

From: <http://www.lawnix.com/cases/roe-wade.html>

Summary of *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973).

Facts

Roe (P), a pregnant single woman, brought a class action suit challenging the constitutionality of the Texas abortion laws. These laws made it a crime to obtain or attempt an abortion except on medical advice to save the life of the mother.

Other plaintiffs in the lawsuit included Hallford, a doctor who faced criminal prosecution for violating the state abortion laws; and the Does, a married couple with no children, who sought an injunction against enforcement of the laws on the grounds that they were unconstitutional. The defendant was county District Attorney Wade (D).

A three-judge District Court panel tried the cases together and held that Roe and Hallford had standing to sue and presented justiciable controversies, and that declaratory relief was warranted. The court also ruled however that injunctive relief was not warranted and that the Does' complaint was not justiciable.

Roe and Hallford won their lawsuits at trial. The district court held that the Texas abortion statutes were void as vague and for overbroadly infringing the Ninth and Fourteenth Amendment rights of the plaintiffs. The Does lost, however, because the district court ruled that injunctive relief against enforcement of the laws was not warranted.

The Does appealed directly to the Supreme Court of the United States and Wade cross-appealed the district court's judgment in favor of Roe and Hallford.

Issues

1. Do abortion laws that criminalize all abortions, except those required on medical advice to save the life of the mother, violate the Constitution of the United States?
2. Does the Due Process Clause of the Fourteenth Amendment to the United States Constitution protect the right to privacy, including the right to obtain an abortion?
3. Are there any circumstances where a state may enact laws prohibiting abortion?
4. Did the fact that Roe's pregnancy had already terminated naturally before this case was decided by the Supreme Court render her lawsuit moot?
5. Was the district court correct in denying injunctive relief?

Holding and Rule (Blackmun)

1. Yes. State criminal abortion laws that except from criminality only life-saving procedures on the mother's behalf, and that do not take into consideration the stage of pregnancy and other interests, are unconstitutional for violating the Due Process Clause of the Fourteenth Amendment.
2. Yes. The Due Process Clause protects the right to privacy, including a woman's right to terminate her pregnancy, against state action.
3. Yes. Though a state cannot completely deny a woman the right to terminate her pregnancy, it has legitimate interests in protecting both the pregnant woman's health and the potentiality of human life at various stages of pregnancy.

4. No. The natural termination of Roe's pregnancy did not render her suit moot.
5. Yes. The district court was correct in denying injunctive relief.

The Court held that, in regard to abortions during the first trimester, the decision must be left to the judgment of the pregnant woman's doctor. In regard to second trimester pregnancies, states may promote their interests in the mother's health by regulating abortion procedures related to the health of the mother. Regarding third trimester pregnancies, states may promote their interests in the potentiality of human life by regulating or even prohibiting abortion, except when necessary to preserve the life or health of the mother.

The Supreme Court held that litigation involving pregnancy, which is "capable of repetition, yet evading review," is an exception to the general rule that an actual controversy must exist at each stage of judicial review, and not merely when the action is initiated.

The Court held that while 28 U.S.C. § 1253 does not authorize a party seeking only declaratory relief to appeal directly to the Supreme Court, review is not foreclosed when the case is brought on appeal from specific denial of injunctive relief and the arguments on the issues of both injunctive and declaratory relief are necessarily identical.

The Does' complaint seeking injunctive relief was based on contingencies which might or might not occur and was therefore too speculative to present an actual case or controversy. It was unnecessary for the Court to decide Hallford's case for injunctive relief because once the Court found the laws unconstitutional, the Texas authorities were prohibited from enforcing them.

Disposition

Roe wins – the district court judgment is affirmed.

From: http://womenshistory.about.com/od/abortionuslegal/p/roe_v_wade.htm

Effect of the Roe v. Wade decision:

All state laws limiting women's access to abortions during the first trimester of pregnancy were invalidated by Roe v. Wade. State laws limiting such access during the second trimester were upheld only when the restrictions were for the purpose of protecting the health of the pregnant woman. Roe v. Wade legalized abortion in the United States, which was not legal at all in many states and was limited by law in others.

Basis of the Roe v. Wade decision:

The lower court's decision in this case was that the [Ninth Amendment](#), a part of the [Bill of Rights](#), in stating that "the enumeration in the Constitution, of certain

rights, shall not be construed to deny or disparage others retained by the people," protected a person's right to privacy. The Supreme Court chose to base its decision on the [Fourteenth Amendment](#). [Roe v. Wade was decided](#) primarily on the Due Process Clause of the Fourteenth Amendment to the United States Constitution. A criminal statute that did not take into account the stage of pregnancy or other interests than the life of the mother was deemed a violation of Due Process.

Acceptable government regulation according to Roe v. Wade:

Different rules at different stages of pregnancy were considered appropriate:

- In the first trimester, the state (that is, any government) could treat abortion only as a medical decision, leaving medical judgment to the woman's physician.
- In the second trimester (before viability), the state's interest was seen as legitimate when it was protecting the health of the mother.
- After viability of the fetus (the likely ability of the fetus to be able to survive outside and separated from the uterus), the *potential* of human life could be considered as a legitimate state interest, and the state could choose to "regulate, or even proscribe abortion" as long as the life and health of the mother was protected.

Who Roe and Wade were:

The alias "Jane Roe" was used for [Norma McCorvey](#), on whose behalf the suit was originally filed, alleging that the abortion law in Texas violated her constitutional rights and the rights of other women.. The defendant was the district attorney of Dallas County, Texas, Henry B. Wade.

Who argued the case:

Sarah Weddington and Linda Coffee were the plaintiff's lawyers. John Tolle, Jay Floyd and Robert Flowers were the defendant's lawyers.

Who voted for and against the Roe v. Wade decision:

The majority: Harry Blackmun, William J. Brennan, Chief Justice Warren Burger, William O. Douglas, [Thurgood Marshall](#), Lewis Powell and Potter Stewart. The dissent: [William Rehnquist](#) and Byron White. [The majority opinion](#) was written by [Harry Blackmun](#). [Concurring opinions](#) were written by [Potter Stewart](#), [Warren Burger](#), and [William O. Douglas](#). [Dissenting opinions](#) were written by [William Rehnquist](#) and [Byron White](#).

Where to read the whole Roe v. Wade decision:

On this site: [Roe v Wade Supreme Court Decision 1973](#)

From: <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=410&invol=113>

ROE v. WADE, 410 U.S. 113 (1973)

410 U.S. 113

**ROE ET AL. v. WADE, DISTRICT ATTORNEY OF DALLAS COUNTY
APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT
OF
TEXAS
No. 70-18.**

Argued December 13, 1971 Reargued October 11, 1972

Decided January 22, 1973

A pregnant single woman (Roe) brought a class action challenging the constitutionality of the Texas criminal abortion laws, which proscribe procuring or attempting an abortion except on medical advice for the purpose of saving the mother's life. A licensed physician (Hallford), who had two state abortion prosecutions pending against him, was permitted to intervene. A childless married couple (the Does), the wife not being pregnant, separately attacked the laws, basing alleged injury on the future possibilities of contraceptive failure, pregnancy, unpreparedness for parenthood, and impairment of the wife's health. A three-judge District Court, which consolidated the actions, held that Roe and Hallford, and members of their classes, had standing to sue and presented justiciable controversies. Ruling that declaratory, though not injunctive, relief was warranted, the court declared the abortion statutes void as vague and overbroadly infringing those plaintiffs' Ninth and Fourteenth Amendment rights. The court ruled the Does' complaint not justiciable. Appellants directly appealed to this Court on the injunctive rulings, and appellee cross-appealed from the District Court's grant of declaratory relief to Roe and Hallford. Held:

1. While 28 U.S.C. 1253 authorizes no direct appeal to this Court from the grant or denial of declaratory relief alone, review is not foreclosed when the case is properly before the Court on appeal from specific denial of injunctive relief and the arguments as to both injunctive and declaratory relief are necessarily identical. P. 123.

2. Roe has standing to sue; the Does and Hallford do not. Pp. 123-129.

(a) Contrary to appellee's contention, the natural termination of Roe's pregnancy did not moot her suit. Litigation involving pregnancy, which is "capable of repetition, yet evading review," is an exception to the usual federal rule that an actual controversy [410 U.S. 113, 114] must exist at review stages and not simply when the action is initiated. Pp. 124-125.

(b) The District Court correctly refused injunctive, but erred in granting declaratory, relief to Hallford, who alleged no federally protected right not assertable as a defense against the good-faith state prosecutions pending against him. *Samuels v. Mackell*, [401 U.S. 66](#) . Pp. 125-127.

(c) The Does' complaint, based as it is on contingencies, any one or more of which may not occur, is too speculative to present an actual case or controversy. Pp. 127-129.

3. State criminal abortion laws, like those involved here, that except from criminality only a life-saving procedure on the mother's behalf without regard to the stage of her pregnancy and other interests involved violate the Due Process Clause of the Fourteenth Amendment, which protects against state action the right to privacy, including a woman's qualified right to terminate her pregnancy. Though the State cannot override that right, it has legitimate interests in protecting both the pregnant woman's health and the potentiality of human life, each of which interests grows and reaches a "compelling" point at various stages of the woman's approach to term. Pp. 147-164.

(a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician. Pp. 163, 164.

(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health. Pp. 163, 164.

(c) For the stage subsequent to viability the State, in promoting its interest in the potentiality of human life, may, if it chooses, regulate, and even proscribe, abortion except where necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. Pp. 163-164; 164-165.

4. The State may define the term "physician" to mean only a physician currently licensed by the State, and may proscribe any abortion by a person who is not a physician as so defined. P. 165.

5. It is unnecessary to decide the injunctive relief issue since the Texas authorities will doubtless fully recognize the Court's ruling [[410 U.S. 113, 115](#)] that the Texas criminal abortion statutes are unconstitutional. P. 166.