Planned Parenthood v. Danforth

428 U.S. 52 (1976)

Country: United States
Region: Americas
Year: 1976
Court: Supreme Court
Health Topics: Child and adolescent health, Health care and health services, Informed consent, Sexual and reproductive health
Human Rights: Right to due process/fair trial, Right to privacy

Facts

Petitioners brought this action against the Attorney General of Missouri, seeking to enjoin enforcement of House Committee Substitute for House Bill No. 1211 (the Act), which attempted to regulate both the abortion procedure and the circumstances surrounding such procedures. Petitioners claimed the Act violated the right to privacy under the due process clause of the 14th amendment to the Constitution, and the right to be free from cruel and unusual punishment under the 8th amendment.

The following sections of the Act were at issue in this case:

Â§ 2(2) defined "viability" as "that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems."
Under Â§ 3(2) of the Act, a woman, prior to submitting to an abortion during the first 12 weeks of pregnancy, must certify in writing her consent to the procedure and "that her consent is informed and freely given and is not the result of coercion."
Â§ 3(3) required the prior written consent of the spouse of the woman seeking an abortion during the first 12 weeks of pregnancy, unless "the abortion is certified by a licensed physician to be necessary in order to preserve the life of the mother."
Â§ 3(4) required, with respect to the first 12 weeks of pregnancy, where the woman is unmarried and under the age of 18 years, the written consent of a parent or person in loco parentis unless "the abortion is certified by a licensed physician as necessary in order to preserve the life of the mother."
Â§ 9 prohibited the use of saline amniocentesis, as a method of abortion, after the first 12 weeks of pregnancy. Saline amniocentesis is a method whereby the amniotic fluid is withdrawn and "a saline or other fluid" is inserted into the amniotic sac.
Â§Â§ 10 and 11 imposed recordkeeping requirements for health facilities and physicians concerned with abortions irrespective of the pregnancy stage.

Under Â§ 10, each such facility and physician was to be supplied with forms "the purpose and function of which shall be the preservation of maternal health and life by adding to the sum of medical knowledge through the compilation of relevant maternal health and life data and to monitor all abortions performed to assure that they are done only under and in accordance with the provisions of the law." The Act stated that the information on the forms "shall be confidential and shall be used only for statistical purposes," but that the records â€œmay be inspected and health data acquired by local, state, or national public health officers.
Under Â§ 11 the records were to be kept for seven years in the permanent files of the health facility where the abortion was performed.

Â§ 6(1) provided that "No person who performs or induces an abortion shall fail to exercise that degree of professional skill, care and diligence to preserve the life and health of the fetus which such person would be required to exercise in order to preserve the life and health of any fetus intended to be born and not aborted. Any physician or person assisting in the abortion who shall fail to take such measures to encourage or to sustain the life of the child, and the death of the child results, shall be deemed guilty of manslaughter.â€• It also stated that such physicians would be liable for damages.Â

Decision and Reasoning

The Court look Act in question and examined the constitutionality at each disputed provision.

The definition of â€œviabilityâ€•:

The Court held that the definition of viability in the Act adhered to the limitations on State regulation outlined in Roe v. Wade, 410 U.S. 113 (1973). In Roe, the Court used "viable" to signify the point at which the fetus is "potentially able to live outside the mother's womb, albeit with artificial aid," and presumably capable of "meaningful lifeâ€• outside the womb. The Court in Roe recognized that viability was a matter of medical judgment, skill, and technical ability, and thus preserved the flexibility of the term. The Act does the same.

The requirement for written consent from the woman seeking an abortion:

The Court indicated that the decision to abort is a significant one and it may be very stressful. It is necessary that the decision is made with full knowledge of its nature and consequences. The prior written consent requirement assures awareness of the significance of the decision to have an abortion.

3. Â Â The requirement for spousal consent:

The Court held stated that since the State cannot regulate or proscribe abortion during the first stage, when the physician and the patient make the decision, the State could not then delegate authority to a third person, even the spouse, to prevent abortion during that same period.

The requirement for parental consent of minors:

The Court held that this requirement imposed a special-consent provision, exercisable by a person outside of the doctor-patient relationship, as a prerequisite to a minor receiving an abortion. It did so without a sufficient justification for the restriction.

Minors possess constitutional rights. However, the Court has long recognized that the State has a somewhat broader authority to regulate the activities of minors than of adults. The issue here was whether there was any significant state interest in obtaining parental consent before a minor could terminate a pregnancy. The Court concluded that any independent interest a parent may have in this situation should not override the right of privacy of a competent minor seeking an abortion. However, holding this requirement invalid does not suggest that every minor, regardless of age or maturity, can give effective for an abortion.

The prohibition of saline amniocentesis as an abortion method after the first 12 weeks of pregnancy:

The Court held that the outright proscription of saline was an unreasonable regulation for the protection of maternal health. The State wanted to prohibit the most commonly used and safest (with respect to maternal mortality) abortion method. This prohibition would have forced a woman and her physician to terminate her pregnancy by more dangerous methods. The requirement was an unreasonable and arbitrary regulation designed to inhibit the vast majority of abortions after the first 12 weeks.

The recordkeeping requirements:

The Court stated that, â€œRecordkeeping and reporting requirements that are reasonably directed to the preservation of maternal health and that properly respect a patient's confidentiality and privacy are permissible.â€• There is no legally significant impact or consequence on the abortion decision or on the physician-patient relationship as a result of the recordkeeping requirement.

The standard of care expected from physicians:

The Court held that the provision was unconstitutionally overbroad because it failed to exclude from its reach the stage of pregnancy prior to viability. Reasonably interpreted, the requirement implied that a physician's or other person's criminal failure to protect a liveborn infant would be subject to prosecution under Missouri state criminal law. Doctors performing legal pre-viability abortions could have been subject to criminal prosecution.

Decision Excerpts

â€œIn any event, we agree with the District Court that it is not the proper function of the legislature or the courts to place viability, which essentially is a medical concept, at a specific point in the gestation period. The time

when viability is achieved may vary with each pregnancy, and the determination of whether a particular fetus is viable is, and must be, a matter for the judgment of the responsible attending physician. The definition of viability in Â§ 2 (2) merely reflects this fact. The appellees do not contend otherwise, for they insist that the determination of viability rests with the physician in the exercise of his professional judgment.â€• 428 U.S., pp.64 â€“ 65.

â€œThe decision to abort, indeed, is an important, and often a stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences. The woman is the one primarily concerned, and her awareness of the decision and its significance may be assured, constitutionally, by the State to the extent of requiring her prior written consent.â€• 428 U.S., p. 67.

â€œIt seems manifest that, ideally, the decision to terminate a pregnancy should be one concurred in by both the wife and her husband. No marriage may be viewed as harmonious or successful if the marriage partners are fundamentally divided on so important and vital an issue. But it is difficult to believe that the goal of fostering mutuality and trust in a marriage, and of strengthening the marital relationship and the marriage institution, will be achieved by giving the husband a veto power exercisable for any reason whatsoever or for no reason at all. Even if the State had the ability to delegate to the husband a power it itself could not exercise, it is not at all. likely that such action would further, as the District Court majority phrased it, the â€˜interest of the state in protecting the mutuality of decisions vital to the marriage relationship.â€™ 392 F. Supp., at 1370.â€• 428 U.S., p. 71

â€œWe recognize, of course, that when a woman, with the approval of her physician but without the approval of her husband, decides to terminate her pregnancy, it could be said that she is acting unilaterally. The obvious fact is that when the wife and the husband disagree on this decision, the view of only one of the two marriage partners can prevail. Inasmuch as it is the woman who physically bears the child and who is the more directly and immediately affected by the pregnancy, as between the two, the balance weighs in her favor. Cf. Roe v. Wade, 410 U. S., at 153.â€• 428 U.S., p. 71.

â€œOne suggested interest is the safeguarding of the family unit and of parental authority. 392 F. Supp., at 1370. It is difficult, however, to conclude that providing a parent with absolute power to overrule a determination, made by the physician and his minor patient, to terminate the patient's pregnancy will serve to strengthen the family unit. Neither is it likely that such veto power will enhance parental authority or control where the minor and the nonconsenting parent are so fundamentally in conflict and the very existence of the pregnancy already has fractured the family structure. Any independent interest the parent may have in the termination of the minor daughter's pregnancy is no more weighty than the right of privacy of the competent minor mature enough to have become pregnant.â€• 428 U.S., p. 75.

â€œThese unappreciated or overlooked factors place the State's decision to bar use of the saline method in a completely different light. The State, through Â§ 9, would prohibit the use of a method which the record shows is the one most commonly used nationally by physicians after the first trimester and which is safer, with respect to maternal mortality, than even continuation of the pregnancy until normal childbirth. Moreover, as a practical matter, it forces a woman and her physician to terminate her pregnancy by methods more dangerous to her health than the method outlawed.â€• 428 U.S., pp. 78 - 79.

â€œRecordkeeping and reporting requirements that are reasonably directed to the preservation of maternal health and that properly respect a patient's confidentiality and privacy are permissible. This surely is so for the period after the first stage of pregnancy, for then the State may enact substantive as well as recordkeeping regulations that are reasonable means of protecting maternal health. As to the first stage, one may argue forcefully, as the appellants do, that the State should not be able to impose any recordkeeping requirements that significantly differ from those imposed with respect to other, and comparable, medical or surgical procedures. We conclude, however, that the provisions of Â§Â§ 10 and 11, while perhaps approaching impermissible limits, are not constitutionally offensive in themselves. Recordkeeping of this kind, if not abused or overdone, can be useful to the State's interest in protecting the health of its female citizens, and may be a resource that is relevant to decisions involving medical experience and judgment. The added requirements for confidentiality, with the sole exception for public health officers, and for retention for seven years, a period not unreasonable in length, assist and persuade us in our determination of the constitutional limits. As so regarded, we see no legally significant impact or consequence on the abortion decision or on the physician patient relationship. We naturally assume, furthermore, that these recordkeeping and record-maintaining provisions will be interpreted and enforced by Missouri's Division of Health in the light of our decision with respect to the Act's other provisions, and that, of course, they will not be utilized in such a way as to accomplish, through the sheer burden of recordkeeping detail, what we have held to be an otherwise unconstitutional restriction. Obviously, the State may not require execution of spousal and parental consent forms that have been invalidated today.â€• 428 U.S., pp. 80 - 81.