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Report

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Major U.S. Supreme Court Rulings on Reproductive Health and Rights
(1965–2007)

Since the 1973 decision in *Roe v. Wade*, the U.S. Supreme Court has handed down more than 20 major opinions regarding a woman's access to safe, legal abortion. Prior to 1973, the Supreme Court decided two contraceptive cases, *Griswold v. Connecticut* and *Eisenstadt v. Baird*, which helped to establish the basic principle in *Roe*: that the constitutional right to privacy extends to decisions regarding whether or not to have children.

Contraceptive Cases

1965
Griswold v. Connecticut
381 U.S. 479
Nature of Case: Challenge to a Connecticut law prohibiting use of contraceptives.
Holding: The law is unconstitutional. The Constitution contains a "right to privacy" that protects the decision of married couples to use contraceptives.

1972
Eisenstadt v. Baird
405 U.S. 438
Nature of Case: Challenge to a Massachusetts law allowing the sale or distribution of contraceptives only to married persons.
Holding: The law is unconstitutional. The right to privacy extends to individuals and protects the right of unmarried persons to obtain contraceptives.

1977
Carey v. Population Services International
431 U.S. 678
Nature of Case: Challenge to a New York law banning sale of even nonprescription contraceptives by persons other than licensed pharmacists; sale or distribution to minors under sixteen; and contraceptive display and advertising.
Holding: Statute is unconstitutional because it violates the right to privacy of adults and minors and to the right of free speech of vendors of contraceptives.

1983
Bolger v. Youngs Drug Products Corporation
463 U.S. 60
Nature of Case: Challenge to a federal law that made it a crime to send through the U.S. mail unsolicited advertisements for contraceptives.
Holding: The law is unconstitutional because it violates the First Amendment's protection of "commercial speech." Possible offensiveness to sensitive addressees is not valid rationale for prohibiting communication of truthful, non-obscene information. The law also interferes with parents' access to information that might help them to discuss birth control with their children.

Abortion Cases

1973
Roe v. Wade
410 U.S. 113
Nature of Case: Challenge to a Texas law prohibiting abortions except to save the woman's life.
Holding: The law is unconstitutional. The right to privacy extends to the decision of a woman, in consultation with her physician, to terminate her pregnancy. During the first trimester of pregnancy, this decision may be effectuated free of state interference. After the first trimester, the state has a compelling interest in protecting the woman's health and may reasonably regulate abortion to promote that interest. At the point of fetal viability (capacity for sustained survival outside the uterus), the state has a compelling interest in protecting potential life and may ban abortion, except when necessary to preserve the woman's life or health.

1973
Doe v. Bolton
410 U.S. 179
Nature of Case: Challenge to a Georgia law, based on the model proposed by the American Law Institute, prohibiting abortions except in cases of medical necessity, rape, incest, and fetal abnormality. The Georgia law also required that all abortions be performed in accredited hospitals and that two doctors and a committee concur in the woman's abortion decision; and that only Georgia residents may obtain abortions in that State.
Holding: The law is unconstitutional. It violates a woman’s right to choose abortion as recognized in *Roe v. Wade* (see above). The residency requirement violates the Privileges and Immunities Clause of the Constitution.

1975
Connecticut v. Menillo
423 U.S. 9
Nature of Case: Appeal from conviction of non-physician for performing abortion.
Holding: States may require that only physicians provide abortions. Such a regulation provides the minimum standard of safety upon which the constitutional right recognized in *Roe* was predicated.

1976
Planned Parenthood of Central Missouri v. Danforth
428 U.S. 52
Nature of Case: Challenge to a Missouri law requiring (a) parental consent to a minor's abortion; (b) husband's consent to a married woman’s abortion; (c) the woman's written informed consent; (d) that no second-trimester abortion be done by saline amniocentesis; and (e) that abortion providers do certain record keeping and reporting.
Holding: Parental and spousal consent requirements held unconstitutional because they delegate to third parties an absolute veto power over a woman’s abortion decision which the state does not itself possess. The requirement that the woman certify that her consent is informed and freely given is constitutional, as are the record-keeping and reporting requirements. The ban on saline amniocentesis is struck down because saline amniocentesis is the most commonly used abortion method after the first 12 weeks of pregnancy and was shown to be less dangerous to the woman's health than other available methods; the choice of method must be left to the physician. (Currently, dilatation and evacuation — D&E — is the most common method of mid-trimester abortion.)

1976
Bellotti v. Baird (Bellotti I)
428 U.S. 132
Nature of Case: Challenge to a Massachusetts law that required consent of both parents to a minor's abortion, but allowed the requirement to be waived by a judge for "good cause shown."
Holding: The statute may be constitutional, depending on the meaning of "good cause" and exact procedure that will be utilized. Case remanded for definitive interpretation by Massachusetts state courts of meaning of the statute (see discussion of *Bellotti II*, 1979.)

1977
Maher v. Roe
432 U.S. 464
Nature of Case: Challenge to Connecticut's limitation of state Medicaid funding to medically necessary abortions and refusal to fund "elective" abortions.
Holding: The law is constitutional. The state need not fund a woman's exercise of her right to choose abortion even though it pays the costs of childbirth.

1977
Poelker v. Doe
432 U.S. 519
Nature of Case: Challenge to a St. Louis, Missouri, municipal policy of refusal of all publicly financed hospital services for "elective" abortions.
Holding: The law is constitutional for the reasons stated in *Maher v. Roe* (see above).

1979
Colautti v. Franklin
439 U.S. 379
Nature of Case: Challenge to provisions of Pennsylvania law requiring physician intending to perform an abortion to determine that fetus is not viable. If physician finds that fetus "is or may be viable," he or she is required to exercise the degree of care in performing abortion that would have been exercised if a live birth were intended.
Holding: Provisions are "void for vagueness" because meanings of "viable" and "may be viable" are unclear. Decision on viability must be left to the good-faith judgment of the physician. Provisions are also unconstitutional because they impose criminal liability on physicians regardless of their intent to violate the law.

1979
Bellotti v. Baird (Bellotti II)
443 U.S. 622
Nature of Case: The Massachusetts law challenged in *Bellotti I* (1976) arrived at the court definitively interpreted by the Massachusetts Supreme Judicial Court. The law would require, the Massachusetts court said, (a) that a minor first attempt to obtain her parents' consent and be refused before approaching a court for permission for her abortion and that parents be notified when a minor files a petition for judicial waiver; and (b) that the judge hearing the minor's petition may deny the petition if the judge finds that an abortion would be against the minor's best interests.
Holding: The law is unconstitutional. All minors must have an opportunity to approach a judge without first consulting their parents, and the proceedings must be confidential and expeditious. A mature minor must be given permission for an abortion, regardless of the judge's view as to her best interests. Even an immature minor must be permitted to have a confidential abortion, if the abortion is in her best interests.

1980
Harris v. McRae
448 U.S. 297
Nature of Case: Challenge to the Hyde Amendment's ban on the use of federal Medicaid funds for medically necessary abortions except those necessary to save the woman's life.
Holding: The Hyde Amendment is constitutional. The government has no obligation to provide funds for medically necessary abortions.

1980
Williams v. Zbaraz
448 U.S. 358
Nature of Case: Challenge to an Illinois version of the Hyde Amendment.
Holding: The statute is constitutional for the same reasons the Hyde Amendment is upheld in *Harris v. McRae* (see above).

1981
H.L. v. Matheson
450 U.S. 398
Nature of Case: Challenge to a Utah law requiring the physician to notify a parent of an unemancipated minor prior to abortion.
Holding: The law is constitutional. The plaintiff is a dependent minor, living at home, who has made no claim that she is mature enough to give informed consent to abortion or that she has any problems with her parents that make notice inappropriate. As to this minor, the law is valid. Justices Stewart and Powell wrote a concurring opinion to emphasize that mature minors and those whose best interests mandate that parents not be involved have a right to a confidential abortion.

1983
Akron v. Akron Center for Reproductive Health
462 U.S. 416
Nature of Case: Challenge to an Akron, Ohio, ordinance requiring that (a) a woman wait 24 hours between consenting to and receiving an abortion; (b) all abortions after the first trimester of pregnancy be performed in full-service hospitals; (c) minors under fifteen have parental or judicial consent for an abortion; (d) the attending physician personally give the woman information relevant to informed consent; (e) specific information be given to a woman prior to an abortion, including details of fetal anatomy, a list of risks and consequences of the procedure, some of which were false or hypothetical, and a statement that "the unborn child is a human life from the moment of conception"; and (f) fetal remains be "humanely" disposed of.

Holding: All challenged portions of the ordinance are unconstitutional: (a) the 24-hour waiting period serves neither the state's interest in protecting the woman's health nor in ensuring her informed consent; (b) the post-first-trimester hospitalization requirement interferes with a woman's access to abortion services without protecting her health because the dilatation and evacuation (D&E) method of mid-trimester abortion may be performed as safely in out-patient facilities as in full-service hospitals; (c) the minors' consent requirement fails to guarantee an adequate judicial alternative to parental involvement (see *Bellotti II*, 1979); (d) the physician counseling requirement makes abortions more expensive and is not necessary to ensure informed consent since the physician can delegate the counseling task to another qualified individual; (e) the informed consent "script" intrudes on the physician's judgment as to what is best for the individual woman and contains information designed to dissuade the woman from having an abortion; and (f) the requirement for "humane" disposal of fetal remains is too vague to give fair warning of what the law requires.

In 1992, the Supreme Court overruled parts of this case *(see Planned Parenthood v. Casey)*.

1983
Planned Parenthood of Kansas City, Missouri, v. Ashcroft
462 U.S. 476
Nature of Case: Challenge to a Missouri law requiring that (a) all post-first-trimester abortions be performed in hospitals; (b) minors under 18 have parental consent or judicial authorization for their abortions; (c) two doctors be present at the abortion of a viable fetus; and (d) a pathologist's report be obtained for every abortion.
Holdings: (a) The hospitalization requirement is unconstitutional for the reasons stated in *City of Akron v. Akron Center for Reproductive Health* (1983); (b) the parental consent requirement is constitutional because the judicial bypass alternative contained in the statute conforms to the standards set out in *Bellotti* II (1979); (c) the presence of two doctors at late abortions serves the state's compelling interest in protecting potential life after viability and is, therefore, constitutional; and (d) the requirement of a pathology report is constitutional because it poses only a small financial burden to the woman and protects her health.

1983
Simopoulos v. Virginia
462 U.S. 506
Nature of Case: Criminal conviction of a physician for violating a Virginia law that requires all post-first-trimester abortions to be performed in hospitals.
Holding: The physician's conviction is upheld. Virginia law provides for licensing of freestanding ambulatory surgical facilities as "hospitals." Consequently, the Virginia law is not as restrictive as the laws struck down in *City of Akron v. Akron Center for Reproductive Health* (1983) and *Planned Parenthood of Kansas City, Missouri v. Ashcroft* (1983), and is therefore constitutional. Dr. Simopoulos could have avoided criminal prosecution by having his clinic licensed.

1986
Babbitt v. Planned Parenthood of Central and Northern Arizona
789 F. 2nd 1348 (9th Cir. 1986)
Affirmed 479 U.S. 925 (1986)
Nature of Case: Federal Court of Appeals for the Ninth Circuit ruled unconstitutional an Arizona law prohibiting grants of state money for family planning to organizations that provide abortion or abortion counseling and referral. The law would be valid, the appeals court said, only if the state could prove it was the only way to stop its money from being used to pay for abortions and abortion-related activities. Since the state could not prove this, the law was struck down.
Holding: The U.S. Supreme Court summarily affirmed the Ninth Circuit without issuing an opinion. Compare, *Rust v. Sullivan* (1991).

1986
Thornburgh v. American College of Obstetricians and Gynecologists, Pennsylvania Section
476 U.S. 747
Nature of Case: Challenge to Pennsylvania's 1982 Abortion Control Act requiring (a) that a woman be given specific information before she has an abortion, including state-produced printed materials describing the fetus; (b) that physicians performing post-viability abortions use the method most likely to result in fetal survival unless it would cause "significantly" greater risk to a woman's life or health; (c) the presence of a second physician at post-viability abortions; (d) detailed reporting to the state by providers on each abortion, with reports open for public inspection; and (e) one parent's consent or a court order for a minor's abortion.
Holding: (a) the informed consent provision is invalid because it interferes with the physician's discretion and requires a woman to be given

information designed to dissuade her from having an abortion; (b) the provision restricting post-viability abortion methods is invalid because it requires the woman to bear an increased risk to her health in order to maximize the chances of fetal survival; (c) the second-physician requirement is invalid because it does not make an exception for emergencies; (d) the reporting requirement is unconstitutional because it could lead to disclosure of the woman's identity; and (e) the parental consent issue is remanded to the lower court for consideration in light of newly enacted state court rules.

In 1992, the Supreme Court overruled portions of this case in *Planned Parenthood v. Casey*.

1989
Webster v. Reproductive Health Services
492 U.S. 490
Nature of Case: Challenge to Missouri's 1986 Act: (a) declaring that life begins at conception;
(b) forbidding the use of public funds for the purpose of counseling a woman to have an abortion not necessary to save her life; (c) forbidding the use of public facilities for abortions not necessary to save a woman's life; and (d) requiring physicians to perform tests to determine viability of fetuses after 20 weeks gestational age.
Holding: (a) the court allowed the declaration of when life begins to go into effect because five justices agreed that there was insufficient evidence that it would be used to restrict protected activities such as choices of contraception or abortion. Should the declaration be used to justify such restrictions in the future, the affected parties could challenge the restrictions at that time; (b) the court unanimously declined to address the constitutionality of the public funds provision. The court accepted Missouri's representation that this provision was not directed at the conduct of any physician or health care provider, private or public, but solely at those persons responsible for expending public funds, and that the provision would not restrict publicly employed health care professionals from providing full information about abortion to their clients; (c) the court upheld the provision that barred the use of public facilities. It ruled that the state may implement a policy favoring childbirth over abortion by allocations of public resources such as hospitals and medical staff; and (d) the court upheld the provision requiring viability tests by interpreting it not to require tests that would be "imprudent" or "careless" to perform.

1990
Ohio v. Akron Center for Reproductive Health
497 U.S. 502
Nature of Case: Challenge to a 1985 Ohio statute requiring a physician performing an abortion on a minor to give notice to her parent or guardian 24 hours prior to the procedure. Although the law provided a judicial bypass mechanism, the Sixth Circuit Court of Appeals found several aspects of it unduly burdensome to minors and constitutionally deficient.
Holding: Without deciding whether a law that requires notice to only one parent requires a judicial bypass, the court held the bypass provided by the Ohio law met constitutional standards. The court rejected the argument that the judicial bypass was flawed because it required the minor to sign her name on court papers, prove her entitlement to avoid parental involvement by clear and convincing evidence, and wait as long as three weeks to obtain a court ruling. It also upheld a requirement that the physician personally notify the parent.

1990
Hodgson v. Minnesota
497 U.S. 417
Nature of Case: Challenge to a 1981 Minnesota statute that required notification of both biological parents, followed by a wait of at least 48 hours, prior to a minor's abortion. No exception to the notification requirement was provided for divorced parents or couples who were not married. A second section of the statute provided for a judicial bypass if the two-parent notification provision without a waiver procedure were enjoined. The plaintiffs challenged the second section based on evidence gathered during the five years that the parental consent requirement and judicial bypass were in effect.
Holding: The court held that two-parent notification with no judicial bypass alternative poses an unconstitutional burden on a minor's right to abortion. A different majority of the court allowed the second section of the Minnesota law to stand, however, because of the addition of a judicial alternative. In addition, the court upheld the validity of the 48-hour waiting period following notification before the abortion can be performed.

1991
Rust v. Sullivan / State of New York v. Sullivan
500 U.S. 173
Nature of Case: Challenge to 1988 federal regulations that forbade counseling and referral for abortion or advocacy of abortion rights in programs that receive funds under Title X of the federal Public Health Service Act (1970). Additionally, the

regulations require clinics to "financially and physically" separate Title X-funded activities from privately funded "abortion-related activities."
Holding: The court held that the regulations do not violate the Title X statute because they are a reasonable interpretation of the statutory prohibitions against the use of Title X funds in programs "where abortion is a method of family planning." The court further held that the regulations do not violate the First Amendment or the right to choose abortion, ruling that the government has no obligation to pay for the exercise of constitutional rights. The court held that the government's decision not to fund the provision of information does not directly interfere with the rights of doctors, clinics, or patients, since providers are free to offer abortions and abortion-related information in separate programs, and women who wish unbiased medical information and services are free to seek them elsewhere.

1992
Planned Parenthood of Southeastern Pennsylvania v. Casey
505 U.S. 833
Nature of Case: Challenge to Pennsylvania's 1989 Abortion Control Act. The 1989 statute required that, except in medical emergencies: (a) a woman wait 24 hours between consenting to and receiving an abortion; (b) the woman be given state-mandated information about abortion and offered state-authored materials on fetal development; (c) a married woman inform her husband of her intent to have an abortion; and (d) minors' abortions be conditioned upon the consent, provided in person at the clinic, of one parent or guardian, or upon a judicial waiver. In addition, physicians and clinics that perform abortions were required to provide to the state annual statistical reports on abortions performed during the year, including the names of referring physicians.
Holding: The court reaffirmed the validity of a woman's right to choose abortion under *Roe v. Wade*, but announced a new standard of review that allows restrictions on abortion prior to fetal viability so long as they do not constitute an "undue burden" to the woman. A restriction is an “undue burden” when it has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion. Under this standard, only the husband notification provision was considered an undue burden and therefore unconstitutional. All the other provisions were upheld as not unduly burdensome.

In upholding the Pennsylvania abortion restrictions, the court overturned portions of two of its previous rulings, *City of Akron v. Akron Center for Reproductive Health* (1983) and *Thornburgh v. American College of Obstetricians and Gynecologists* (1986).

1993
Bray v. Alexandria Women's Health Clinic
506 U.S. 263
Nature of Case: Anti-abortion demonstrators (including the leadership of Operation Rescue) challenged an injunction against their activities that included blocking access to health care facilities in the Washington, D.C. area. The injunction was based on an 1871 civil rights statute that forbids private conspiracy to violate constitutional rights. The demonstrators claimed their activities did not violate the statute.
Holding: The court held that the demonstrators’ activities did not violate the civil rights statute because their actions were not motivated by "class-based discriminatory animus against women," as the statute requires, but rather by opposition to abortion. The court held further that the demonstrators’ incidental impact on the right of women to travel interstate (for the purpose of securing an abortion) was not the kind of violation of a right for which the 1871 statute was enacted.

1994
***National Organization for Women v. Scheidler* (“*Scheidler I*”)**
510 U.S. 249
Nature of Case: National Organization for Women (NOW) sought to use the federal Racketeer Influenced and Corrupt Organizations (RICO) Act to sue anti-abortion organizations that engage in unlawful blockades and other harassment against reproductive health clinics. The RICO Act, established in 1970 as a tool against organized crime, punishes "enterprises" that engage in a "pattern of racketeering." NOW argued that RICO is applicable because the unlawful actions constituted a nationwide conspiracy to eliminate access to abortion by using extortion and intimidation to drive the clinics out of business. The U.S. Court of Appeals for the Seventh Circuit had ruled that the case could not go forward because RICO applies only to activities that are motivated by economic gain, which could not be demonstrated in this case.
Holding: The court overturned the appeals court decision, allowing the lawsuit to proceed using RICO as its basis. The court held that RICO can be used in the absence of an economic motive, and that the term "enterprise" can include any individual or group of individuals, partnership, corporation, association, or other legal entity. (See 2003 and 2006 rulings for later developments.)

1994
Madsen v. Women's Health Center
512 U.S. 753
Nature of Case: Anti-abortion protesters sought to overturn on First Amendment grounds an injunction against their activities at a Melbourne, Florida, clinic. The injunction prohibited demonstrations within 36 feet of the clinic property line; noise and visual displays that could be heard and seen inside the clinic; approaching any person seeking services within 300 feet of the clinic, unless the person indicated a desire to communicate; and established a 300-foot buffer zone around the residences of clinic physicians and staff.
Holding: The court held that the 36-foot buffer zone protecting clinic entrances and driveways is a content-neutral measure that does not infringe on the First Amendment rights of abortion opponents, and that the ban on disruptive noise was also constitutional. The majority indicated that Florida's interests include "protecting a woman's freedom to seek lawful medical or counseling services in connection with her pregnancy." But the court limited the scope of its ruling by striking portions of the injunction as broader than necessary to protect the state's interests, including application of the buffer zone to certain private property adjoining the clinic, the 300-foot no approach zone and residential buffer zone, and the prohibition against "images observable to" patients inside the clinic.

1997
Schenck v. Pro-Choice Network of Western New York
519 U.S. 357
Nature of Case: Challenge on First Amendment grounds to injunction aimed at protecting access to reproductive health care clinics. Three elements of the injunction were challenged: (1) a "fixed" buffer zone prohibiting all demonstration activity within 15 feet of the clinics' doorways, driveways, and parking lot entrances; (2) a "floating" zone prohibiting all demonstration activity within 15 feet of any person or vehicle entering or leaving the clinics; (3) "cease and desist" provisions, which allowed no more than two "sidewalk counselors" to approach patients within the buffer zones, but required them to stop "counseling" and withdraw outside the zones upon request.
Holding: The government interests in ensuring public safety and protecting a woman's freedom to seek pregnancy-related services justify properly tailored injunctions to secure unimpeded physical access to clinics. The court upheld the "fixed" buffer zone as necessary to ensure safe access to the clinics in light of the demonstrators' previous behavior. The court, however, struck down as unconstitutional the "floating buffer zone," because it burdened more speech than was necessary to achieve the government interest. The court upheld the "cease and desist" provision because it allowed demonstrators to espouse their message outside of the zone and was necessary to address their previous harassing and intimidating behavior. As the court struck down the "floating" zone, it did not rule on the "cease and desist" provisions as applied to that zone.

1997
Mazurek v. Armstrong
520 U.S. 968
Nature of the Case: Challenge to a Montana law that requires only physicians, *i.e.*, not physician assistants, may provide abortion.
Holding: The law has neither the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion. It therefore does not create an undue burden on a woman's right to abortion and is constitutional. The court reiterated its position that "the performance of abortions may be restricted to physicians." Note: this statute was later ruled unconstitutional by the Montana Supreme Court under the Montana Constitution. *Armstrong v. Montana*, 989 P.2d 364.

2000
Hill v. Colorado
530 U.S. 703
Nature of Case: Challenge on First Amendment grounds to a Colorado statute that established an eight-foot "bubble zone" around anyone within 100 feet of a healthcare facility. This statute forbade individuals from knowingly approaching closer than eight feet another person who is within 100 feet of the entrance of a healthcare facility, without that person's consent, in order to leaflet, display a sign, or engage in protest, education, or counseling.
Holding: The statute does not violate the First Amendment because it does not regulate speech on the basis of content or viewpoint. The court concluded that it was a reasonable time, place, and manner restriction that left open ample alternative means of communication. The court reasoned that; (1) the eight-foot distance of separation required by the statute would not adversely affect the regulated speech because this is a normal conversational distance; (2) because the statute only bans "approaches," protestors are not liable if they stand still and others come within eight feet of them; and (3) the protestor must "knowingly" approach, and the

"knowingly" requirement protects against accidentally or unavoidably coming within eight feet of someone who is in motion. The court also addressed the question of the legitimacy of the state's interest in enacting this type of restriction and found the state's interest in protecting the unwilling listener from persistent and dogged intrusions, particularly in situations that the listener cannot choose to avoid, to be legitimate.

2000
Stenberg v. Carhart
530 U.S. 914
Nature of Case: Challenge to Nebraska's abortion ban.
Holding: The statute is unconstitutional because it lacks an exception for situations when the procedure is necessary to protect the woman's health. The exception must allow the banned procedure both because the woman's medical condition requires it and because the banned procedure is less risky than others. In addition, the statute creates an undue burden on a woman's right to abortion because it has the effect of outlawing the dilation and evacuation (D&E) procedure, the most commonly used method for performing second-trimester abortions.

2003 and 2006
Scheidler v. National Organization for Women
("*Scheidler II and III*")
537 U.S. 393 and 547 U.S. 9
Nature of Case: National Organization for Women (NOW) sought to use the federal Racketeer Influenced and Corrupt Organizations (RICO) Act to sue anti-abortion organizations that engage in unlawful blockades and other harassment against reproductive health clinics. The RICO Act, established in 1970 as a tool against organized crime, punishes "enterprises" that engage in a "pattern of racketeering." NOW argued that RICO is applicable because the unlawful actions constituted a nationwide conspiracy to eliminate access to abortion by using extortion and intimidation to drive the clinics out of business. After the Supreme Court held the suit could proceed even if the anti-abortion groups were not economically motivated (see 1994 ruling), the case was remanded to the lower courts for further proceedings. A jury found defendants had violated RICO by committing extortion, and the district court entered a permanent nationwide injunction prohibiting defendants from threatening clinics, their employees, or their patients. Defendants appealed on the basis that they did not commit extortion because they did not obtain anything of value for themselves by interfering with the provision of medical services.
Holding: In *Scheidler II* (2003), the Supreme Court reversed, finding that because defendants did not acquire property, their actions were not extortion under the RICO Act. In *Scheidler III* (2006), the court ruled that acts and threats of violence apart from extortion were not actionable under RICO, either. The court directed judgment to be entered for the defendants.

2006
Ayotte v. Planned Parenthood of Northern New England
546 U.S. 320
Nature of case: Challenge to New Hampshire law that requires that a parent be notified 48 hours before an abortion is provided to a minor. The lower federal courts held the law unconstitutional because it does not permit an immediate abortion without notifying a parent in medical emergencies that threaten the minor's health.
Holding: The court did not disturb the lower courts' ruling that the statute was unconstitutional because it lacked a medical emergency exception. The court found that this proposition was not disputed by New Hampshire and was supported by prior precedents of the court that had held that the states may not restrict access to abortions that are necessary to preserve the woman's health or life. The court did hold that the lower courts might have gone too far in enjoining the whole parental notice law rather than just its application to medical emergency situations. The court remanded the case to the lower courts to determine whether a more limited injunction would be in keeping with the New Hampshire legislature's intent.

2007
Gonzales v. Carhart
and
Gonzales v. Planned Parenthood Federation of America, Inc.
550 U.S. ___ (April 18, 2007)
Nature of Case: Challenges to the federal abortion ban (the "Partial-Birth Abortion Ban Act of 2003"), which makes it a federal crime to "deliberately and intentionally vaginally deliver a living fetus" past certain anatomical landmarks "for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus." The ban does not contain an exception for the woman's health.
Holding: In a five-to-four decision, the court upheld the ban. The court held that the statutory definition of the banned procedure is not vague and does not impose an undue burden because it does not reach what the court called "standard D&Es." Despite

more than 30 years of precedent requiring abortion restrictions to contain exceptions for the woman's health, the court ruled that the ban does not need a health exception because there is "medical uncertainty over whether the Act's prohibition creates significant health risks." As Justice Ruth Bader Ginsburg explained in dissent, while the court did not directly overrule any of its precedents, the decision is "alarming" because "for the first time since *Roe*, the Court blesse[d] a prohibition with no exception safeguarding a woman's health." In addition to pointing out the majority opinion flouted well-established Supreme Court precedent, the dissent explains that the majority's decision gives "short shrift" to "the weight of the evidence," including the opinion of the American College of Obstetricians and Gynecologists that the banned procedures are "safer than alternative procedures and necessary to protect woman's health." Thus, in the words of Justice Ginsburg, "the Court deprives women of the right to make an autonomous choice, even at the expense of their safety." However, the court left open that the ban could be challenged "if it can be shown that in discrete and well-defined instances a particular condition has or is likely to occur in which the procedure prohibited by the Act must be used."

Intrusions on Privacy of Pregnant Women

2001
Ferguson v. City of Charleston
532 U.S. 67
Nature of Case: A state hospital had a policy of testing the urine of pregnant women for cocaine and turning the results over to law enforcement. Ten women who were arrested as a result of the policy sued the hospital claiming that their Fourth Amendment right to be free of unreasonable searches and seizures had been violated.
Holding: A state hospital must obtain the informed consent of its patients (or a warrant) in order to collect urine samples for the purpose of creating evidence of a crime. Otherwise, the patients' Fourth Amendment rights are violated.

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