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Judge clears way for teen to have abortion

By PATRICK CANTY
Staff writer

Saying his decision was not based on morality but on the U.S. Constitution, 166th District Judge Peter Michael Curry lifted a temporary restraining order that had prevented a 19-year-old San Antonio woman from having an abortion.

■ MAKING THE MOST OF IT/ANKE TOLSON B1

Before a courtroom packed with both pro- and anti-abortion supporters yesterday, Curry said he did not have the authority to prevent Kim Kyla Hayes from aborting her pregnancy, even against the wishes of her estranged husband, Keith Louis Hayes.

"I can't see how I can prevent this lady from having an abortion performed," he said, adding that he was not basing his decisions on his own personal beliefs but on Supreme Court decisions.

"I'm following the Constitution of the United States," he said.

After the ruling, Mrs. Hayes hurried with family and friends from the courtroom amid the glare of television camera lights.



KEITH HAYES
Estranged husband



AFTER RULING: Kim Kyla Hayes hurries from the courtroom amid the glare of television camera lights.

Attorney Gerald Goldstein, who represented Mrs. Hayes during the hearing, would not comment on whether his client would obtain an abortion but merely pointed to the high court rulings that make such a matter a private one for the woman.

He termed the ruling a victory, explaining that a woman, by law, has the right to decide for herself whether she should have an abortion.

As the woman's estranged husband walked from the courtroom with his attorney, Dave Rogers, after the hearing, he commented:

"I don't agree with what the court decided. That

court actually handed someone a license to commit murder."

Rogers noted that he feels laws must be changed because advancing medical technology is beginning to allow people to see that a fetus is an individual unborn child.

"We're not willing to put a murderer to death until all appeals are exhausted," he said. "What appeals does an unborn child have?"

Hayes had obtained a restraining order last week to prevent the abortion because he claimed that he had

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ABORTION: Way is cleared

ABORTION/From A1
right as a parent to protect the unborn fetus from family violence.

He testified during the hearing that, "I do believe it is a violent act. I believe it is murder."

But in questioning Hayes on the witness stand, Goldstein slammed the husband's assertions of "deeply seated" beliefs against such violence, citing that the man had been convicted of raping a former wife in 1978.

Goldstein also produced documents that revealed Hayes had fathered two other children from other women but had not paid for any type of child support for the youngsters.

The attorney also questioned Hayes about an incident in which he admitted to paying a \$40 fine in connection with a simple assault case.

"If ever there was someone more unfit to speak to family violence, this individual is one," Goldstein said in closing arguments.

During her testimony, Mrs. Hayes claimed the pregnancy was a surprise to her because her husband had told her that he had undergone a vasectomy.

"I consider what is inside me now like a cancer. I despise it. I want it to go away, and if it won't go away I'll make it go away."

To that answer, Rogers asked, "Are you aware that this cancer you refer to is a miniature baby?"

The woman replied that she did not consider the fetus to be a baby yet.

Asked if she felt she had the right to solely decide whether to terminate the pregnancy, Mrs. Hayes replied:

"But then, where were my rights when he told me he had a vasectomy?"

"I think he wanted to get somebody pregnant so he could have his own little play thing."

She admitted that the day before yesterday's hearing she visited two physicians seeking an abortion.

Those attempts were thwarted by Hayes' attorney with some assistance from 73rd District Judge James Onion, who issued the restraining order.

Testimony also was given yesterday by a physician who had examined the woman last week and determined her to be 13 to 14 weeks pregnant, not 20 weeks as Hayes