

Supreme Court Ruling Shatters Legal Landscape on Abortion

On April 18, the US Supreme Court, in a 5-4 decision in *Gonzales v Carhart*, upheld a Congressionally-passed federal ban on one type of abortion procedure. The language of Justice Kennedy's majority opinion is shocking and appalling.

No Health Exception

For the first time in 34 years, the Supreme Court upheld an abortion restriction without an exception for when the woman's health is at risk.

- even though medical expert ObGyns testified about a myriad of rare but real complicating health conditions in which the now-banned procedure is safest to protect the woman's health, body or future fertility.
- even though as recently as January 2006 in Justice Sandra Day O'Connor's last decision, *Ayotte v PP et al*, the Court unanimously overturned a New Hampshire law because it **lacked a health exception**.

Kennedy's opinion implies science and facts are no longer needed; restrictions on abortion can be based upon the moral judgment of Congress or a state legislature. Though the decision mentions the fetus more than 180 times, it offers little concern for the rights, lives, or moral capability of adult women.

Justice Ginsburg Understands

On behalf of Justices Breyer, Souter and Stevens, Justice Ruth Bader Ginsburg wrote "At stake in cases challenging abortion restrictions is a woman's control over her own destiny. Women have the talent, capacity, and right to participate equally in the economic and social life of the Nation. Their ability to realize their full potential is intimately connected to their ability to control their reproductive lives."

Justices Scalia and Thomas

Scalia and Thomas sided with Kennedy and added their view that the right to abortion "has no basis in the Constitution."

Justice Kennedy's Flip Flop

A hero to the gay community for his 2003 opinion in *Lawrence v Texas* overturning Texas' law criminalizing sodomy, Kennedy based his decision then on a key principle in the *Casey* abortion decision: "Our obligation is to define the liberty of all, not to mandate our own moral code." We wish Kennedy had stuck to precedent this time.

Civil Penalties

Maternal grandparents of the fetus if the woman is under 18, and the father of the fetus if the woman is married, may sue for damages.

Politicizing Medicine

When Congress passed this law, Republicans were in charge of the House, Senate and White House. They refused to hear from expert physicians in abortion care and only took one-sided testimony from anti-abortion groups. We know the judgment of any elected body is going to be clouded by the politics of re-election. That's why in the past, we have turned to the Courts for justice. Americans understand that politics and medicine should not mix. We expect politics to stay out of personal family situations like in the Terri Schiavo case and to stop blocking the advancement of medicine through stem cell research.

What about WA State's Law?

The federal ban overrides Washington's Initiative 120, the Reproductive Privacy Act and applies to abortion providers in every state concerning this one type of abortion procedure.

Impact on Cedar River Clinics

The decision clarified the procedure that is banned, Intact D&E (dilation and evacuation), which is illegal only if the physician intends to perform it. Standard D&E remains legal.

Reactions

"Health care providers and patients should be alarmed by the current degree of intrusion by government into the practice of medicine."

-New England Journal of Medicine

"The five Supreme Court justices on the majority were all Catholic men: Chief Justice John Roberts, Justices Anthony Kennedy, Samuel Alito, Clarence Thomas and Antonin Scalia. All were appointed by conservative Republican presidents who oppose abortion."

-Religious Coalition for Reproductive Choice

"The state's interest in the fetus has now been elevated above the woman's health."

-Center for Reproductive Rights

"This decision discounts and disregards the medical consensus that Intact D&E is safest and offers significant benefits for women suffering from certain conditions. It diminishes the doctor-patient relationship by preventing physicians from using their clinical experience and judgment."

-American College of Obstetricians and Gynecologists

"It is absurd to think that Congress knows more about medical safety than doctors."

-Physicians for Reproductive Choice and Health

WHAT TO DO !

We need to build a new movement that honors all women's human rights, cares about the health and safety of women's reproduction, and places individual woman's moral authority about her pregnancy first and foremost above all others. We must call this decision what it is: insulting, blatant gender discrimination, and an affront to the human rights of women.

This law should be repealed immediately. Urge Senators Patty Murray and Maria Cantwell and your Representative to do so. Call 202-224-2131 and ask for your Senator or Representative.

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