

The Supreme Court's Jurisprudence from Roe to Dobbs

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Roe v. Wade and the Trimester framework

- Main parts of Roe are the trimester framework, Right to privacy (Griswold V. Connecticut)
- States have a compelling interest to regulate abortion in the third trimester
- Trimester framework is largely considered lawmaking
- Trimester framework leads into Casey

Casey v. Planned Parenthood and the viability standard

- Overturns trimester framework, this is the case that defines abortion
- Knows viability will change with technology
- Viability is about 23 weeks according to the court
- Also introduces undue burden standard
- Undue burden standard is to protect from unwanted to children and stigma of unmarried motherhood

Dobb's v. Jackson Women's health center

- Addresses problems with both Roe and Casey
- Viability standard
- Undue burden
- Right to privacy

Dissent in Dobbs

- Focuses on argument made in cases and relies on Ginsburg's argument in *Gonzales v. Carhart*
- Women need abortion to be production members of society
- Abortion is needed for those of severe disabilities
- Should be allowed at anytime for any reason no matter what

What comes after Dobbs

- This case does not outlaw or eliminate abortion in America
- The power to regulate abortion is returned to the state's legislatures, giving them the authority to make laws on abortion.
- All this case does is turn it over to the states
- Instead of one single national policy, abortion will now be regulated by each state.

What Dobbs does not do

- “Nothing in this opinion should be understood to cast doubt on precedents that do not concern abortion. “ – Justice Alito, majority opinion
- no states ban ectopic pregnancies, septic uteruses, or anything that threatens a life of the mother. These procedures are not abortions and will continue to happen now as they did before Roe v. Wade
- This case also does not criminalize miscarriages or procedures needed after a miscarriage. That is not considered an abortion and no state has criminalized a women for one.

Can abortion be nationalized?

- Theoretically yes, there is nothing stopping the president from creating an abortion law.
- An executive order could be used but it would not be permanent and the constitutionality would be debated
- A law could be passed through congress on the commerce clause, but it is unlikely and not permanent
- Amendments to the Constitution are very difficult to obtain and abortion so while it is a permanent solution, extremely unlikely

predictions

- There will be many tries to codify abortion into law by the Democratic party and all of them will fail. There will be multiple laws passed in congress but none of them make it all the way through. There may be some small success with executive orders and laws but they will not succeed in creating an absolute right to abortion.
- Nothing much will happen on the federal level, but states will continue to create laws. Blue states will expand abortion access and red states will restrict abortion access.
- Abortion will become a major topic in the upcoming elections more than ever especially in states that could go red or blue.

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