Court: Gov't can fund embryonic stem cell research

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(AP)—A U.S. appeals court on Friday refused to order the Obama administration to stop funding embryonic stem cell research, despite complaints the work relies on destroyed human embryos.

The U.S. Circuit Court of Appeals for the Washington area upheld a lower court decision throwing out a lawsuit that challenged federal funding for the research, which is used in pursuit of cures to deadly diseases. Opponents claimed the National Institutes of Health was violating the 1996 Dickey-Wicker law that prohibits taxpayer financing for work that harms an embryo.

But a three-judge appeals court panel unanimously agreed with a lower court judge's dismissal of the case. This is the second time the appeals court has said that the challenged federal funding of embryonic stem cell research was permissible.

"Dickey-Wicker permits federal funding of research projects that utilize already-derived ESCs—which are not themselves embryos—because no 'human embryo or embryos are destroyed' in such projects," Chief Judge David B. Sentelle said in the ruling, adding that the plaintiffs made the same argument the last the time the court reviewed the issue. "Therefore, unless they have established some 'extraordinary circumstance,' the law of the case is established and we will not revisit the issue."

Researchers hope one day to use stem cells in ways that cure spinal cord injuries, Parkinson's disease and other ailments. Opponents of the

research object because the cells were obtained from destroyed human embryos. Though current research is using cells culled long ago, opponents say they also fear research success would spur new embryo destruction. Proponents say the research cells come mostly from extra embryos that fertility clinics would have discarded anyway.

The lawsuit was filed in 2009 by two scientists who argued that Obama's expansion jeopardized their ability to win government funding for research using adult stem cells—ones that have already matured to create specific types of tissues—because it will mean extra competition.

President George W. Bush also permitted stem cell research, but limited the availability of taxpayer funds to embryonic stem cell lines that were already in existence and "where the life and death decision has already been made." Obama's order removed that limitation, allowing projects that involve stem cells from already destroyed embryos or embryos to be destroyed in the future. To qualify, parents who donate the original embryo must be told of other options, such as donating to another infertile woman.

Sentelle also rejected the opponent's two other arguments: that the same federal law prohibits funding for projects where embryos are "knowingly subjected to risk of injury or death," and that NIH issued guidelines on the funding without responding to complaints about the research.

"Because the executive order's entire thrust was aimed at expanding support of stem-cell research, it was not arbitrary or capricious for NIH to disregard comments that instead called for termination of all ESC research," including research the White House has permitted since 2001," said Sentelle, who wrote the majority opinion for Judges Karen Henderson and Janice Rogers Brown.

Sentelle was appointed by President Ronald Reagan, Henderson by President George H.W. Bush and Brown by President George W. Bush, all three presidents Republicans.