

FILED

April 9, 2024  
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CASE NUMBER: S-24-0081

***IN THE SUPREME COURT, STATE OF WYOMING***

***April Term, A.D. 2024***

**DANIELLE JOHNSON; KATHLEEN DOW; GIOVANNINA ANTHONY, M.D.; RENE R. HINKLE, M.D.; CHELSEA’S FUND; and CIRCLE OF HOPE HEALTHCARE d/b/a Wellspring Health Access,**

**Appellants,**

**v.**

**S-24-0081**

**STATE OF WYOMING; MARK GORDON, Governor of Wyoming; BRIDGET HILL, Attorney General for the State of Wyoming; MATTHEW CARR, Sheriff Teton County; MICHELLE WEBER, Chief of Police, Town of Jackson, Wyoming,**

**Appellees.**

**NOTICE OF DECLINATION TO ANSWER CERTIFIED QUESTIONS**

Pursuant to W.R.A.P. 11, the District Court for the Ninth Judicial District of Wyoming, in and for Teton County, the Honorable Melissa Owens presiding, has caused to be filed with this Court, on March 25, 2024, an Order Certifying Questions to Supreme Court. After a careful review of that order, this Court finds it should decline to answer the certified questions.

“In a W.R.A.P. 11 certification of a question of law, we rely upon the facts presented by the certifying court. *Kaycee Land and Livestock v. Flahive*, 2002 WY 73, ¶ 3, 46 P.3d 323, ¶ 3 (Wyo. 2002).” *Miech v. Sheridan Cnty., Wyo.*, 2002 WY 178, ¶ 2, 59 P.3d 143, 145 (Wyo. 2002). In the certification order, the district court provides information about United States Supreme Court decisions, the parties, and the history and scope of Wyoming’s abortion laws. In addition, the district court details the summary judgment pleadings pending before it. However, those pleadings are not part of the certification order and are thus not subject to this Court’s review under W.R.A.P. 11. It appears the district court is attempting to certify this entire case to this Court, but

W.R.A.P. 11 does not provide a procedural avenue for a district court to do that. Compare W.R.A.P. 12.09.

Also, this Court fails to see how it can answer the certified questions with the facts set out in the certification order. For example, in questions 6 and 12, Appellants claim the abortion laws violate rights to religious liberty. However, the certification order does not provide facts to indicate what religious beliefs are at issue and how those beliefs may be violated by the abortion laws. Another example is question 13, where Appellants claim the abortion laws are unconstitutionally vague. That question appears to require facts to support it, but the certification order does not detail those facts. The Court does not intend these examples to be a comprehensive list.

This Court acknowledges it will likely be required, at some point, to rule on the constitutionality of Wyoming's abortion laws. This Court stands ready to do so, if and when those constitutional questions are properly presented to it. Nevertheless, given the issues with the certification order noted above, this Court finds it should decline to answer the certified questions. This Court also concludes it and the litigants would be best served by the district court ruling on the summary judgment motions. This Court believes a ruling from the district court could refine and narrow the issues this Court will be called upon to determine. *Matter of Certified Question from U. S. Dist. Ct., Dist. of Wyoming*, 549 P.2d 1310, 1311 (Wyo. 1976) ("It is not mandatory that this court answer certified questions.") It is, therefore,

**ORDERED** that this Court declines to answer the certified questions.

**DATED** this 9<sup>th</sup> day of April, 2024.

**BY THE COURT:**

/s/

**KATE M. FOX**  
**Chief Justice**