

JAMES HO ON ABORTION

Highlights:

- James Ho ruled to allow Texas' abortion ban to go into effect.
- James Ho called to fully remove mifepristone, an abortion pill, from the market and revoke its approval with the FDA.
 - The 5th Circuit, on which Ho sits, ruled to revoke mifepristone's initial FDA approval.
 - Ho's concurrence went further, calling to remove the pill from the market and revoke its entire approval.
 - Ho did not recuse himself from the case despite his wife's financial ties to the group aiming to revoke the FDA approval for mifepristone.
- James Ho was openly antagonistic to abortion in his rulings.

Ho Ruled To Allow Texas' Abortion Ban To Go Into Effect

HO RULED TO ALLOW TEXAS' ABORTION BAN TO GO INTO EFFECT

Ho Ruled To Allow Texas' Abortion Ban To Go Into Effect While The State Appeals An Injunction Against It.

According to People for the American Way, "Trump Fifth Circuit judge James Ho cast the deciding vote in a 2-1 decision to grant Texas' motion to stay a district court's preliminary injunction against its draconian abortion law while it appeals the injunction. This effectively means the prohibition will remain in place for months or more, unless the Supreme Court takes prompt action on the Justice Department's announced plan to ask it to vacate the stay. The October 2021 Fifth Circuit order was in *US v Texas*." [People for the American Way, [10/15/21](#)]

- **The Texas Abortion Banned Abortion As Soon As A Heartbeat Was Detected And It Allowed People To Sue Others They Think Performed Or Got An Abortion.** According to People for the American Way, "As explained earlier in this blog, Texas recently passed what has been called the 'nation's strictest' abortion law, which prohibits abortion as soon as a fetal heartbeat can be detected, after about six weeks of pregnancy. The law also sets up a 'bounty hunting scheme' to enforce the law, under which any person who is not a government official can file a civil lawsuit against anyone they think performed or helped someone get an abortion that violated it and, if they succeed, receive statutory damages of at least \$10,000 per abortion, plus costs, attorneys' fees, and injunctive relief." [People for the American Way, [10/15/21](#)]

Ho Ruled To Fully Revoke FDA Approval For Medication Abortion And Did Not Recuse From The Case Despite Financial Ties To Plaintiff's Lawyers

HO RULED TO FULLY REVOKE MIFEPRISTONE'S INITIAL FDA APPROVAL AND TAKE THE DRUG OFF THE MARKET

The 5th U.S. Circuit Court Of Appeals, Which Ho Is Part Of, Ruled That Access To The Abortion Pill Mifepristone Should Be Rolled Back By Limiting Online Ordering, Mail Delivery, And Pharmacy Dispensing Of The Pill.

According to Politico, "The 5th U.S. Circuit Court of Appeals on Wednesday ruled that access to the abortion pill, mifepristone, should be sharply curtailed, ramping up the legal threat to the most popular method of ending a pregnancy. The decision — if allowed by the Supreme Court to take effect — would roll back actions the federal government has taken since 2016 to make the pills more accessible, including rules allowing online ordering, mail delivery, and pharmacy dispensing of the drugs. It also would roll back access from the current 10 weeks of pregnancy to seven and would reimpose a requirement that only physicians can prescribe the pills." [Politico, [8/16/23](#)]

The Ruling Would Also Roll Back The Ten-Week Access Limit To Seven And Make It A Requirement That Only Physicians Could Prescribe The Pill. According to Politico, “The 5th U.S. Circuit Court of Appeals on Wednesday ruled that access to the abortion pill, mifepristone, should be sharply curtailed, ramping up the legal threat to the most popular method of ending a pregnancy. The decision — if allowed by the Supreme Court to take effect — would roll back actions the federal government has taken since 2016 to make the pills more accessible, including rules allowing online ordering, mail delivery, and pharmacy dispensing of the drugs. It also would roll back access from the current 10 weeks of pregnancy to seven and would reimpose a requirement that only physicians can prescribe the pills.” [Politico, [8/16/23](#)]

Ho Concurred In The Mifepristone Judgment But Argued To Be More Restrictive, Revoking Mifepristone’s Initial FDA Approval And Taking The Drug Off The Market

Ho Agreed That The Initial Approval Of Mifepristone Should Be Rolled Back Which Could Have Taken The Pill Off The Market Altogether. According to Politico, “One of the judges on the three-judge panel, Judge James Ho, wanted to go even further than rolling back access to the drug. He agreed with the most extreme position of the challengers that the FDA’s original approval should be stripped altogether, a move that would take the drug off the market entirely. But Ho, an appointee of former President Donald Trump, was overruled by his two colleagues — also Republican appointees — who said it’s too late for anti-abortion groups to challenge the original agency approval declaring the drugs safe and effective more than two decades ago.” [Politico, [8/16/23](#)]

HO WAS CONNECTED TO THE ANTI-ABORTION GROUP THAT BROUGHT THE MIFEPRISTONE CASE THROUGH HIS WIFE

Ho’s Wife, Allyson, Received Least Six Payments From 2018 Through 2022 From The Legal Group Behind The Mifepristone Case, Alliance Defending Freedom. According to the Guardian, “Ho served on the three-judge panel last summer that ruled to restrict access to mifepristone. The legal group behind the mifepristone case, Alliance Defending Freedom, made at least six payments from 2018 through 2022 to his wife, Allyson, a powerhouse federal appellate lawyer who has argued in front of the supreme court and has deep connections to the conservative legal movement that has led the attack on the right to abortion in the US.” [Guardian, [3/25/24](#)]

- **It Was Not Clear What Alliance Defending Freedom Paid Allyson Ho Do But The Group Was Dedicated To Ending Abortion.** According to Guardian, “It’s unclear what Alliance Defending Freedom paid Allyson Ho to do, yet ending abortion is central among the organization’s goals. The group helped write the Mississippi law that led to the Dobbs decision that overturned Roe v Wade and ended the 50-year-old constitutional right to an abortion.” [Guardian, [3/25/24](#)]

Ho Was Outspoken In Condemning Abortion In His Rulings

HO WAS OPENLY ANTAGONISTIC TO ABORTION IN HIS RULINGS

Ho: “The First Amendment Expressly Guarantees The Free Exercise Of Religion — Including The Right Of The Bishops To Express Their Profound Objection To The Moral Tragedy Of Abortion.” According to NPR, “Ho has shaken up the staid world of appellate law by deploying aggressive rhetoric in cases involving guns, abortion rights and campaign finance regulations. Today’s government ‘would be unrecognizable to our Founders,’ he has written. He condemned what he called ‘the moral tragedy of abortion.’ [...] ‘It’s hard to imagine a better example of how far we have strayed from the text and original understanding of the Constitution than this case,’ Ho wrote in a concurring opinion. ‘The First Amendment expressly guarantees the free exercise of religion — including the right of the bishops to express their profound objection to the moral tragedy of abortion.’” [NPR, [7/26/18](#)]

Ho In A Concurring Opinion, Said Abortion Was “The Immoral, Tragic, And Violent Taking Of Innocent Human Life.” According to CNN, “In a 2019 concurring opinion, Ho also said that a trial judge’s ruling – which struck down a 15-week abortion ban and which was affirmed by the 5th Circuit under the then-standing Roe precedent – displayed ‘an alarming disrespect for the millions of Americans who believe that babies deserve legal protection during pregnancy as well as after birth, and that abortion is the immoral, tragic, and violent taking of innocent human life.’” [CNN, [5/8/23](#)]