

Stenberg v. Carhart

Stenberg v. Carhart, 530 U.S. 914 (2000)

Majority opinion:

Justice Breyer joined by Justices Stevens, O'Connor, Souter, and Ginsberg.

Dissenting:

Justice Kennedy joined by Justice Rehnquist

Justice Thomas joined by Scalia and Rehnquist

Majority opinion:

The court struck down a Nebraska statute banning any "partial birth abortion" unless that procedure was "necessary to save the life of the mother." Court struck down law in violation of Casey on two accounts:

- 1) lacks exception for preservation of the mother's health, which is distinct from life
- 2) State interest in regulating previability is considerably weaker than in regulating postviability

-Since the law regulates only the method of abortion, the argument that interest in "the potentiality of human life" is invalid.

-The Court also speaks of the arbitrary nature of medical necessity, saying that different doctors have alternate views on diagnosis, so no absolute standard can be established.

- This method might be safer in safe cases so to outlaw it presents an "undue burden" under Casey.

Dissenting Kennedy opinion:

State can define their interests in the abortion debate. It does not matter if the judiciary recognizes the difference in methods as long as Nebraska does (fetus inside or outside the womb when procedure is done). Abortion consequences extend beyond the woman. States have a moral interest in preserving respect for human life, even if it extends to a fetus.

Dissenting Thomas opinion:

Cites the difference between a woman needing an abortion for health reasons or preferring a safer method of abortion she may want for whatever reason. Says higher health risk for some women is not rationale to invalidate a law under Casey, which allows some regulation of abortion.