

Webster v Reproductive Health

Facts of the Case:

In 1986, the state of Missouri enacted legislation that placed a number of restrictions on abortions. The statute's preamble indicated that "[t]he life of each human being begins at conception," and the law codified the following restrictions: public employees and public facilities were not to be used in performing or assisting abortions unnecessary to save the mother's life; encouragement and counseling to have abortions was prohibited; and physicians were to perform viability tests upon women in their twentieth (or more) week of pregnancy. Lower courts struck down the restrictions.

Question:

Did the Missouri restrictions unconstitutionally infringe upon the right to privacy or the Equal Protection Clause of the Fourteenth Amendment?

Conclusion:

In a controversial and highly fractured decision, the Court held that none of the challenged provisions of the Missouri legislation were unconstitutional. First, the Court held that the preamble had not been applied in any concrete manner for the purposes of restricting abortions, and thus did not present a constitutional question. Second, the Court held that the Due Process Clause did not require states to enter into the business of abortion, and did not create an affirmative right to governmental aid in the pursuit of constitutional rights. Third, the Court found that no case or controversy existed in relation to the counseling provisions of the law. Finally, the Court upheld the viability testing requirements, arguing that the State's interest in protecting potential life could come into existence before the point of viability. The Court emphasized that it was not revisiting the essential portions of the holding in *Roe v. Wade*.

Decisions

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

Legal provision: Due Process