

Roe Still Lives

Contributed by Tara Ross
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Last week, the Supreme Court handed down its much-anticipated decision in *Gonzales v. Carhart*, the partial-birth abortion case. In a narrow 5-4 decision, the Court upheld the federal ban on certain types of partial-birth abortions. Pro-choice activists are livid—hysterical, even.

A press release from the Feminist Majority blasted the Court as “Bush-stacked” and the People for the American Way similarly laid blame at the feet of Bush’s “right-wing nominees.” NARAL Pro-Choice America bemoaned the Court’s willingness to “partner with the Bush administration” in undermining “women’s reproductive rights.” In these and other press releases, the Court is said to “not care about the health, well-being, and safety of American women.” The Court, it seems, is packed with a bunch of heartless males, who absolutely refuse to protect women.

Yeah, that’s it. All those callous men, sitting on the nation’s highest court, actively hoping that women are left to die in back alleys. Oh, give me a break.

The Justices upheld a statute that is remarkably narrow in scope. Their decision, by the way, rested entirely upon application of existing precedent under *Roe v. Wade* and its progeny. The Court’s holding may be a victory for pro-life forces, but the victory is a small one.

Justice Kennedy’s majority opinion explicitly held that the statute in question does not address all second-trimester abortions. Instead, it forbids only one type of abortion in which a baby is almost completely delivered, still alive, and then killed before it is removed from the birth canal. Notably, the baby is killed for one purpose only: Doctors don’t want to deal with the “complications” created by suddenly having a living baby outside the womb.

The procedure is best described by those who have seen it. The Court cited one nurse who witnessed this particular type of second-trimester abortion. Be forewarned: This is not easy reading.

“Dr. Haskell went in with forceps and grabbed the baby’s legs and pulled them down into the birth canal. Then he delivered the baby’s body and the arms—everything but the head. The doctor kept the head right inside the uterus. . . . The baby’s little fingers were clasping and unclasping, and his little feet were kicking. Then the doctor stuck the scissors in the back of his head, and the baby’s arms jerked out, like a startle reaction, like a flinch, like a baby does when he thinks he is going to fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening, and sucked the baby’s brains out. Now the baby went completely limp. . . . He cut the umbilical cord and delivered the placenta. He threw the baby in a pan, along with the placenta and the instruments he had just used.”

No American should be able to read that description without a sick feeling of disgust and horror. The procedure is grotesque, brutal, inhumane. This particular baby was about 3 months away from delivery, had the mother carried it to full term. The doctor “had” to stab it in the brain with scissors because it was old enough to live on its own. Surely “right-wingers” are not the only ones who can support the legitimacy of a law that prevents young lives from being killed in this brutal fashion, at the mother’s convenience.

But let’s assume for a moment that the mother chose this abortion procedure because her life truly was in danger. Perhaps she was diagnosed with cancer and wanted to begin chemotherapy treatments. In such a scenario, wouldn’t it have been kinder—more humane—to avoid sucking the baby’s brains out, instead delivering it and putting it on a ventilator in the NICU? At least then the baby would have had a fighting chance at a full and happy life, even as the mother was given the opportunity to fight for hers.

The Partial-Birth Abortion Act, however, never puts a mother to this type of decision. Mothers may still obtain an alternate type of abortion during their sixth month of pregnancy, if they so choose. The procedure in the nurse’s description above may be legally impermissible under the new law, but Kennedy described another type of abortion that may still be performed:

“The doctor, often guided by ultrasound, inserts grasping forceps through the woman’s cervix and into the uterus to grab the fetus. The doctor grips a fetal part with the forceps and pulls it back through the cervix and vagina, continuing to pull even after meeting resistance from the cervix. The friction causes the fetus to tear apart. For example, a leg might be ripped off the fetus as it is pulled through the cervix and out of the woman. The process of evacuating the fetus piece by piece continues until it has been completely removed.”

Equally gruesome, if you ask this author, but this procedure is still a permissible “choice” for women, under the terms of the Act. Yes, the victory for pro-life forces was very small, indeed.