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Court gives EWTN last-minute relief from HHS contraception mandate

by Sarah Hinds by Catholic News Service

Washington — A federal appeals court has issued a temporary injunction protecting the Eternal Word Television Network from having to comply with the Affordable Care Act's contraceptive mandate.

"As we have said repeatedly, contraception, abortion-inducing drugs and voluntary sterilization are not health care and the government should not force EWTN to provide them as part of our employer-sponsored health plan," said Michael Warsaw, chairman and CEO of EWTN Global Catholic Network, based in Irondale, a suburb of Birmingham, Ala.

EWTN has appealed a federal judge's order from late June dismissing its lawsuit challenging the government's requirement that most employers, including religious employers, cover contraceptives in employee health care plans.

On Monday, a three-judge panel of the 11th U.S. Circuit Court of Appeals in Atlanta issued an order barring enforcement of the mandate pending the outcome of the television network's appeal.

In granting an injunction, the 11th Circuit cited the U.S. Supreme Court's ruling in the Hobby Lobby case issued the same day that said closely held corporations can opt out of the new health care law requirement because of religious objections.

EWTN's appeal with the circuit court has to do with a June 17 ruling handed down by U.S. District Court Judge Callie Granada in Mobile, Ala., denying the network the protection it sought from enforcement of the Department of Health and Human Services mandate.

"We are extremely disappointed with the decision reached by the court in this case," Warsaw said in a

statement sent June 24 to Catholic News Service. "The fact that the court has dismissed the serious issues of conscience and religious freedom that EWTN has raised is very troubling."

"As an organization that was founded by Mother Angelica to uphold the teachings of the Catholic Church ... we simply cannot facilitate these immoral practices [of providing contraceptives]. We have no other option but to continue our legal challenge of the mandate," Warsaw said.

The network filed its appeal of Granada's decision with the 11th Circuit June 18.

The state of Alabama joined the network as a co-plaintiff in the lawsuit when it was initially filed in October 2013. It was the second lawsuit to be filed by EWTN; the first one was filed in 2012 and dismissed in March of that year.

"The freedom of religion, and to believe as one sees fit, is our 'first freedom' under the U.S. Constitution," said Alabama Attorney General Luther Strange in a statement issued upon the 2013 filing.

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"The people of Alabama have recognized the importance of this freedom and have enshrined it in their constitution as well. Alabama law does not allow anyone to be forced to offer a product that is against his or her religious beliefs or conscience," he said.

The Becket Fund for Religious Liberty filed the lawsuit for the plaintiffs. Lori Windham, senior counsel, is defending the network and noted in an interview with CNS that 80 percent of cases similar to the network's case result in rulings that protect the plaintiffs from the mandate.

"We don't think EWTN is different from those who have received injunctions," Windham said. "And that's why we immediately appealed to the 11th Circuit. The fight continues."

The Becket Fund reports that more than 100 cases against the Health and Human Services mandate have been filed since the regulation was announced in August 2011.

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