Parental notification upheld by high court

By Liz Schevtchuk
Catholic News Service

WASHINGTON — In separate rulings June 25, the U.S. Supreme Court upheld an Ohio requirement of parental notification in teenagers' abortions and allowed Minnesota to demand notification of two parents — as long as a court can intervene to circumvent that rule.

The court ruled 6-3 to uphold the Ohio law in *Ohio vs. Akron Center for Reproductive Health* and 5-4 to strike down a Minnesota measure demanding strict notification of a teenager's two parents.

But it turned around and subsequently ruled 5-4 that the Minnesota law is valid as long as the teenage girl has the option of going to a court to avoid notifying both parents.

The Ohio law, which had been struck down by the Cincinnati-based 6th U.S. Circuit Court of Appeals in 1988, requires 24-hour notice to a parent or guardian — or use of a judicial bypass — before a minor can obtain an abortion, unless she has already produced written parental consent for the procedure.

The Minnesota law was upheld in 1988 by the St. Louis-based 8th U.S. Circuit Court of Appeals, which overruled both a three-judge panel of that appeals court and a federal district court, but questioned the concept of a two-parent notification.

The statute required the physician of a pregnant girl under age 18 to provide 48 hours' written notice of an impending abortion to both of the girl's parents — even in cases of parental divorce or separation — but allowed a "judicial bypass" by which a girl could appeal to the courts for permission without notifying her parents.

In its first 5-4 decision on the Minnesota law, the Supreme Court pointed "to the unreasonableness of the Minnesota two-parent notification requirement and to the ease with which the state can adopt less burdensome means to protect the minor's welfare."

"We therefore hold that this requirement violates the Constitution," declared Justices John Paul Stevens, William J. Brennan, Thurgood Marshall, Harry Blackmun and Sandra Day O'Connor.

However, in a separate opinion, four justices wrote that they "conclude that the two-parent notice requirement with the judicial bypass is constitutional." The four were Justice Anthony M. Kennedy, who wrote the second opinion, Chief Justice William H. Rehnquist, and Justices Byron White and Antonin Scalia.

As the fifth justice joining them, O'Connor wrote in her own opinion that the Minnesota law, as long as it contains the judicial bypass, "passes constitutional muster."

In its ruling on the Minnesota law, the court also decided by a 6-3 margin that the 48-hour waiting period tied to notification is acceptable.

O'Connor and Stevens, in one opinion, said that "we think it is clear that a requirement that a minor wait 48 hours after notifying a single parent of her intention to get an abortion would reasonably further the legitimate state interest in ensuring that the minor's decision is knowing and intelligent."

The court majority in upholding the Ohio law consisted of Kennedy, Rehnquist, White, Stevens, O'Connor and Scalia.

The court, as a group, did not use either the Ohio or Minnesota case to comment in general about the merits of legal abortion or *Roe vs. Wade*, the court's 1973 decision that legalized abortion nationwide.

However, in a brief, 18-line concurring opinion in the Ohio case Scalia said, "I continue to believe ... that the Constitution contains no right to abortion."

Blackmun, Brennan and Marshall dissented in the Ohio case.

AP/Wide World Photos

CRS TO AID IRANIAN EARTHQUAKE RELIEF — Catholic Relief Services, the international relief and development agency of the U.S. Catholic Church, has begun accepting donations for victims of the June 21 earthquake in northern Iran. The quake registered between 7.3 and 7.7 on the Richter scale. Recent news reports have reported that the death toll had reached nearly 50,000 and that another 200,000 had been injured. Above, people search for members of their families in the ruined city of Manjil, Gilan Province.

Ruling sides with Missouri in case over right to die

By Julie Asher
Catholic News Service

WASHINGTON — In its first decision in a so-called "right to die" case June 25, the U.S. Supreme Court ruled against withdrawing food and water from a young Missouri woman in a "persistent vegetative state."

In a 5-4 ruling in the case of Nancy Beth Cruzan, the high court sided with the Missouri Supreme Court, saying that a state's interest in preserving life may supersede the wishes of the family in cases where a patient is in an irreversible comalike state.

Writing for the court, Chief Justice William H. Rehnquist said that Missouri has "a general interest in the protection and preservation of human life" and has the right to require "clear and convincing evidence" that Cruzan wants to die before it allows the withdrawal of life-sustaining measures.

Rehnquist was joined in the opinion by Justices Byron R. White, Sandra Day O'Connor, Antonin J. Scalia and Anthony M. Kennedy.

Dissenting were Justices William J. Brennan, Thurgood Marshall, Harry A. Blackmun and John Paul Stevens.

Lawyers for the 32-year-old Cruzan — who was injured in a 1983 car accident that left her in what has been described as a "persistent vegetative state" — had urged the high court to decide that the constitutional guarantee of liberty in the 14th Amendment should permit the withdrawal of food and water.

As guardians and petitioners in the court case, her parents, Lester and Joyce Cruzan, sought permission to stop the food and water being administered to her through a tube — surgically implanted in her stomach — that is keeping her alive.

The 14th Amendment declares that no state shall make a law abridging the privileges of citizens, "nor ... deprive any person of life, liberty or property, without due process of law."

In the majority opinion, Rehnquist wrote that while a "competent person has a liberty interest under the Due Process Clause in refusing unwanted medical treatment, this does not mean that an incompetent person should possess the same right."

The general counsel for the U.S. bishops, Mark E. Chopko, said the court "wisely refrained from creating a fundamental constitutional right to refuse medical treatment that would prevail over all other concerns."

In a dissenting opinion, Brennan said Cruzan "is entitled to choose to die with dignity."

"Nancy Cruzan has dwelt in that twilight zone for six years. She is oblivious to her surroundings and will remain so," wrote Brennan. He said he believed that "Nancy Cruzan has a fundamental right to be free of unwanted artificial nutrition and hydration" and that that right "is not outweighed by any interests of the state."

Doctors have said that without receiving food and water through the tube Cruzan would die of starvation and dehydration. With it, she could live for 30 years or more, though little hope has been given for her recovery.

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