

REPRODUCTIVE SERVICES, INC. v. WALKER,
DISTRICT JUDGE

ON REAPPLICATION FOR STAY

No. A-1091. Decided August 21, 1978

Reapplication to stay Texas Supreme Court's order denying applicant medical clinic operator's motion for a writ of mandamus directed to respondent trial judge to overturn his order that applicant produce certain medical records in a medical malpractice suit against it, is granted. It appears that an order entered by respondent after denial of the initial application for a stay does not satisfy the express condition for such denial that a "protective order" ensuring the privacy of patients at applicant's clinics be entered.

MR. JUSTICE BRENNAN.

On July 17, 1978, in an in-chambers opinion, I stated: "[O]n express condition that the parties agree to a protective order ensuring the privacy of patients at applicant's clinics, the stay I entered on July 10, 1978, in these proceedings is hereby dissolved. If such a protective order is not entered, applicant may resubmit a further stay application." *Ante*, at 1309.

On August 14, 1978, applicant renewed its application, filing therewith a copy of an order entered August 1, 1978, by respondent, which it alleged did not constitute "such a protective order." Upon examination of said order of August 1, 1978, it is my view that said order does not constitute "such a protective order." Accordingly, the "express condition" upon which my stay entered on July 10, 1978, was to be dissolved not having been satisfied, said stay of July 10, 1978, is continued in effect pending the timely filing of a petition for writ of certiorari.

Should said petition for writ of certiorari be denied, the stay of July 10, 1978, is to terminate automatically. In the event said petition for writ of certiorari is granted, the stay of July 10, 1978, is to continue in effect pending the issuance of the mandate of this Court.