

Alice Elizabeth BOWLAND et al.,
Plaintiffs and Appellants,

v.

MUNICIPAL COURT OF SANTA CRUZ
COUNTY JUDICIAL DISTRICT,
Defendant;

PEOPLE of the State of California,
Real Party in Interest and
Respondent.

Civ. 35739.

Court of Appeal, First District,
Division 1.

Jan. 26, 1976.

Rehearing Granted Feb. 25, 1976.

Plaintiffs, charged with misdemeanor of practicing medicine without a valid certificate, sought peremptory writ of mandate to restrain municipal court from proceeding with the prosecution. The Superior Court, County of Santa Cruz, Harry F. Brauer, J., denied petition, and petitioners appealed. The Court of Appeal, Molinari, P. J., held that phrase "or other mental or physical condition" as used in controlling statute does not render statute unconstitutionally vague or overbroad since quoted words refer to such conditions only as they arise from or are related to statutory criteria of any ailment, blemish, deformity, disease, disfigurement, disorder or injury and that midwifery does not constitute a violation of statute absent showing that it is associated with the diagnosis, treatment or operation for one or more of the aforementioned bodily infirmities.

Reversed with instructions.

Alice Elizabeth BOWLAND et al.,
Plaintiffs and Appellants,

v.

MUNICIPAL COURT OF SANTA CRUZ
COUNTY JUDICIAL DISTRICT,
Defendant;

PEOPLE of the State of California,
Real Party in Interest and
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Civ. 35739.

Court of Appeal, First District,
Division 1.

May 7, 1976.

As Modified May 18, 1976.

Hearing Granted July 1, 1976.

Three women who were charged with unlicensed practice of medicine in that they held themselves out as midwives even though they did not have valid licenses sought writ of mandate to restrain municipal court from proceeding with the prosecution. The Superior Court, County of Santa Cruz, Harry F. Brauer, J., denied relief and the three women appealed. The Court of Appeal, Molinari, P. J., held that statute prohibiting unlicensed practice of medicine was not unconstitutionally vague or overbroad; that pregnant women were not sick or afflicted, but that the pregnancy was a physical condition within meaning of statute; that complaint stated a public offense to the extent that it alleged that the women engaged in acts which can be formed only by persons holding physician's and surgeon's certificates; that complaint stated an offense to the extent that it alleged that women held themselves out as practicing a mode of treating persons for physical condition without a license; that it did not state an offense under statute prohibiting unauthorized practice of medicine to the extent that it alleged that the women were practicing midwifery without a midwife's license; but that the latter allegation did allege a misdemeanor for violating statutes relating to licensing of medical personnel.

Affirmed with directions.