

Planned parenthood v. casey essay



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The case of Planned Parenthood of Southeastern Pennsylvania, et al. v. Casey (1992) is a suit for declaratory and injunctive relief, filed by five abortion clinics and a physician who provides abortion services, representing the class of physicians who similarly provide such services. (FindLaw). They question the constitutionality of five provisions of the Pennsylvania Abortion Control Act of 1982, which impose certain requirements before a woman may undergo abortion procedures.

The statute requires that a woman who wants to undergo abortion must be given specific information at least 24 hours before the procedure and that she must give her “ informed consent prior to the procedure. ” The statute also requires the informed consent of a parent prior to abortion by a minor, or a statement by a married woman that she has notified her husband.

Finally, the statute provides for situations classified as a “ medical emergency,” under which compliance with the enumerated requirements would be excused. The District Court ruled against the constitutionality of the provisions, thus the case was elevated to the United States Supreme Court. (FindLaw). The case was a challenge to the previous rulings of the Supreme Court on the issue of abortion, particularly the doctrine laid down by the case of Roe v. Wade, (410 U. S. 113, 1973).

The said case resulted in the landmark decision which recognized the right of a woman to decide whether or not to have an abortion, but only within a specified period of time, confirmed the State’s authority to proscribe abortions under certain circumstances, and affirmed the principle regarding the State’s interest in the life and health of both mother and fetus.

(FindLaw). The Court in Planned Parenthood v. Casey basically upheld these principles that were laid down in Roe v. Wade. These issues will be discussed below in greater detail. Constitutional Issues First, the Court in Planned Parenthood v.

Casey upheld the right of a woman to decide on the termination of her pregnancy. The Court stated that this right is derived from the Due Process Clause of the Fourteenth Amendment. Thus, in the Court's discussion on the scope and definition of liberty, it stated that the clause should not be read literally as applying only to procedures; rather there should be read into the clause the substantive aspects of the law, such as the fundamental rights that are necessarily included within the meaning of the word liberty, as it appears in the Fourteenth Amendment. (FindLaw).

The Court declared that the Fourteenth Amendment should not be interpreted to circumscribe only those rights guaranteed under the Bill of Rights nor those practices protected against government interference at the time that of the ratification of the Fourteenth Amendment. For the Court, such limited interpretations are inconsistent with the law, because it is established that the Constitution promises, " that there is a realm of personal liberty which the government may not enter. " For example, marriage has been held by the Court in many cases to fall within the category of personal liberty that is protected by the Constitution. (FindLaw).

The basic postulate of the Court is to the effect that each person has his own moral code; but such individual moral code must not be imposed on others. The State is authorized to set out its policy on the matter, but such authority

must be limited by the protected liberty of its citizens. Thus, the definitive question would be whether the right of a woman to terminate her pregnancy is within this constitutionally protected liberty, because an affirmative answer would make the questioned provisions unconstitutional. Thus, the Court enumerated those issues that have been resolved to be falling within the protected sphere of personal liberty.

These include “ personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education. ” (FindLaw). According to the Court, the decision to terminate one’s pregnancy properly belongs to the class of acts that fall under personal liberty. The Court recognized that a woman who is pregnant is in a unique situation, giving proper consideration to the anxieties and physical constraints to which she is subjected. These sacrifices are said to be endured by women throughout history. However, the State cannot impose upon any woman its beliefs on her rightful role in society. 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. ” Thus, included in the sphere of personal liberty of a woman is her right to make personal decisions without government interference. (FindLaw). The Court, however, was careful to note that this constitutionally protected right of a woman is not unlimited. The State acquires sufficient interest in the life of the unborn fetus at a later in its development; such interest becomes sufficient to limit the right of the woman to terminate her pregnancy.

The line which signifies the end of a woman’s liberty over her destiny and body and the start of state interest was drawn by the Court at viability.

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Citing *Roe v. Wade*, viability was defined as “ the time at which there is a realistic possibility of maintaining and nourishing a life outside the womb, so that the independent existence of the second life can, in reason and all fairness, be the object of state protection that now overrides the rights of the woman. ” Thus, in a broad sense, the Court is of the opinion that a woman’s failure to exercise her liberty to choose before viability is an implied consent to state intervention. (FindLaw).

Another important ruling made by the Court in *Planned Parenthood v. Casey* is its invalidation of the provision in the statute in question that requires spousal notification by the woman. According to the Court, such requirement is a substantial deterrent to a woman’s exercise of her liberty. While the father undoubtedly has an interest in the life of his child, such interest is insubstantial compared to the right of the mother during the entire period before the child is born.

Roe v. Wade was a decision on the same issue promulgated by the United States Supreme Court more than two decades before *Planned Parenthood v. Casey*. It was a class action initiated by *Roe*, a pregnant single woman, for the purpose of challenging the constitutionality of the criminal abortion laws in Texas. (Frontline). Said statutes impose criminal liability on people who undergo abortion procedures, except where such procedure is necessary to save the life of the mother.

In said case the Court declared that the abortion statutes are unconstitutional for being vague and overbroad. Moreover, they infringe the rights protected by the Ninth and Fourteenth Amendment. (FindLaw). The

Court ruled that under the Fourteenth Amendment, a woman has a qualified right to terminate her pregnancy. Such right, derived from her right to privacy, entitles her to protection against state interference unless the State already acquires an overriding interest in the health of the unborn child. (FindLaw).

This case established “ a trimester framework to govern abortion regulations,” under which no state regulation is allowed in the first trimester of pregnancy, limited regulations to protect the mother’s health are allowed during the second trimester, and prohibitions by the state are allowed during the third trimester or during the period of viability. (FindLaw). This trimester framework was rejected by the Court in *Planned Parenthood v. Casey*, because it undermines the State’s interest in fetal life in all cases before viability.

Despite this abandonment, the Court in *Planned Parenthood v. Casey* nevertheless upheld the constitutional principles pronounced in *Roe v. Wade*. (Wilke and Wilke). Other cases prior to *Planned Parenthood v. Casey* also upheld the liberty of a woman to decide for herself whether to have an abortion or not. These cases include *In Maher v. Roe*, 432 U. S. 464 (1977); *Doe v. Bolton*, 410 U. S. 179 (1973); and *Harris v. McRae*, 448 U. S. 297 (1980). All held that a woman is protected from undue or burdensome interference with her freedom to decide. (FindLaw).