



Monday *MONITOR*

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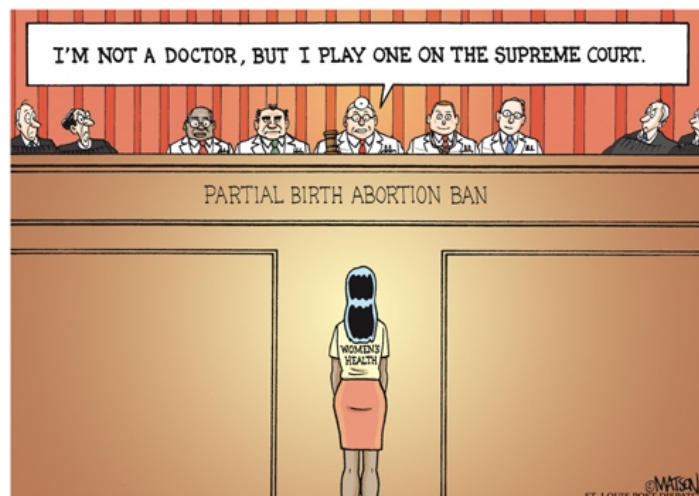
U.S. SUPREME COURT RULES WOMEN'S HEALTH OF NO MAJOR CONSEQUENCE

On Wednesday, April 18, the U.S. Supreme Court upheld the federal abortion ban in the cases *Gonzales v. Planned Parenthood* and *Gonzales v. Carhart*. The ban, passed by Congress and signed by President Bush in 2003, criminalizes abortions in the second trimester of pregnancy that doctors say are safe and may be the best procedure to protect women's health in some cases. Planned Parenthood denounced the ruling, which "flies in the face of 30 years of Supreme Court precedent and the best interest of women's health and safety...[T]he court took away an important option for doctors who seek to provide the best and safest care to their patients. This ruling tells women that politicians, not doctors, will make their health care decisions for them."

Leading ob/gyns at major medical institutions testified against the ban because it would prevent them from providing the care that is best to protect their patients' health. The American College of Obstetricians and Gynecologists, the American Nurses Association and many other medical groups oppose the federal ban. Until now, every court that examined the ban struck it down because, among other things, it fails to protect women's health.

Just seven years ago, the Supreme Court had struck down a very similar abortion ban enacted in Nebraska, *Carhart v. Stenberg*, because it did not have a health exception, with Justice O'Connor providing the critical vote that upheld protections for women's health and safety. Since then, Justice O'Connor retired and was replaced on the court by Justice Alito.

[See over for additional information on the ruling; see Matson 'opinion' below, *STL Post-Dispatch*]



PREVENTION FIRST LOBBY DAY: ADVOCATES WITNESS ANTI-CHOICE FLOOR DEBATE

350 energized women's health advocates took to the halls of the Capitol after witnessing anti-choice House members denounce comprehensive sex education and, in the Senate, anti-abortion members promote more ways to make abortion inaccessible to women outside St. Louis. In light of the recent U.S. Supreme Court ruling, anti-abortion extremists will likely call for further restrictions to abortion, while continuing to ban comprehensive sex education and de-fund family planning services.

U.S. SUPREME COURT RULING DEALS SERIOUS BLOW TO WOMEN'S HEALTH

On April 18, in a 5-4 decision in *Gonzales v. Carhart* and *Gonzales v. Planned Parenthood*, the Supreme Court upheld the Federal Abortion Ban law signed by President Bush in 2003. This ruling retreats from an unbroken line of precedent that has held that, in any abortion regulation, a woman's health must remain the paramount concern.

The majority opinion was written by Justice Kennedy and joined by Chief Justice Roberts and Justices Scalia, Thomas, and Alito. Justices Thomas and Scalia filed a concurring opinion, reiterating their view that *Roe v. Wade* should be entirely overruled. Justice Ginsburg authored the dissenting opinion, which was joined by Justices Stevens, Souter, and Breyer.

The Court explained that "whether the Act creates significant health risks for women has been a contested factual question" and "both sides have medical support for their position." In *Stenberg v. Carhart* (decided in 2000), the Court held that if there is a "division of medical opinion" and "substantial medical authority supports the proposition that banning a particular abortion procedure could endanger women's health," there must be a health exception. In Wednesday's opinion, the Court retreated from a rule of law that, in the face of medical disagreement, there must be a health exception, and adopted a different rule: in the face of medical disagreement, legislatures can decide whether or not to include a health exception.

The Court left open that the Act 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." It is not clear from the Court's ruling how such a challenge could, as a practical matter, be litigated. It is clear that the Court has retreated from thirty years of protection afforded to women's health.

Excerpts from Justice Ruth Bader Ginsburg in the dissent:

"Today's decision is alarming. It refuses to take *Casey* and *Stenberg* seriously. It tolerates, indeed applauds, federal intervention to ban nationwide a procedure found necessary and proper in certain cases by the American College of Obstetricians and Gynecologists (ACOG). It blurs the line, firmly drawn in *Casey*, between pre-viability and post-viability abortions. And, for the first time since *Roe*, the Court blesses a prohibition with no exception safeguarding a woman's health."

"The Court offers flimsy and transparent justifications for upholding a nationwide ban on intact D&E sans any exception to safeguard a woman's health."

"Notably, the concerns expressed are un-tethered to any ground genuinely serving the Government's interest in preserving life. By allowing such concerns to carry the day and case, overriding fundamental rights, the Court dishonors our precedent."

"Instead, the Court deprives women of the right to make an autonomous choice, even at the expense of their safety."

"In sum, the notion that the Partial-Birth Abortion Ban Act furthers any legitimate governmental interest is, quite simply, irrational. The Court's defense of the statute provides no saving explanation. In candor, the Act, and the Court's defense of it, cannot be understood as anything other than an effort to chip away at a right declared again and again by this Court--and with increasing comprehension of its centrality to women's lives."

For additional information, go to: www.federalabortionban.org and www.saveroe.org