

[MUSIC PLAYING]

CATHY Our top story is the jury selection that's underway today, in Aitkin County, for a case believed to be the first of its kind in the nation. At issue is whether the rights of a McGregor, Minnesota woman were violated, when her local pharmacist refused to fill a prescription for emergency contraception. The pharmacist cited his religious beliefs for the refusal. John Reinan is a reporter at the Star Tribune, who's been following this case for the past three years. He joins me now to talk about what happened. John, welcome to Minnesota Now. How have you been?

JOHN REINAN: I've been very good, Cathy, thank you.

CATHY Good, thanks for being here. How did this story start?

WURZER:

JOHN REINAN: Well, it started in 2019, three years ago, actually in the wintertime, when a woman, a mother of five, from McGregor, that's a town in the Brainerd area. She had a condom fail during intercourse. And she went into her local pharmacy to get an emergency contraceptive. And at some point, we should discuss the difference between emergency contraceptives and abortion pills because they're not the same.

CATHY Yes, you are right. We're talking about emergency contraception in this case.

WURZER:

JOHN REINAN: Yes. So she went in to get an emergency contraceptive. It was called Ella. E-L-L-A, like a woman's name. And it works similar to what's known as the Plan B pill. What it does is, if you take it after sex, it can delay or prevent ovulation within that same menstrual period. So it is not an abortion pill. It acts to delay the release of the egg. And so she went into her local pharmacy. And the pharmacist there told her that it was against his beliefs to dispense. And that she couldn't get it there.

CATHY Did he offer to send her to another pharmacy?

WURZER:

JOHN REINAN: That is going to be an issue in the case. Because the Minnesota Board of Pharmacy requires-- excuse me-- pharmacists to do what they can in their power to help people fill a prescription, if they are not going to fill it. He may perhaps not have been as aggressive as he might have been, in helping her find other options. I think that's something the jury is going to have to decide. But he told her, well, there's a CVS. And you could go there. And he said, I could send the prescription up to Brainerd, to the Walgreens.

At that point, the woman, whose name is Andrea Anderson, became angry. And she just basically felt like, I don't want to deal with you anymore. And she said, I'm going to do something about this. Literally, that was her quote. And she then stopped trying to get it at the McGregor Thrifty White.

CATHY Can pharmacists, John, in Minnesota, deny emergency contraception or any medication because of their religious beliefs?

WURZER:

JOHN REINAN: They can, according to the Minnesota Board of Pharmacy. This is something that the board issued a policy in 1999. And they say that they still are following that 23-year-old policy. If a pharmacist does not want to dispense a medication because of the pharmacist's beliefs, the pharmacist is required by pharmacy board regulations to assist the person in getting that prescription filled.

Another point that the jury may have to decide in this case, the pharmacy board requires pharmacists and pharmacies to have those policies in place ahead of time. So that they're not just winging it, when someone comes in and this situation arises. And that may also be a question that the jury will have to decide in this case, is whether that pharmacy actually did have a plan in place, or whether they were just playing it by the seat of their pants.

CATHY I was reading the article you wrote this morning about the case. Has the pharmacist done this before?

WURZER:

JOHN REINAN: Yeah, the pharmacist testified in a deposition that he had three times previously not filled a prescription for a form of contraception. Once, when he was working at a pharmacy in Grand Marais, and then two other times, when he was working in McGregor. So yes, he had declined to fill prescriptions before.

CATHY And he's been in the business for quite some time.

WURZER:

JOHN REINAN: About 40 years, yeah, He got his pharmacy license in the early 1980s.

CATHY So the woman in this case decides to sue under the state human rights law, is that correct?

WURZER:

JOHN REINAN: That's correct. And that's another interesting-- without getting too much into the legalese, I think it's something that a layperson can grasp. So there have been cases on the federal level. People might remember a few years ago, the Hobby Lobby case. And that was when the US Supreme Court ruled that an employer does not have to provide contraception at no cost through their health plan, if they object. And Hobby Lobby was run-- the company is run by religious people. And they didn't want to provide contraception under their insurance plan.

The Supreme Court ruled that it was a freedom of religion issue, and that this was OK to deny. But this is purely a state case. Minnesota has a Human Rights Act that prevents discrimination of various kinds, including sex discrimination. And sex is defined to also include issues relating to pregnancy and childbirth. So the pharmacist, in this case, cannot claim his federal constitutional right to freedom of religion. Because he's being sued under a state law that guarantees women the right to not be discriminated against, in pregnancy and childbirth.

CATHY So in this post Roe world, a lot of people are watching this case.

WURZER:

JOHN REINAN: I would think so. I mean, the people at Gender Justice, it's a Saint Paul advocacy group. And they are giving the legal representation to Andrea Anderson in this case. And they told me that they'd done research. And they're not aware of another state case like this that has actually come to trial. So this, they say, well, maybe there's one that we didn't come across. But they feel like it's probably the first. If not the first, certainly one of the first in the nation that's actually come to trial. And there's going to be a decision, probably within the next two or three days.

CATHY That seems fast, John.

WURZER:

JOHN REINAN: Well, it's a civil trial, not a criminal trial. And there are only going to be a few witnesses on each side. So basically, what you're going to have is the woman, the plaintiff who's suing, who was denied contraception. She's going to testify. The pharmacist will testify. They're going to have an expert witness come in and testify about the science involved. And then, the other side, the Thrifty White Pharmacy, which is being sued, they have a few witnesses. But it's really-- there are probably only going to be 8 or 10 witnesses in this case. So I imagine it's going to move pretty rapidly.

CATHY And I know you'll be covering it. John, thanks for the update. I appreciate it.

WURZER:

JOHN REINAN: You're welcome. And I'm going to have to look into your Findian stuff. Because my mom was Finnish.

CATHY Really? OK. Hey, you got to listen, later on in the program. It's a good piece from our friend, Dan Crocker. Thank you, John.

WURZER:

JOHN REINAN: You're welcome. Bye now.

CATHY John Reinan is a reporter at the Star Tribune.

WURZER: