (to the amended complaint), but we will ask the court to rule quickly,” said Jessie Hill, the attorney representing providers, which include Planned Parenthood and Preterm-Cleveland, on Monday. “We think it’s pretty clear. It’s not like we need a big trial.”

Hill hopes Jenkins strikes down the law in a couple of weeks, although the state has the right to appeal, she noted.

The legislature passed the heartbeat ban in 2019, and Gov. Mike DeWine signed it. But it didn't go into effect until June 24, 2022, after the U.S. Supreme Court overruled Roe v. Wade. The heartbeat law was in place in Ohio for 82 days, until Jenkins began a series of rulings that prohibited the state from enforcing the law until his court could make a final decision.