

Pro-Lifers Gear Up for Oral Argument in *Dobbs v. Jackson Women's Health Organization* with Avalanche of Amicus Briefs

This fall the Supreme Court will hear oral argument on the constitutionality of a Mississippi law (The Gestational Age Act) that would prohibit abortion after the 15th week of pregnancy. This case (*Dobbs v. Jackson Women's Health*) is the most important abortion-related case since the 1992 *Planned Parenthood v. Casey* decision. In *Casey*, many legal experts expected the 5-4 conservative court to overturn *Roe v. Wade*. However, a 5-4 majority upheld *Roe*. Three "conservative" justices co-authored *Casey* (Sandra Day O'Connor, David Souter, and Antony Kennedy). Now 30 years later the Supreme Court has a 6-3 conservative majority.

Thanks to President Trump we have three new justices: Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett. Will history repeat itself and the Court once again uphold *Roe* or will the solid conservative bloc have the courage to finally toss it onto the ash heap of history?

To prepare for oral argument, dozens of pro-life groups, elected state or national officials, pro-life attorneys, and medical organizations, have filed friend-of-the-court briefs (amicus briefs). The following is a partial list of the amicus briefs filed by pro-life groups or individuals.

National Right to Life Committee Thomas More Society Priests for Life
375 Women Injured by Second and Third Trimester Late Term Abortions
Catholic Medical Association and National Association of Catholic Nurses
Senators Josh Hawley of Missouri, Mike Lee of Utah, and Ted Cruz of Texas
The Becket Fund for Religious Liberty U.S. Conference of Catholic Bishops
Robin Pierucci, M.D. and Life Legal Defense Foundation [Dr. Pierucci lives in Kalamazoo!!]
The Center for Medical Progress and David Daleiden 396 State Legislators from 41 States
Americans United for Life Christian Legal Society Concerned Women for America
Foundation for Moral Law and Lutherans for Life Ethics and Public Policy Center
Family Research Council Pennsylvania Pro-Life Federation Illinois Right to Life
Human Coalition Action and Students for Life of America State of Texas
Professors Mary Ann Glendon and O. Carter Snead Intercessors for America
Care Net, a National Affiliation of 1,200 Pregnancy Help Centers Judicial Watch
228 Members of Congress Scholars John M. Finnis and Robert P. George
Democrats for Life National Catholic Bioethics Center American Center for Law and Justice
The American Cornerstone Institute and its founder Dr. Benjamin S. Carson
Susan B. Anthony List American Association of Pro-Life Obstetricians and Gynecologists
Charlotte Lozier Institute American College of Pediatricians Heartbeat International
CatholicVote.org Education Fund 320 State Legislators from 35 States
March for Life Education and Defense Fund Texas Right to Life
240 Women Scholars and Professionals and Pro-Life Feminist Organizations
Billy Graham Evangelistic Association Joseph W. Dellapenna

Texas Diary: The most pro-life law in the U.S. takes effect and the pro-abortion liberals go off the rails

August 31, 2021: Pro-abortion organizations make one last attempt to block the Texas Heartbeat Act from taking effect on September 1, asking the Supreme Court to intervene. The law, which prohibits abortions from being performed once a fetal heartbeat is detected, also allows private citizens to sue doctors and others who “aid and abet” the performance of abortions after the sixth week of pregnancy. Back in July Texas Right to Life created ProLifeWhistleblower.com so that private citizens could report violations to Right to Life. The law will take effect at midnight making it the harshest (if you are pro-abortion) or most protective law (if pro-life) in the nation.

September 1: The Heartbeat Act took effect at midnight when the Supreme Court announced that it would not get involved. The justices did not rule on the constitutionality of the law, but rather decided not to impose a temporary block while the case is being litigated. Pro-abortionists are horrified. CNN legal analyst Jeffrey Toobin declared that in Texas abortion was essentially banned, admitting that it was as if the sky was falling. Many abortion clinics closed, at least temporarily.

September 2: News came from Washington, DC that the Supreme Court justices had voted 5-4 to let the Texas law take effect. Chief Justice John Roberts joined the three liberals, a disappointing development. It follows a trend in which the Chief seems to be moving to the center on many issues. The three Trump-nominated justices (Gorsuch, Kavanaugh, and Barrett) joined Clarence Thomas and Samuel Alito in letting the law stand. Mainstream media provides extensive coverage, all from a pro-abortion point of view. Liberal journalists and analysts take the occasion to focus on the Texas law (and how cruel it is!) and phase out coverage of President Biden disastrous and poorly-planned evacuation from Afghanistan.

September 3: Texas Right to Life estimated that the Heartbeat law may save as many as 35,000 babies. Despite that good news, the Texas group suffered some instant setbacks. Texas Right to Life was notified by the domainhost GoDaddy that its website ProLifeWhistlebloer.com had been deplatformed. Texas

Focus on Life Dinner: October 21, 2021

Theme: “Abortion in the Black Community”
Kalamazoo First Assembly of God Church
 Guest Speaker: **Bobby Hesley**
 Program **begins at 6:30 pm.**
 Tickets: \$40 per adult; \$20 per student or with disability

This is our big educational event of the year so reserve your seat by going to our website. See kazoortl.org

Right to Life reported that pro-abortionists tried for over a week to overwhelm the website with traffic and fake tips. When the plan failed, GoDaddy stepped in to take down the site. On Friday, a Texas judge granted a temporary stay preventing Texas Right to Life from suing Planned Parenthood. The temporary restraining order will expire in two weeks. More and more people are calling for boycotts of anything Texan. Joe Biden made a public statement criticizing the Heartbeat law, saying that it was “an unprecedented assault” on abortion rights. He even had the nerve to say that the law was “un-American.” The president capped off his remarks by stating that he no longer believes that life begins at conception. So much for “following the science” Joe! Lawmakers in Arkansas, South Dakota, and Florida are committed to pass similar legislation in their states.

September 4: Sooner or later a pro-abortion commentator would make a ridiculous comparison between pro-lifers and the Handmaid’s Tale. On Saturday, Sept. 4 an MSNBC host said, “We have an actual handmaid on the court. So I have to tell you, I’m not excited about depending on them [Supreme Court justices] to protect me and my right to choose.” Her “handmaid” of course is Justice Amy Coney Barrett. It amazes me that so many intelligent people drudge up a book of FICTION as if it is true.

September 5: The Portland, Oregon City Council announced that it will vote shortly whether or not to boycott the State of Texas by restricting travel and business for city employees, vendors, for city departments traveling for business or conventions. The City Council would probably boycott Texas companies as well.

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What makes *Dobbs* so important is that it challenges *Roe v. Wade*'s central tenant: that a woman has an absolute right to end her pregnancy prior to fetal viability. When *Roe* was decided in 1973 fetal viability was around 26 weeks (or at the end of the second trimester). With advancing technology and medical knowledge, by 1992 when *Casey* was decided, fetal viability had dropped to 24 weeks. The Mississippi law, by prohibiting abortion after 15 weeks, strikes at the heart of *Roe* and *Casey*'s viability standards. In 2018 the Mississippi law was blocked by a federal district judge and that ruling was upheld by a three-judge panel of the 5th Circuit Court of Appeals. Federal judges, whether at the district or appellate level, are duty-bound to adhere to Supreme Court precedent when issuing decisions. That does not stop them from expressing contrary comments, even if embedded in a decision upholding a Supreme Court ruling. James Ho, one of the three judges, made a very telling comment about legal abortion. The following are excerpts from his concurring opinion.

“Nothing in the text or original understanding of the Constitution establishes a right to an abortion...what removes abortion policy from the democratic process established by our Founders—is Supreme Court precedent. The parties... draw our attention not to what the Constitution says, but to what the Supreme Court has held...I am deeply troubled by how the district court handled his case. The opinion issued by the district court displays an alarming disrespect for the millions of Americans who believe that babies deserve legal protection during pregnancy...and that abortion is the immoral, tragic, and violent taking of innocent human life...Supreme Court precedent dictates abortion policy in America. So I am duty bound to affirm the judgment of the district court. But I cannot affirm the opinion of the district court.”

National Right to Life News editor Dave Andrusko has been reporting on several of the pro-life amicus briefs submitted to the Supreme Court. His August 16 feature on the brief submitted by retired law professor Joseph Dellapenna is worth condensing.

Dellapenna has written several articles critical of the *Roe* decision based on historical research. His massive 1,275-page book *Dispelling the Myths of Abortion History* (2006) is THE definitive history on abortion, tracing English common law since the 12th century and the American experience since colonial times.

Writes Andrusko, “Dellapenna’s amicus is intended “to bring the Court’s attention to the erroneous history on which *Roe* was based, setting before the Court an accurate account of the common and statutory law relating to abortion in England and America across eight centuries, demonstrating that there is no long term legal or social acceptance of abortion that could form the basis of a constitutional right to choose abortion.” Andrusko tosses in a quote from pro-life scholar Susan Wills, “The entire edifice of U.S. abortion law is constructed on lies and deceptions—lies about when life begins, the scope of ‘privacy’ in the Constitution, the meaning of the Ninth and Fourteenth Amendments, about applicable (but ignored) precedents, and about the history of abortion law and practice.”

Dellapenna writes, “The majority in *Roe*, influenced by deliberately distorted presentations of the history of abortion laws that have been pressed upon the Court in subsequent cases, erroneously concluded that abortion was not a common-law crime. Instead, the historical record shows that (a) abortion and other killings of unwanted children were condemned by all respected legal authorities in England from the start of the common law and (b) those laws were applied with full rigor in the United States during the colonial era and into the nineteenth and twentieth centuries, including where the Fourteenth Amendment was adopted. When viewed through the proper historical lens, this leg on which the *Roe* majority rested collapses. Abortion was a common-law crime from the earliest recorded days, and the common law was followed and codified in the states and territories in order to protect the life of the unborn child.

From the Dellapenna brief, “The majority in *Roe* relied uncritically on the work of Cyril Means, Jr., who was then general counsel for the National

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Association for the Repeal of Abortion Laws (NARAL). Means distorted abortion precedents and statutes and ignored the larger social and technological context in which they were grounded. Aborted advocates also now rely on the work of historian James Mohr, as expressed in his “Historians’ Briefs” in the *Webster* and *Casey* decisions. These histories of abortion are advocacy pieces with a highly selective examination of the evidence to support a partisan and distorted reading.”

Dellapenna also writes that state legislators enacted stricter laws “to reach all abortions regardless of the technique used or the stage of pregnancy [because] protection of fetal life was the major purpose of the statutes. Many religious and social leaders also supported treating abortion as a crime. Only by impugning the integrity of innumerable social and professional leaders can one argue that protection of

unborn children from abortion was not a significant concern...Feminist abhorrence of abortion arose because the feminists viewed abortion as the killing of a child.” He adds, “Abortion prohibitions [anti-abortion laws of the nineteenth century] almost invariably were enacted in a general codification of common-law crimes, suggesting that the statutes were not thought to change the law, but to confirm it.”

Dellapenna concludes: “The historical predicates on which *Roe* was based are incorrect. The common law always made abortion illegal, and the main motivation was protection of the lives of unborn children, from the earliest moment of their life in the womb...*Roe* should be overruled, with the Court adopting an inaccurate statement of the common law and the history of abortion. With that established, the viability distinction of *Roe* should be abandoned and the Mississippi statute should be upheld.”

AOC Makes Wild Claims on Texas Law

Congresswoman Alexandria Ocasio-Cortez (D-NY) went to twitter on September 1 to condemn the Heartbeat law, her remarks filled with wild and inaccurate claims. Her assertions require a pro-life response.

Her comment: “Republicans promised to overturn *Roe v. Wade*, and they have. Democrats can either abolish the filibuster and expand the court, or do nothing as millions of peoples’ bodies, rights, and lives are sacrificed for far-right minority rule. This shouldn’t be a difficult decision.”

Her first claim is generally true. The GOP wants to see *Roe* overturned. However, Republicans have not reversed *Roe*. That task can only be performed by the Supreme Court. This case is about one law in one state and the Court, very likely, will step in eventually to block enforcement UNTIL they rule on *Dobbs* (see page 1).

AOC’s second claim is really a demand: end the filibuster in the Senate and enlarge the Court with liberals. The hypocrisy of the left knows no limits. When Trump was president Democrats filibustered EVERYTHING just to deny him a victory. Now when their precious agenda is at risk they want to remove the one legislative tool the minority has to make sure that laws have wide bipartisan support. Enlarge the Supreme Court by four new justices. Another liberal ploy. Adding four liberal justices to a 6-3 conservative Court turns the balance to a 7-6 liberal Court. Notice that they don’t want two or three new justices for that would still deny them a majority. The Supreme Court has had nine members since 1869. Leave it alone. If Joe Biden has an opportunity to fill a court vacancy, so be it. But don’t fiddle with the numbers.

Her third claim is laughable, yet true in REVERSE. Yes, millions (62 million) of unborn babies have lost their right to live because of *Roe*. Their lives have been sacrificed on the altar of reproductive choice. Rather, we can think of the thousands of Texan babies that will be saved.

Joe Biden's (and the Democrats') Record on Abortion Since January

Life Chain: October 3, 2021

The Life Chain is scheduled for
October 3, 2021.

Hundreds of Kalamazoo-area pro-lifers from
dozens of pro-life churches will
gather along South Westnedge
between 2:30-3:30 pm.
to express the simple message:
Abortion Kills Children.

All KRTL members are encouraged to
participate.

Contact your pastor or pro-life leader at your
church for more details, parking, and locations.

The following is a list of policy decisions President Biden has made since January 20, 2021. Material excerpted from the July-August issue of *Catalyst*, the journal of the Catholic League for Religious Civil Rights.

January 22: Biden issued a statement on the 48th anniversary of *Roe v. Wade* describing the decision as a “foundational precedent” to which all judicial nominees should commit. Biden called for *Roe* to be codified into law.

January 28: Biden instructed the Department of Health and Human Services to immediately move to consider rescinding the Trump administration’s rule blocking health care providers in the federally funded Title X family planning program from referring patients for abortion.

January 28: Biden issued the “Memorandum on Protecting Women’s Health at Home and Abroad.” It revoked the Mexico City policy which is a U.S. government policy (since 1984) that requires foreign non-governmental organizations (NGOs) to certify that they will not “perform or actively promote abortion as a method of family planning.”

January 28: Biden resumed funding the United Nations Population Fund which promotes family planning through abortion.

January 28: Biden directed the U.S. Agency for International Development and other government foreign assistance programs to ensure that adequate funds are being directed to support abortion rights.

February 25: The House of Representatives passed the Equality Act. Among other things it would gut the 1993 Religious Freedom Restoration Act and would allow tax-payer funded abortions to become a national policy.

March 18: The Office of Population Affairs at HHS announced the Biden administration’s plan to repeal the Trump-era Protect Life Rule governing Title X by the end of 2021.

April 13: The Food and Drug Administration announced that it would no longer enforce the “in person dispensing requirement” for chemical abortion pills.

April 14: HHS introduced the Title X changes outlined in Biden’s Memorandum of January 28. Under these new rules, grantees would be required to refer for abortions, despite moral or religious objections, effectively banning otherwise pro-life grantees from participating.

April 16: The National Institute of Health removed restrictions on human fetal tissue research.

May 12: When asked if he would support or follow the Partial-Birth Abortion Ban Act (signed by President George W. Bush in 2003), pro-abortion

HHS Secretary Xavier Becerra said that he would not.

May 17: After the Supreme Court announced that it would hear the case of the Mississippi law that bans abortion after the 15th week of pregnancy, White House Press Secretary Jen Psaki told reporters that that Biden was “committed to codifying” *Roe v. Wade* no matter what the Court decides.

May 28: Biden released his budget proposal for FY2022. The Hyde Amendment wording has been removed and funds are allocated to pay for Medicaid abortions.

July 29: The House voted 219-212 to remove Hyde Amendment wording from Biden’s proposed budget for FY2022.

September 3: In response to the Texas Heartbeat law, Biden stated that he no longer believed that life begins at conception.

President's Corner by Rob Karrer

Rick Santorum was a US senator from Pennsylvania from 1995 to 2007. He was one of our strongest, most reliable pro-life senators. He was defeated in the November, 2006 election by Bob Casey, the son of pro-life champion and former governor Bob Casey. Casey the elder, you may recall, was so pro-life that in 1992 he asked to speak at the Democratic National Convention and give a "minority report" on abortion. He wanted to remind the delegates that not all Democrats favored abortion, that many believed that abortion was an unspeakable crime committed against an innocent baby. Democrats denied Casey his right to address the convention. He was gagged, so to speak. For that he was forever enshrined as a true man of faith and conviction. Casey the younger likewise declared his pro-life convictions. Many pro-life Pennsylvanians voted for him, first in 2006 and again in 2012 and again in 2018. However, Casey's pro-life votes have diminished with each passing year. In mid-August he cast three pro-abortion votes. He voted against an amendment that would retain the Hyde Amendment! Sixty percent of all Americans oppose federal funding for abortion yet somehow Casey, incredibly, wants the government to use tax-payer dollars to fund abortions! This is not an "about-face, this is a betrayal. He voted against two amendments that would have banned late-term abortions after 20 weeks. Pennsylvanians can no longer trust Casey's "pro-life platitudes" when his actions speak otherwise. He needs to be sent packing in 2024.

Every Friday catch KRTL President Rob Karrer's latest video on Youtube or **kazoortl.org**.
The short program is called **Pro-Life Week**.

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