

IN THE SUPREME COURT OF TEXAS

No. 00-0193

IN RE JANE DOE 3

APPEAL UNDER SECTION 33.004(F), TEXAS FAMILY CODE

Per Curiam

Jane Doe, a minor, applied to a trial court for an order authorizing her to consent to an abortion without notifying either of her parents pursuant to section 33.003 of the Family Code. The trial court denied her application, and the court of appeals affirmed that judgment. CHIEF JUSTICE PHILLIPS, JUSTICE HECHT, JUSTICE OWEN, JUSTICE ABBOT and JUSTICE GONZALES would hold that Doe did not establish as a matter of law that she was sufficiently mature and well informed to make the decision to have an abortion without notification of either of her parents, and that she did not establish as a matter of law that notification may lead to her physical, sexual, or emotional abuse. Because the hearing in the trial court occurred on the second business day after this Court issued its decision in *In re Jane Doe*, ___ S.W.3d ___ (Tex. 2000) (*Doe I*), CHIEF JUSTICE PHILLIPS and JUSTICE GONZALES would vacate the court of appeals' judgment and remand this matter to the trial court in the interest of justice. JUSTICE ENOCH, JUSTICE BAKER, JUSTICE HANKINSON, and JUSTICE O'NEILL would conclude that Doe proved emotional abuse as a matter of law. Although they would render judgment for Doe, JUSTICE ENOCH, JUSTICE BAKER, JUSTICE HANKINSON, and JUSTICE O'NEILL join CHIEF JUSTICE PHILLIPS and JUSTICE GONZALES in setting aside the court of appeals' judgment.

Accordingly, the judgments of the court of appeals and the trial court are set aside and this matter is remanded to the trial court for further proceedings. *See Twyman v. Twyman*, 855 S.W.2d

619, 622 n.4, 626 (Tex. 1998) (reversing the court of appeals' judgment and granting the lesser relief when a majority of the Court did not agree on either remand or rendition). The proceedings in the trial court must be concluded as if Doe's application had been filed the next business day after this opinion issues. In the event that Doe requires additional time after the issuance of this opinion to prepare for a hearing, she may request an extension of time. *See* TEX. FAM. CODE § 33.003(h).

OPINION DELIVERED: March 13, 2000