



Planned Parenthood v. Casey

505 U.S. 833 (1992)

Country: United States

Region: Americas

Year: 1992

Court: Supreme Court

Health Topics: Health care and health services, Informed consent, Sexual and reproductive health

Human Rights: Right to due process/fair trial, Right to liberty and security of person, Right to privacy

Facts

Planned Parenthood brought suit challenging the Pennsylvania Abortion Control Act of 1982 (the Act) in federal court on constitutional grounds. The Act included the following requirements for women seeking an abortion in Pennsylvania:

A woman seeking an abortion must give her informed consent prior to the abortion procedure, and she must provide certain information at least 24 hours before the abortion is performed (section 3205);

For a minor to obtain an abortion, she must obtain the informed consent of one of her parents; however, a judicial bypass option is available if the minor does not wish to or cannot obtain a parent's consent (section 3206); and

A married woman seeking an abortion must sign a statement that she has notified her husband, unless certain exceptions apply (section 3209).

The Act exempted compliance with these provisions in the case of medical emergency, defined in section 3203 as:

That condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

The Act also imposed certain reporting requirements on facilities that provided abortion services in sections 3207(b), 3214(a), and 3214(f).

The District Court permanently enjoined the enforcement of the above provisions because they placed an undue burden on a woman's right to choose an abortion. The Court of Appeals affirmed in part and reversed in part, striking down the husband notification provision but upholding the others.

Decision and Reasoning

The Court reaffirmed *Roe v. Wade*, 410 U. S. 113 (1973), and declared the "essential holding" consisted of three parts:

Recognition of the right of the woman to choose to have an abortion before viability and to obtain it without undue interference from the State. Before viability, the State's interests are not strong enough to support a prohibition of abortion or the imposition of a substantial obstacle to the woman's effective right to elect the procedure;

Confirmation of the State's power to restrict abortions after fetal viability, if the law contains exceptions for pregnancies which endanger the woman's life or health;

The principle that the State has legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of the fetus that may become a child.

The Court overruled use of the "strict scrutiny" standard of judicial review for a woman's right to terminate pregnancy. The Court held that the "undue burden" standard is the appropriate means of reconciling the State's interest with the woman's constitutionally protected liberty. The State may not impose an "undue burden" on a woman's right to choose which has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus. Such a law would be invalid because the means chosen by the State to further the interest in potential life must be calculated to inform the woman's free choice, not hinder it. The Court stated that "under the undue burden standard a State is permitted to enact

persuasive measures which favor childbirth over abortion, even if those measures do not further a health interest.

The Court overruled *Akron I*, 462 U.S. 416 (1983) and *Thornburgh*, 476 U.S. 747 (1986) to the extent that both applied the traditional strict scrutiny standard to abortion restrictions.

The Court did not adhere to the trimester framework established in *Roe*, holding that the trimester framework was not part of the "essential holding" in the case. It stated that the framework constituted a "rigid prohibition" on all previability regulation aimed at the protection of fetal life, which the State has a legitimate interest in protecting. The Court noted that the trimester framework suffered from two basic flaws: its formulation "misconceive[d] the nature of the pregnant woman's interest"; and "in practice it undervalue[d] the State's interest in potential life."

The Court upheld the Act's definition of "medical emergency" as constitutionally valid. It deferred to the Court of Appeals, which interpreted the phrase to be "intended by the Pennsylvania legislature to assure that compliance with [the state's] abortion regulations would not in any way pose a significant threat to the life or health of a woman." The Court also accepted the Court of Appeals' definition of the phrase "serious risk" to include preeclampsia, inevitable abortion, and premature ruptured membrane, all of which the District Court held were not covered by the provision.

The Court upheld the Act's informed consent requirement as constitutionally valid because it did not impose an undue burden on a woman's right to choose. The Court held that the requirement is permissible as long as "the information the State requires to be made available to the woman is truthful and not misleading." Thus, the State may pursue the "legitimate goal of protecting the life of the unborn by enacting legislation aimed at ensuring a decision that is mature and informed, even when in so doing the State expresses a preference for childbirth over abortion."

The Court upheld the Act's 24-hour waiting period requirement as constitutionally valid. It declared that the 24-hour waiting period was "a reasonable measure to implement the State's interest in protecting the life of the unborn." The Court conceded that the waiting period could make some abortions more expensive or less convenient and have "particularly burdensome" effects on some women, but this did not invalidate the provision.

The Court, however, held that the Act's spousal notification requirement was unconstitutional because the provision imposed an undue burden on a woman's right to terminate her pregnancy. The Court spent considerable time discussing the problem of domestic violence and held that a "significant number of women who fear for their safety and the safety of their children are likely to be deterred from procuring an abortion" as a result of the requirement. It held that the requirement "enables the husband to wield an effective veto" over his wife's decision whether to have an abortion, and that "the husband's interest in the life of the child his wife is carrying does not permit the State to empower him with this troubling degree of authority over his wife."

The Court upheld the Act's parental notification requirement as constitutionally valid, holding that "the State may require a minor seeking an abortion to obtain the consent of a parent or guardian, provided that there is an adequate judicial bypass procedure."

The Court upheld the Act's recordkeeping and reporting requirements as constitutionally valid. The Court held that "recordkeeping and reporting provisions that are reasonably directed to the preservation of maternal health and that properly respect a patient's confidentiality and privacy are permissible." The provisions "rationally further the State's legitimate interest in: advancing the state of medical knowledge; gathering statistical information; ensuring compliance; and informing taxpayers as to who is benefiting from public funds and how."

The Court, however, struck the provision that required the reporting of a married woman's "reason for failure to provide notice" to her husband. The Court noted that this provision required many women to report information they had "pressing reasons not to reveal" and thus placed an undue burden on a woman's right to choose.

Decision Excerpts

"Constitutional protection of the woman's decision to terminate her pregnancy derives from the Due Process Clause of the Fourteenth Amendment. It declares that no State shall "deprive any person of life, liberty, or property, without due process of law." The controlling word in the cases before us is "liberty." Although a I

reading of the Clause might suggest that it governs only the procedures by which a State may deprive persons of liberty, for at least 105 years, . . . the Clause has been understood to contain a substantive component as well, one â€”barring certain government actions regardless of the fairness of the procedures used to implement them.â€” 505 U.S., p. 846.

It is settled now . . . that the Constitution places limits on a State's right to interfere with a person's most basic decisions about family and parenthood, . . . as well as bodily integrity. 505 U.S., p. 849.

Men and women of good conscience can disagree, and we suppose some always shall disagree, about the profound moral and spiritual implications of terminating a pregnancy, even in its earliest stage. Some of us as individuals find abortion offensive to our most basic principles of morality, but that cannot control our decision. Our obligation is to define the liberty of all, not to mandate our own moral code. 505 U.S., p. 850.

The mother who carries a child to full term is subject to anxieties, to physical constraints, to pain that only she must bear. That these sacrifices have from the beginning of the human race been endured by woman with a pride that ennobles her in the eyes of others and gives to the infant a bond of love cannot alone be grounds for the State to insist she make the sacrifice. Her suffering is too intimate and personal for the State to insist, without more, upon its own vision of the woman's role, however dominant that vision has been in the course of our history and our culture. The destiny of the woman must be shaped to a large extent on her own conception of her spiritual imperatives and her place in society. 505 U.S., p. 852.

The soundness of . . . the Roe analysis is apparent from a consideration of the alternative. If indeed the woman's interest in deciding whether to bear and beget a child had not been recognized as in Roe, the State might as readily restrict a woman's right to choose to carry a pregnancy to term as to terminate it, to further asserted state interests in population control, or eugenics, for example. 505 U.S., p. 859.

A logical reading of the central holding in Roe [], and a necessary reconciliation of the liberty of the woman and the interest of the State in promoting prenatal life, require, in our view, that we abandon the trimester framework as a rigid prohibition on all previability regulation aimed at the protection of fetal life. The trimester framework suffers from these basic flaws: in its formulation it misconceives the nature of the pregnant woman's interest; and in practice it undervalues the State's interest in potential life . . . 505 U.S., p. 873.

Numerous forms of state regulation might have the incidental effect of increasing the cost or decreasing the availability of medical care, whether for abortion or any other medical procedure. The fact that a law which serves a valid purpose, one not designed to strike at the right itself, has the incidental effect of making it more difficult or more expensive to procure an abortion cannot be enough to invalidate it. Only where state regulation imposes an undue burden on a woman's ability to make this decision does the power of the State reach into the heart of the liberty protected by the Due Process Clause. 505 U.S., p. 874.

[R]equiring that the woman be informed of the availability of information relating to fetal development and the assistance available should she decide to carry the pregnancy to full term is a reasonable measure to ensure an informed choice, one which might cause the woman to choose childbirth over abortion. 505 U.S., p. 883.

The spousal notification requirement is thus likely to prevent a significant number of women from obtaining an abortion. It does not merely make abortions a little more difficult or expensive to obtain; for many women, it will impose a substantial obstacle. We must not blind ourselves to the fact that the significant number of women who fear for their safety and the safety of their children are likely to be deterred from procuring an abortion as surely as if the Commonwealth had outlawed abortion in all cases. 505 U.S., pp. 893-94.

The husband's interest in the life of the child his wife is carrying does not permit the State to empower him with [a] troubling degree of authority over his wife. The contrary view leads to consequences reminiscent of the common law. A husband has no enforceable right to require a wife to advise him before she exercises her personal choices. 505 U.S., p. 898.

Although [the recordkeeping and reporting provisions] do not relate to the State's interest in informing the woman's choice, they do relate to health. The collection of information with respect to actual patients is a vital element of medical research, and so it cannot be said that the requirements serve no purpose other than to make abortions more difficult. 505 U.S., pp. 900-01.