

# CENTER *for* REPRODUCTIVE RIGHTS

March 7, 2023

## Case Background: *Zurawski v. State of Texas*

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The Center for Reproductive Rights has filed a case in Texas state court on behalf of five Texas women and two Texas doctors. The lawsuit asks for clarity on when abortions can be provided under the “medical emergency” exception in Texas’ abortion bans. All five women in the case were denied abortion care despite experiencing dangerous pregnancy complications that threatened their health and lives. This is the first time that women have sued a state for being denied abortions since *Roe v. Wade* was overturned.

Conflicting language and non-medical terminology in Texas’ multiple bans have left doctors confused over what circumstances qualify as exceptions and fear that they could be prosecuted for providing care to patients with life and health-threatening complications. Under the trigger ban alone, doctors could face up to 99 years in prison. Since the state’s abortion bans took effect, Texas doctors have been turning patients away. Meanwhile, pregnant people are being forced to either wait until they are near death to receive care or flee the state if they are able.

### Who is involved:

The plaintiffs are five Texas women who were denied abortions and two Texas ob-gyns:

- **Amanda Zurawski**, from Austin, Texas. Amanda was excited to be pregnant, but at 17 weeks she was diagnosed with cervical insufficiency and preterm pre-labor rupture of membranes (PPROM), meaning the fetus would not survive and her life was at significant risk. She was denied an abortion after visiting a hospital in Austin because the doctors could still detect fetal cardiac activity. Three days later, she quickly developed sepsis, a life-threatening infection. Only then—near death—was she able to get an emergency abortion. She spent the next three days in the ICU fighting for her life. As a result of the sepsis, one of her fallopian tubes was damaged, making it harder for her to become pregnant again in the future.
- **Lauren Miller**, from Dallas, Texas. Pregnant with twins, Lauren M. was hospitalized at six weeks of pregnancy for severe nausea, vomiting, and dehydration, and was diagnosed with hyperemesis gravidarum. Hyperemesis is a common diagnosis for patients pregnant with multiples that can cause significant risks for the patient and fetuses. At 12 weeks, while still struggling with hyperemesis, Lauren found out that one of the fetuses was not likely to survive due to a severe genetic condition called Trisomy 18 and that her life and the other twin were in jeopardy. To give the healthy twin and herself the best chance of survival, Lauren needed to get an abortion procedure known as a fetal reduction to abort the fetus with Trisomy 18, but could not get one in Texas because of the state’s abortion bans. Lauren was forced to travel to Colorado to get the procedure. She is still pregnant with the remaining twin and is due in mid-March. She continues to fear for her own safety as a pregnant woman in Texas.

- **Lauren Hall**, from outside Dallas, Texas. Just a few weeks after *Roe* was overturned, Lauren H. learned at 18 weeks pregnant that her fetus had anencephaly, a condition where the fetus does not develop a skull. The diagnosis meant that the fetus had no chance of survival and that Lauren H. could face severe health risks if she continued the pregnancy. Her doctor was scared to give her a referral for abortion out of state and would not even send her medical records out of state. Lauren H.'s obstetrician was opposed to abortion and refused to help her. Lauren ultimately had to travel to Washington state for an abortion. She is now pregnant again and due in September.
- **Anna Zargarian**, from Austin, Texas. Anna was 19 weeks pregnant when her water broke prematurely. She started cramping and went to the emergency room, where doctors told Anna there was no chance that the fetus would survive and that she was at severe risk of infection, hemorrhage, and sepsis. Anna was told that she needed an abortion but could not get one in Texas and would need to leave the state. Anna was discharged and went home where she continued to experience cramping. Despite already showing signs of infection, and fearful that she would go into labor on the way, Anna decided to fly to Colorado where she received an abortion. Anna still wants to have children but is scared to go through pregnancy again in Texas.
- **Ashley Brandt**, from Dallas, Texas. Ashley was 12 weeks pregnant with twins when she learned that one of the fetuses had anencephaly and that the longer she stayed pregnant with both twins, the less likely it was that she or the healthy twin would survive the pregnancy. Because of S.B. 8, Ashley's doctors said she needed to leave the state for an abortion, so she was forced to make an appointment in Colorado. The day that Ashley returned home, however, her water for one of the twins broke and she rushed to the hospital to make sure the other twin was healthy. It was clear that no one in the ER wanted to acknowledge her abortion, and instead indicated that Ashley had "vanishing twin syndrome." Ashley felt she could not talk to her providers about what was actually happening. Ashley ultimately gave birth to the other twin, but for the duration of her pregnancy, Ashley was afraid that something in her pregnancy would go wrong and no one in Texas would be willing to help her.
- **Dr. Damla Karsan**, a board-certified ob-gyn with a private office in Houston and a former Planned Parenthood provider. As part of her practice, Dr. Karsan provides gynecological care, prenatal care, and obstetric care to her patients and to her colleagues' patients when on-call. Before S.B. 8, Dr. Karsan provided abortions to patients when they needed it, but now finds her hands tied. She has treated patients with dangerous pregnancy complications and conditions, including anencephaly. Dr. Karson joined this lawsuit to speak on behalf of other physicians who she knows are afraid to speak out for fear of political retaliation.
- **Dr. Judy Levison**, a board-certified ob-gyn and faculty member at a medical school in the Houston area. Dr. Levison has witnessed widespread fear and confusion among her fellow doctors in light of Texas's abortion bans, and the harm it's causing pregnant people. Dr. Levison partially retired from the practice of medicine in July 2022 after *Roe* was overturned, partly because she felt she could no longer practice medicine in line with her training and ethical obligations as a physician.

These seven plaintiffs filed the lawsuit against the state of Texas, Attorney General Ken Paxton, and the Texas Medical Board and its executive director.

### Legal Claims:

Plaintiffs are asking the court to issue a declaratory judgement to clarify what situations fall under the “medical emergency” exceptions in Texas’ abortion bans including a trigger ban, which is a total ban with severe criminal and civil penalties, and S.B. 8, a vigilante law banning abortion after about six weeks of pregnancy. They are asking the court to declare that the abortion bans do not apply when, based on a doctor’s own medical judgement, a pregnant person is at risk of death or at serious risk of substantial impairment of a major bodily function, including any risk of infection and fetal complications.

The plaintiffs are also arguing that the Texas state constitution protects pregnant people’s right to obtain an abortion when facing life or health-threatening situations as well as physicians’ right to provide that care. Under the state constitution, Texans are guaranteed the rights of life, liberty, equality, and property, all of which protect the provision of and access to abortions during medical emergencies.

### About the Center for Reproductive Rights:

The [Center for Reproductive Rights](#) is a global human rights organization of lawyers and advocates who seek to protect reproductive rights as fundamental human rights around the world. Since its founding in 1992, the Center’s game-changing litigation, legal policy, and advocacy work across five continents has transformed how reproductive rights are understood by courts, governments, and human rights bodies. The Center has offices in New York, Washington, Bogota, Nairobi, and Geneva. In the U.S., the Center has litigated four Supreme Court cases in the last six years including [Dobbs v. Jackson Women’s Health Organization](#) and [Whole Woman’s Health v. Jackson](#).

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