

DOE V BOLTON

(condensed from)

<https://embryo.asu.edu/pages/doe-v-bolton-1973>

In the opinion of the Court, written by Harry Blackmun, the justices decided in favor of Doe in a seven to two decision.

In his opinion, Blackmun agreed with several of the arguments made by Hames on behalf of Doe and the physicians, nurses, and social workers who joined her case.

Blackmun addressed the requirement for **hospital accreditation**, agreeing with Hames that the requirement restricted access to abortions unduly. He stated that requiring hospitals to be approved by the Joint Commission for the Accreditation of Hospitals was not relevant to providing abortions, as no one had shown that those requirements made the abortion procedure any safer for women, which was the claimed intent of the law.

Blackmun also responded to Hames's claim that Georgia's system discriminated against lower income people, as not all hospitals in Georgia had Joint Commission for the Accreditation of Hospitals approval. Because the justices had already struck down the accreditation requirement, Blackmun stated that there was no longer a cause for any discrimination.

Blackmun's opinion also agreed with Hames on other requirements of the Georgia abortion law, including that **hospital abortion committees** approve abortion requests and that women requesting abortions be residents of Georgia. Blackmun stated that the hospital abortion committees were redundant to physicians' opinions, and that they restricted women's rights to receive medical care from their chosen physicians and physicians' rights to provide medical care.

Blackmun also struck down the requirement that **each physician receive two more physicians' opinions**, claiming that the best judgment of one physician was sufficient. In addition,

Blackmun stated that the **requirement that women be residents of Georgia was not constitutional**. Blackmun cited the privileges and immunities clause of the US Constitution, which says that each state in the US cannot treat the citizens of other states any differently within its borders. Blackmun ruled that Georgia could not limit its medical care, including abortions, to the residents of Georgia only.

Though Blackmun largely agreed with Hames and decided in favor of Doe, he also included some caveats in his opinion. Blackmun stated that even though the Roe v. Wade decision legalized abortion, it **did not give women unbounded rights to receive abortions**. Blackmun disagreed with Hames's claim that Georgia had previously restricted abortions to save women's lives, but now emphasized fetuses' rights.

He claimed that **states had a compelling interest in protecting the lives and rights of fetuses and that a state's interest of protect fetuses lives should not be downgraded** as Hames had suggested.

Blackmun also disagreed with Hames and Doe's claim that the law was vague. Blackmun stated that the Georgia abortion law **required physicians to act on their best clinical judgments**, and that the law was not vague, but rather a directive that required physicians to consider all factors before providing women with abortions.

BURGER: He also mentioned that the US Supreme Court rejected the claim that the US Constitution requires that women be able to receive abortions on demand.