

Carey Vs. Wynn

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Court : US Supreme Court

Decided On : Oct-16-1978

Appeal No. : 439 U.S. 8

Appellant : Carey

Respondent : Wynn

Judgement :

Carey v. Wynn - 439 U.S. 8 (1978)

U.S. Supreme Court Carey v. Wynn, 439 U.S. 8 (1978)

Carey v. Wynn

No. 78-229

Decided October 16, 1978 *

439 U.S. 8

ON APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS

SYLLABUS

This Court has no jurisdiction under 28 U.S.C. 1253 over appeals from a three-judge District Court's declaratory judgment invalidating certain state statutory provisions, such judgment being appealable only to the Court of Appeals.

Appeals dismissed. Reported below: 449 F.Supp. 1302.

PER CURIAM.

A three-judge District Court entered a declaratory judgment holding unconstitutional certain sections of the Illinois Abortion Act of 1975, Ill.Rev.Stat., ch. 38, 81-21 *et seq.* (Supp. 1976). *Wynn v. Scott*, 449 F.Supp. 1302 (ND Ill.1978). The District Court assumed that Illinois prosecutors would recognize and abide by the declaratory judgment, and denied plaintiffs' request for injunctive relief. *Id.* at 1331.

The appeals from the declaratory judgment invalidating certain provisions of the statute are dismissed for want of jurisdiction. Title 28 U.S.C. 1253, the jurisdictional statute under which these appeals are taken, does not authorize an appeal from the grant or denial of declaratory relief alone. *Gerstein v. Coe*, [417 U. S. 279](#) (1974). The declaratory judgment is appealable to the Court of Appeals, and we are informed that appeals to that court have been taken.

Appeals dismissed.

MR. JUSTICE STEVENS took no part in the consideration or decision of these cases.

* Together with No. 7239, *Diamond v. Wynn et al.*, also on appeal from the same court.