

Late-Term Abortion: Nurse/Conscientious Objector Has No Right To Sue Her Employer, Says US Court Of Appeals.

When she was hired for the hospital's operating room the nurse signed a document provided by her employer expressing her unwillingness to participate in abortions. The hospital had a written policy which allowed employees to register their conscientious objections to abortions and/or other procedures.

Nevertheless the nurse was compelled by her supervisor to assist in a late-term abortion. Then she reportedly was coerced to sign a document stating she had changed her mind and was now willing to participate in such procedures.

No Right to Sue Under Federal Law

The nurse sued her employer in Federal Court alleging damages for emotional distress. The US Court of Appeals for the Second Circuit ruled she had no right to sue under Federal law.

A 1993 US Federal statute provides that no institution which receives Federal funding may discriminate against a healthcare worker who performs or assists in abortions or sterilization procedures, or who refuses to perform or assist

in those procedures based on personal religious beliefs or moral convictions.

However, according to the Court, Congress had no intention when it passed the legislation to give a private citizen the right to sue his or her employer for discrimination in this context even if he or she has been a victim of clearly illegal employer action, unlike other contexts covered by the Civil Rights Act or Americans With Disabilities Act where Congress's intent to create a right to sue was unmistakably clear.

Federal regulations in effect when the events in this case transpired also ostensibly protect healthcare workers from discrimination. See *Morally Coercive Or Discriminatory Practices: New Regulations Take Effect January 20, 2009*. Legal Eagle Eye Newsletter for the Nursing Profession, (17)1, Jan. '09 p.1.

The Court noted that the nurse still has rights under state law in New York which are not affected by this ruling. **Cenzon-DeCarlo v. Mount Sinai Hosp.**, ___ F. 3d ___, 2010 WL 4723205 (2nd Cir., November 23, 2010).