

SUPREME COURT OF THE UNITED STATES

Planned Parenthood of Se. Pa. v. Casey

505 U.S. 833 (1992) · No. Nos. 91-744 and 91-902 · Decided June 29, 1992

SUMMARY

The United States Supreme Court reviewed provisions of Pennsylvania's Abortion Control Act, including informed-consent, 24-hour waiting-period, parental-consent and judicial-bypass, spousal-notification, and reporting requirements. The Court reaffirmed the essential holding of Roe v. Wade, held that pre-viability abortion regulations are unconstitutional when they impose an undue burden or substantial obstacle, and upheld the challenged provisions except the spousal-notification requirement.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice O'Connor, Justice Kennedy, and Justice Souter; Chief Justice Rehnquist; Justice White; Justice Blackmun; Justice Stevens; Justice O'Connor; Justice Kennedy; Justice Souter; Justice Scalia; Justice Thomas
JURISDICTION	Federal
DECIDED	June 29, 1992
DOCKET	Nos. 91-744 and 91-902
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Facial constitutional challenge to provisions of Pennsylvania's Abortion Control Act. The District Court permanently enjoined enforcement of all challenged provisions; the Third Circuit affirmed in part and reversed in part, upholding all provisions except the spousal-notification requirement. The Supreme Court granted certiorari.
STANDARD OF REVIEW	Facial constitutional review under the substantive Due Process Clause and the undue-burden standard; the Court also deferred to the lower federal courts' construction of Pennsylvania law absent plain error.
PRECEDENTIAL VALUE	binding
PARTIES	Planned Parenthood of Southeastern Pennsylvania, Abortion clinics, Physician providers v. Casey, Governor of Pennsylvania, Commonwealth of Pennsylvania officials

TOPICS

substantive due process

fourteenth amendment

constitutional law

health law

civil rights

PRACTICE AREAS

constitutional law

health law

civil rights

abortion regulation

substantive due process

QUESTIONS PRESENTED

1. Whether *Roe v. Wade*'s essential holding should be overruled.
2. Whether the Due Process Clause protects a woman's decision to terminate a pregnancy before fetal viability.
3. Whether the rigid trimester framework of *Roe* should be retained.
4. Whether the undue-burden standard governs previability abortion regulations.
5. Whether Pennsylvania's medical-emergency definition imposes an undue burden.
6. Whether Pennsylvania's informed-consent disclosures and 24-hour waiting period impose an undue burden.
7. Whether Pennsylvania's spousal-notification requirement imposes an undue burden.
8. Whether Pennsylvania's one-parent consent and judicial-bypass provisions for minors are constitutional.
9. Whether Pennsylvania's abortion reporting and recordkeeping requirements impose an undue burden.

HOLDINGS

1. *Roe v. Wade*'s essential holding is reaffirmed: before viability, a woman has a constitutionally protected liberty to choose to terminate her pregnancy, subject to permissible state regulation that does not impose an undue burden.
2. The liberty protected by the substantive component of the Fourteenth Amendment's Due Process Clause includes a woman's decision whether to terminate a pregnancy before viability.
3. The rigid trimester framework established by *Roe* is rejected as unnecessary and inconsistent with the State's legitimate interest in protecting potential life throughout pregnancy.
4. An undue burden exists when a state abortion regulation has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus; an undue burden is unconstitutional.
5. The spousal-notification requirement is unconstitutional because, for a significant fraction of the women to whom it applies, it operates as a substantial obstacle to obtaining an abortion and therefore imposes an undue burden.
6. The informed-consent disclosures and 24-hour waiting period do not impose an undue burden on the abortion right on the record before the Court and are constitutional.
7. The one-parent consent requirement and judicial-bypass procedure for unemancipated minors are constitutional.

8. The reporting and recordkeeping requirements are generally constitutional, but the provision requiring reporting of a married woman's reason for failing to notify her husband is unconstitutional because it imposes the same undue burden as the spousal-notification requirement.

KEY QUOTATIONS

“the essential holding of Roe v. Wade should be retained and once again reaffirmed.” (846)

“The woman's right to terminate her pregnancy before viability is the most central principle of Roe v. Wade. It is a rule of law and a component of liberty we cannot renounce.” (871)

“A finding of an undue burden is a shorthand for the conclusion that a state regulation has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus.” (877)

“An undue burden exists, and therefore a provision of law is invalid, if its purpose or effect is to place a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability.” (878)

“Regardless of whether exceptions are made for particular circumstances, a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability.” (879)

FACTUAL BACKGROUND

Pennsylvania's Abortion Control Act required informed consent and specified information at least 24 hours before an abortion, parental consent or judicial bypass for unemancipated minors, spousal notification for married women subject to limited exceptions, and reporting and recordkeeping by abortion providers. The District Court found that spousal notification could expose women, particularly victims of domestic violence, to physical, psychological, and economic coercion and could prevent them from obtaining abortions. The challenged provisions were sought to be enforced before taking effect, and the plaintiffs challenged them facially.

PROCEDURAL HISTORY

The plaintiffs, five abortion clinics and a physician, sued before the challenged provisions took effect. The Eastern District of Pennsylvania entered a preliminary injunction, then after a three-day bench trial held all challenged provisions unconstitutional and entered a permanent injunction. The Third Circuit upheld the regulations except the husband-notification requirement. The Supreme Court affirmed the judgment in No. 91-902 and affirmed in part, reversed in part, and remanded No. 91-744 for proceedings including consideration of severability.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

No. 91-902 was affirmed. No. 91-744 was affirmed in part and reversed in part, and remanded for proceedings consistent with the opinion, including consideration of severability.

CASES CITED

- Roe v. Wade, 410 U.S. 113 (1973)
- Akron v. Akron Center for Reproductive Health, Inc., 462 U.S. 416 (1983)
- Thornburgh v. American College of Obstetricians and Gynecologists, 476 U.S. 747 (1986)
- Planned Parenthood of Central Mo. v. Danforth, 428 U.S. 52 (1976)
- Webster v. Reproductive Health Services, 492 U.S. 490 (1989)
- Hodgson v. Minnesota, 497 U.S. 417 (1990)
- Ohio v. Akron Center for Reproductive Health, 497 U.S. 502 (1990)
- Bellotti v. Baird, 443 U.S. 622 (1979)
- Eisenstadt v. Baird, 405 U.S. 438 (1972)
- Griswold v. Connecticut, 381 U.S. 479 (1965)
- Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241 (1974)
- West Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937)
- Brown v. Board of Education, 347 U.S. 483 (1954)