Case: Roe v. Wade (1973)

Facts: A woman residing in Texas was denied an abortion by a doctor afraid to violate a Texas criminal statute prohibiting abortions except “for the purpose of saving the life of the mother.” She filed an anonymous lawsuit against the state of Texas (using the pseudonym “Jane Roe”), arguing the law violates her constitutional right of privacy (private, autonomous decision-making). The Federal District Court ruled the statute unconstitutional; there was a direct appeal by Texas to the U.S. Supreme Court.

Issue: Does the Texas statute outlawing abortion in most circumstances except to save the life of the woman violate a constitutional right to have an abortion?

Holding: (Vote: 7-2) Yes: The Texas statute outlawing abortions except to save the life of the woman is unconstitutional because the Constitution protects a right to have an abortion.

Reasoning: (Majority Opinion author: Justice Blackmun)

After going through a brief history of abortion regulations, the Court looks at the state interests in regulating abortion. The State of Texas asserts its law banning almost all abortions is furthered by two state interests: (1) Protecting prenatal life and (2) the medical safety of woman. The court accepts that these are otherwise valid interests, but for several reasons rejects Texas’s absolute rule that it has created to protect these interest:

1. There are two counter-weighing interests of the woman:
   a. The woman has a privacy right grounded in a "penumbra" of the rights found in Constitutional Amendments 1, 4, 5, 9, 14, because "activities relating to marriage, procreation, family relationships, and child rearing and education" are "fundamental" and "implicit in the concept of ordered liberty."
   b. The woman also has an interest in avoiding possible severe physical and psychological harm if an abortion is denied.

2. Also, a fetus is not a "person" within the meaning of the constitution, so it doesn't get protection as a person—i.e. the fetus has no counter-balancing constitutional right to life or liberty like the woman does.

Therefore, given these several points, a proper constitutional rule balances the interests of the state versus the interests of the woman. In the early stages of pregnancy, the woman has stronger interests than the state, but as a fetus becomes more advanced, the state interests in prenatal life and a woman’s health grow to be "compelling," thus overriding the woman’s interests. This results in a three-part rule (the trimester framework) the court announces:

“(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.

(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.

(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 it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. “

Applying this rule here (in this case), Texas’s law clearly violates this new trimester framework, because the law outlaws abortions not just in the third trimester, but also in the first and second trimesters of pregnancy. Thus, the Texas abortion law as it is written is struck down as unconstitutional.

Dissent: (Dissenting opinion written by Justice Rehnquist, joined by Justice White):

Any right to "liberty" not found in the Bill of Rights is not absolutely protected. The correct test for whether social and economic regulation violates the “liberty” found in the 14th Amendment is whether the law has "a rational relation to a valid state objective." The majority ignores that rule. The trimester scheme is thus "judicial legislation" (law made purely by judges). Historical legal prohibitions show abortion is "not so rooted in the traditions and conscience of our people as to be ranked fundamental," which shows the drafters of the 14th Amendment did not intend to limit the states' ability to regulate abortion.