

No. 25-2432

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

PLANNED PARENTHOOD MAR MONTE, Inc.,
Plaintiff-Appellant,

v.

PRUYT, et al.,
Defendants-Appellees

On Appeal from the United States District Court
for the District of Nevada
The Honorable Anne R. Traum
No. 3:85-cv-00331-ART-CSD

APPELLANT’S MOTION TO DISMISS APPEAL

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Pursuant to Federal Rule of Appellate Procedure 42(b)(2), Plaintiff-Appellant Planned Parenthood Mar Monte, Inc. (“PPMM”) hereby moves to voluntarily dismiss the above-captioned appeal and requests that this Court order the parties to bear their own costs. Defendants-Appellees Carson City District Attorney and Lyon County District Attorney (“District Attorneys”) opposed this motion. No other party has stated their position.

RELEVANT FACTS & PROCEDURAL HISTORY

In 1985, Nevada passed Senate Bill 510, which implemented a parental notification and judicial bypass requirement for patients under the age of eighteen seeking an abortion.¹ On June 28, 1985, Dr. Eugene Glick and Planned Parenthood of Washoe County² filed suit against state and local officials responsible for enforcing the statutes, seeking an injunction to prevent these statutes from taking effect, arguing that they violated multiple federal constitutional provisions. *See Glick v. McKay*, 616 F. Supp. 322 (D. Nev. 1985). The district court granted a temporary restraining order that day, and issued a preliminary injunction on July 17, 1985, barring enforcement of the parental notification and judicial bypass provisions. *See id.* On June 21, 1991, this Court affirmed the injunction. *See Glick v. McKay*, 937

¹ *See* NRS 442.255; NRS 442.2555; NRS 442.257.

² Dr. Eugene Glick is deceased, and PPMM is the successor in interest of Planned Parenthood Washoe County, the original plaintiff in these proceedings.

F.2d 434, 442 (9th Cir. 1991). On October 10, 1991, the district court issued declaratory and permanent injunctive relief barring enforcement of the challenged statutory provisions, declaring them unconstitutional under the framework established by *Roe v Wade*, 410 U.S. 113 (1973). *See* 2-ER-217–18.2.³

On December 1, 2023, two Defendants, Carson City District Attorney and Lyon County District Attorney (the “District Attorneys”) moved to vacate the 1991 final judgment and permanent injunction under Federal Rule of Civil Procedure 60(b), arguing that *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022) entitled them to such relief. *See* 2-ER-191–216. The district court granted that motion on March 31, 2025, and ordered the injunction to be vacated, effective April 30, 2025. *See* 1-ER-2–28.

On April 11, 2025, PPMM timely appealed and sought a stay pending appeal before the district court. *See* 2-ER-262–67; Pl.’s Mot. for Stay of District Ct. Decision, *Planned Parenthood Mar Monte v. Ford*, No. 3:85-cv-00331-ART-CSD (D. Nev. Apr. 14, 2025), ECF No. 137. On April 25, 2025, the district court denied a stay pending appeal but granted an administrative stay of its Rule 60(b) decision to allow PPMM to seek a stay from this Court. *See* Addendum to Appellants’ Mot.

³ References to “X-ER-XXX” refer to the Excerpt of Record attached to Plaintiff-Appellant’s Opening Brief in this appeal. *See* Appellant’s Excerpt of R. - Index Volume, ECF No. 20; Appellant’s Excerpt of R. - Volume 1 of 2, ECF No. 21; Appellant’s Excerpt of R. - Volume 2 of 2, ECF No. 22.

for Stay Pending Appeal Volume 1 at add.028–039, ECF No. 10. On May 2, 2025, PPMM filed a motion to stay with this Court. *See* Appellant’s Mot. for Stay Pending Appeal, ECF No. 7. PPMM filed its opening brief in this appeal on July 7, 2025. Appellant’s Opening Br., ECF No. 19. On July 18, 2025, this Court denied PPMM’s motion to stay, stating in relevant part that “Plaintiff-Appellant failed to establish serious questions going to the merits on its argument that the change in law effected by *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022) did not warrant dissolution of the permanent injunction under Federal Rule of Civil Procedure 60(b)(5). *See Cal. ex rel. Becerra v. U.S. Env’t Prot. Agency*, 978 F.3d 708, 716 (9th Cir. 2020).” Order, ECF No. 34. On July 22, 2025, the district court lifted the temporary stay of its Rule 60(b) order vacating the 1991 permanent injunction and final judgment. Order, *Planned Parenthood Mar Monte v. Ford*, No. 3:85-cv-00331-ART-CSD (D. Nev. Jul. 22, 2025), ECF No. 150.

LEGAL STANDARD

Federal Rule of Appellate Procedure 42(b)(2) provides: “An appeal may be dismissed on the appellant’s motion on terms agreed to by the parties or fixed by the court.” This Court has found that it has “discretion in deciding whether to dismiss an appeal on appellant’s motion under Rule 42(b),” though it acknowledged that “circumstances may arise which demand, in the interests of justice, that this court deny appellant’s motion to voluntarily dismiss.” *Shellman v. U.S. Lines, Inc.*, 528

F.2d 675, 678 (9th Cir. 1975). “Such motions are generally granted, but may be denied in the interest of justice or fairness.” *Am. Auto. Mfrs. Ass’n v. Comm’r, Massachusetts Dep’t of Env’t Prot.*, 31 F.3d 18, 22 (1st Cir. 1994); *see also Albers v. Eli Lilly & Co.*, 354 F.3d 644, 646 (7th Cir. 2004) (noting that there is a “presumption in favor of dismissal” under Rule 42(b)); *Romsted v. Rutgers*, 566 F. App’x 189, 192 (3d Cir. 2014) (noting that “circumstances requiring a denial of a motion to voluntarily dismiss the appeal are relatively rare” (internal quotations omitted)).

ARGUMENT

I. This Court Should Exercise Its Discretion and Grant Appellant’s Motion to Dismiss the Appeal.

Here, the circumstances support this Court granting PPMM’s motion to dismiss the appeal, which PPMM is filing concurrently with a motion to dismiss the underlying case before the district court. Dismissal of this appeal is timely, as this case has not yet been fully briefed or argued. While PPMM has filed its opening brief, the District Attorneys have not yet filed their responsive brief in this case, nor has oral argument taken place. *But see Naruto v. Slater*, No. 16-15469, 2018 WL 3854051, at *1 (9th Cir. Apr. 13, 2018) (denying motion to dismiss appeal filed “nearly two months” *after* the court heard oral argument); *Albers*, 354 F.3d at 646 (denying motion to dismiss appeal filed after the Seventh Circuit had already drafted its opinion resolving the appeal); *Khouzam v. Ashcroft*, 361 F.3d 161, 168 (2d Cir.

2004), *as amended* (Apr. 12, 2004) (denying motion to dismiss where the appeal had been “fully litigated by both sides” and the motion was filed two weeks after oral argument); *see also Suntharalinkam v. Keisler*, 506 F.3d 822, 827 (9th Cir. 2007) (Kozinski, J., dissenting) (motion to dismiss granted even “[a]fter full briefing, extended oral argument, and several months of deliberation during which the judges of the Court sought to resolve and reconcile the various issues involved”). Because PPMM seeks to dismiss the underlying district court case, dismissal of this appeal is warranted and timely.

CONCLUSION

For the foregoing reasons, PPMM respectfully requests that this Court promptly enter an order dismissing this appeal and order each party to bear its own costs.

Date: July 23, 2025

Respectfully submitted,

**PLANNED PARENTHOOD
FEDERATION OF AMERICA**

By /s/ Valentina De Fex

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing complies with Fed. R. App. 27 and Fed. R. App. 32 because the attached brief is proportionally spaced, has a typeface of 14 or more points, and contains approximately 1,110 words, which is under the 5,200 word-limit for an opposition to a motion.

Dated: July 23, 2025

Respectfully submitted,

**PLANNED PARENTHOOD
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CERTIFICATE OF SERVICE

I, Valentina De Fex, hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate ACMS system. I certify that all participants in the case are registered ACMS users and that service will be accomplished by the appellate ACMS system.

Dated: July 23, 2025

Respectfully submitted,

/s/ Valentina De Fex

Planned Parenthood Federation of America