

Planned Parenthood v. Casey

Kathryn Kolbert (Argued the cause for the petitioners)

Ernest D. Preate, Jr. (Argued the cause for the respondents)

Kenneth W. Starr (Department of Justice, argued the cause for the United States as amicus curiae)

Case Basics

Docket No.: 91-744

Petitioner: Planned Parenthood

Respondent: Casey

Consolidation: Casey, Governor of Pennsylvania, et al. v. Planned Parenthood of Southeastern Pennsylvania et al., No. 91-902

Decided By: Rehnquist Court (1991-1993)

Opinion: 505 U.S. 833 (1992)

Argued: Wednesday, April 22, 1992

Decided: Monday, June 29, 1992

Issues: Privacy, Abortion, Including Contraceptives

Categories: precedent, privacy, abortion

Facts of the Case:

The Pennsylvania legislature amended its abortion control law in 1988 and 1989. Among the new provisions, the law required informed consent and a 24 hour waiting period prior to the procedure. A minor seeking an abortion required the consent of one parent (the law allows for a judicial bypass procedure). A married woman seeking an abortion had to indicate that she notified her husband of her intention to abort the fetus. These provisions were challenged by several abortion clinics and physicians. A federal appeals court upheld all the provisions except for the husband notification requirement.

Question:

Can a state require women who want an abortion to obtain informed consent, wait 24 hours, and, if minors, obtain parental consent, without violating their right to abortions as guaranteed by Roe v. Wade?

Conclusion:

In a bitter, 5-to-4 decision, the Court again reaffirmed Roe, but it upheld most of the Pennsylvania provisions. For the first time, the justices imposed a new standard to determine the validity of laws restricting abortions. The new standard asks whether a state abortion regulation has the purpose or effect of imposing an "undue burden," which is defined as a "substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability." Under this standard, the only provision to fail the undue-burden test was the husband notification requirement. The opinion for the Court was unique: It was crafted and authored by three justices.

Decisions

Decision: 5 votes for Planned Parenthood, 4 vote(s) against

Legal provision: Due Process