



Judge Blocks Federal Funding of Embryonic Stem Cell Research

Chief Judge Royce C. Lamberth of Federal District Court for the District of Columbia issued a preliminary injunction on August 23 blocking further implementation of President Barack Obama's 2009 executive order that permitted federal funding of embryonic stem cell research, according to a New York Times report.



Such research involves the creation of a human embryo in the laboratory, followed by the removal of the stem cells after a few days, whereupon the embryo is killed. Many pro-life groups oppose such research on the grounds that it takes the life of an unborn human being.

President George W. Bush, in typical fashion, tried to have it both ways when it came to federal funding of embryonic stem cell research, issuing an executive order in 2001 permitting federal funds to be spent on such research as long as the embryos being used had been destroyed prior to his issuing the order. After that he twice vetoed bills that would have funded such research on newly destroyed embryos.

Obama, continuing Bush's attempt to straddle the fence, ordered that federal funds could be spent on research involving embryonic stem cells but not on the process of extracting the stem cells and destroying the embryos — a distinction without a difference, as Lamberth saw it. He wrote: "If one step or 'piece of research' of an [embryonic stem cell] research project results in the destruction of an embryo, the entire project is precluded from receiving federal funding."

This, he said, was in keeping with "the clear language of the Dickey-Wicker Amendment, a law passed annually by Congress that bans federal financing for any 'research in which a human embryo or embryos are destroyed, discarded or knowingly subjected to risk of injury or death,'" wrote the *Times*, which added:

The Obama administration said that its rules abided by the Dickey-Wicker Amendment because the federal money would be used only once the embryonic stem cells were created but would not finance the process by which embryos were destroyed. The judge disagreed, writing that embryonic stem cell research "necessarily depends upon the destruction of a human embryo."

Lamberth is, of course, correct. Federal funding of stem cell research presumes the existence of such stem cells and, in fact, serves as an incentive to create them. The Obama (and, to some extent, Bush) position — that the feds can fund the research but not the process that leads up to it — is akin to paying someone to bring you parts from stolen cars. You're not paying for the theft *per se*, but you're certainly encouraging it.

The *Times* notes that the outcome of Lamberth's ruling is somewhat unclear, with researchers not



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knowing whether “it meant that work financed under the new rules had to stop immediately” or that “it meant that the [National Institutes of Health] had to use Bush administration rules for future grants.”

The Justice Department is reviewing the decision to decide whether or not to appeal it.

Dr. Leonard I. Zon, director of the stem cell program at Children’s Hospital Boston, told the *Times*, “The Obama administration’s permission to use federal funds is critical for embryonic stem cell research to move forward and has set a great standard for the United States.”

This assumes that scientific research could not be conducted in the absence of federal funding, which, sadly, may be the case in present-day America because universities and other institutions where such research takes place have become so thoroughly dependent on their taxpayer-funded grants.

Moreover, it assumes what Obama, Bush, and practically everyone else in Washington and the news media assumes, namely that the federal government ought to be funding scientific research in the first place. In vain will one scour the Constitution to find any authorization for such funding. Executive order, Dickey-Wicker Amendment, or no, the very document that called the federal government into existence prohibits the funding of embryonic stem cell research or any other kind of scientific research.

Thus, while Lamberth’s ruling is based on a fair reading of the law and is at least a small victory for opponents of federal funding of embryonic stem cell research, some of whom filed the lawsuit that resulted in the injunction, it leaves open the possibility that Congress could change the law and, in so doing, legalize such funding. Unfortunately, such constitutional and moral effrontery is all too common in Washington. Leviathan, as always, bears watching.

Photo: Chief Judge Royce C. Lamberth of the U.S. District Court in Washington: AP Images



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