



Stony Brook
University

Center for Civic Justice

COMMUNITY DIALOGUE
MARCH 8, 2023

THE SUPREME COURT
&
WOMEN'S RIGHTS



KEY TERMS

DISTRICT COURTS

These are lower courts that resolve issues for criminal and civil cases; specific to each state.

CIRCUIT COURTS

The 12 regional circuits with assigned states that is the 'intermediate' between the district courts and the Supreme Court, and handle appeals from district court decisions.

NATIONAL IMPORTANCE

In order for a case to be considered by the Supreme Court, it must fall under certain criteria.

WRIT OF CERTIORARI

This is the formal petition written by one party, informing the Supreme Court of their appeal to the decision of the federal circuit court.

APPEAL

The losing party in a decision by a trial court in federal courts is entitled to appeal a decision with an 'oral argument.' This argument is a structured discussion between the appellate lawyers and a panel of judges, and is relatively short.

STATE SUPREME COURT

Court with the highest authority pertaining to state-specific issues.

KEY TERMS

ABORTION

Termination of a pregnancy. A miscarriage also falls under this term, but specifically it's referred to as a spontaneous abortion, vs a medical or induced abortion.

BODILY AUTONOMY

Refers to self-ownership and the ability for people to make decisions for themselves in regards to their own body

HEART-BEAT BAN

A six week abortion ban, when fetal heartbeat is detected

UNDUE BURDEN

In *Planned Parenthood v. Casey*, laws causing undue burden, or a substantial obstacle that impedes on a woman's right to access abortion, cannot be put in place

"ZONE OF PRIVACY"

Refers to how married couples have the right to privacy within their relationship. Prevents contraception from being criminalized.

"RIGHT TO HEALTHCARE"

The belief that having access to healthcare is a human right

ROE V. WADE (1973-2022)

In one of the Supreme Court's most intensely debated decisions, it ruled that unduly restrictive state regulation of abortion is unconstitutional.

GRISWOLD V. CONNECTICUT (1965)

Guarantees a right to privacy, which allows individuals to make intimate personal decisions like timing pregnancy and using contraceptives.

MERITOR SAVINGS BANK V. VINSON (1986)

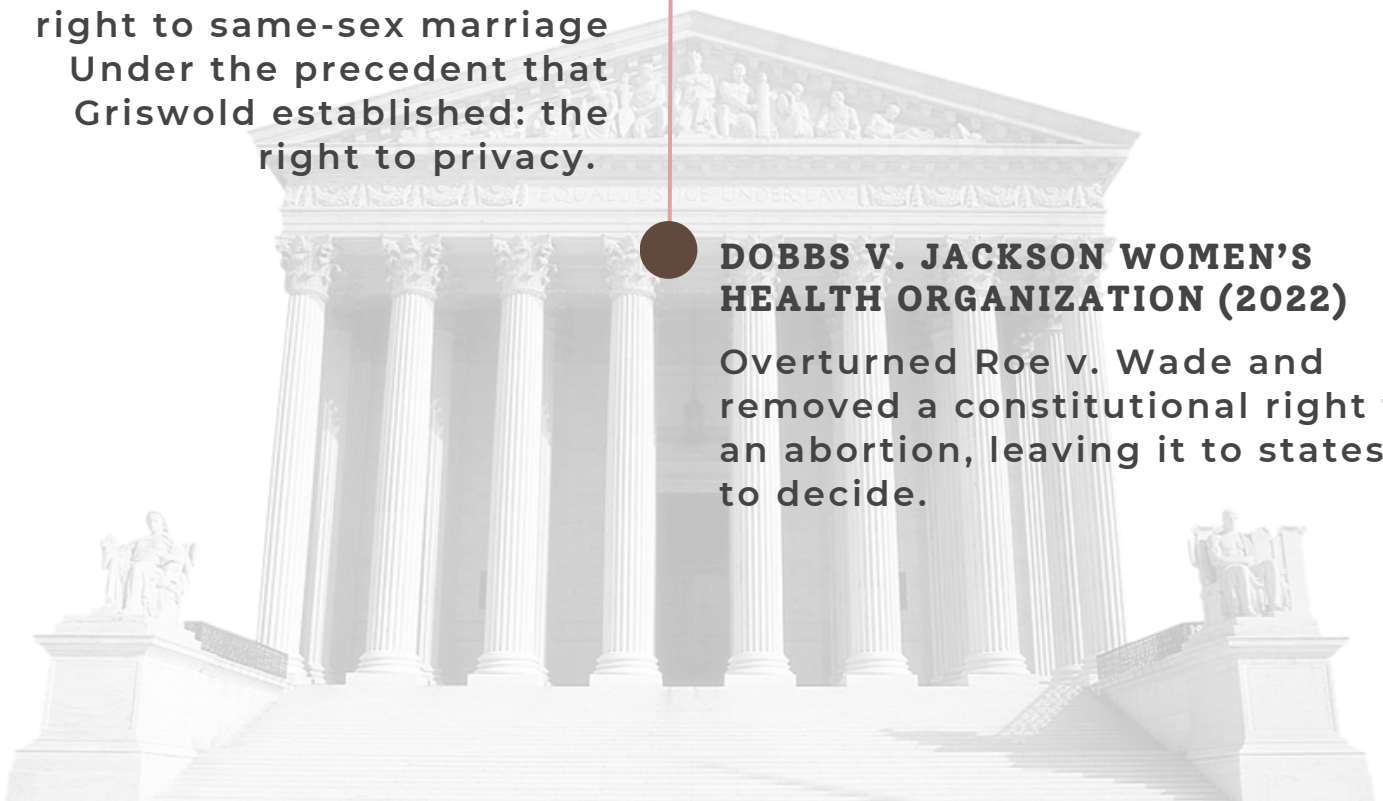
Sexual harassment in the workplace found to be in violation of Title VII of the Civil Rights Act of 1964.

OBERGEFELL V. HODGES (2015)

Guaranteed a constitutional right to same-sex marriage Under the precedent that Griswold established: the right to privacy.

DOBBS V. JACKSON WOMEN'S HEALTH ORGANIZATION (2022)

Overtaken Roe v. Wade and removed a constitutional right to an abortion, leaving it to states to decide.



ROE V. WADE

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1970 THE ORIGINAL CASE WAS FILED.
Jane Roe tried to get an abortion in Texas. She filed a lawsuit against Henry Wade, the district attorney of Dallas County, Texas, challenging the laws making abortion illegal. Roe vs Wade argued that Texas' abortion statutes are unconstitutional and violated women's privacy.

1973
7-2 SUPREME COURT DECISION IN ROE V. WADE

This ruled in favor of Roe, stating that the constitution protects the right to an abortion.

1976
Codefies that abortions can be protected in cases of rape, incest, or threat to the life of the mother.

1980s

Restrictions begun to be added to abortion rights, including that a woman's husband must be notified.

1992 PLANNED PARENTHOOD V. CASEY: 5-4

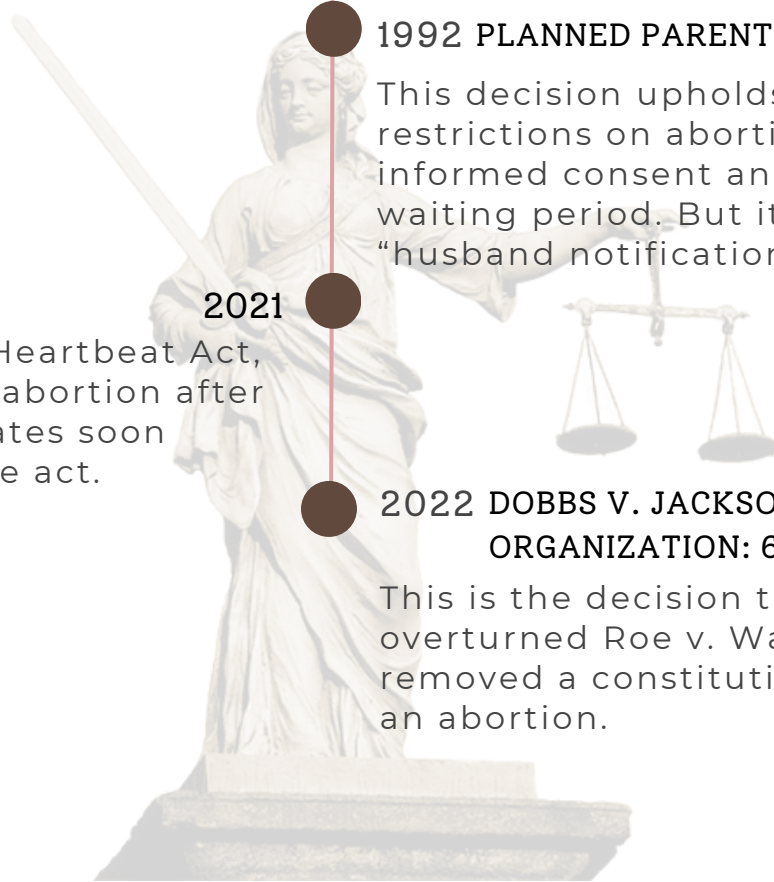
This decision upholds provisions and restrictions on abortion requiring informed consent and a 24-hour waiting period. But it invalidates the "husband notification".

2021

Texas enacts the Heartbeat Act, which is a ban on abortion after 6 weeks. Other states soon enforced this same act.

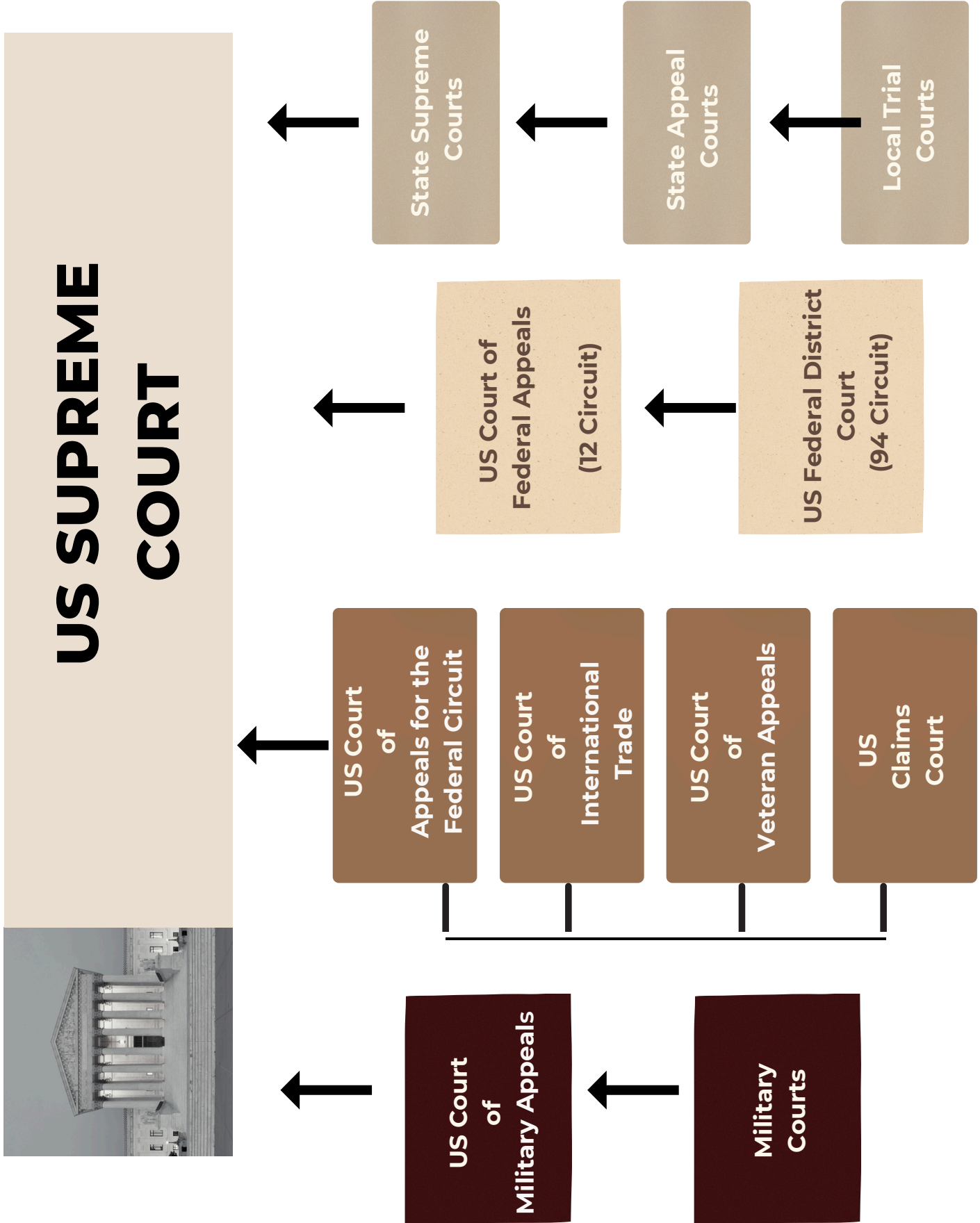
2022 DOBBS V. JACKSON'S WOMEN'S HEALTH ORGANIZATION: 6-3

This is the decision that overturned Roe v. Wade and removed a constitutional right to an abortion.



THE COURTS

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THE CURRENT JUSTICES

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CLARENCE THOMAS

SINCE 1991. APPOINTED BY PRESIDENT GEORGE H.W. BUSH



NEIL GORSUCH

SINCE 2017. APPOINTED BY PRESIDENT DONALD TRUMP



SAMUEL ALITO

SINCE 2006. APPOINTED BY PRESIDENT GEORGE W. BUSH



BRETT KAVANAUGH

SINCE 2018. APPOINTED BY PRESIDENT DONALD TRUMP



SONIA SOTOMAYOR

SINCE 2009. APPOINTED BY PRESIDENT BARACK OBAMA



AMY CONEY BARRETT

SINCE 2020. APPOINTED BY PRESIDENT DONALD TRUMP



ELENA KAGAN

SINCE 2010. APPOINTED BY PRESIDENT BARACK OBAMA

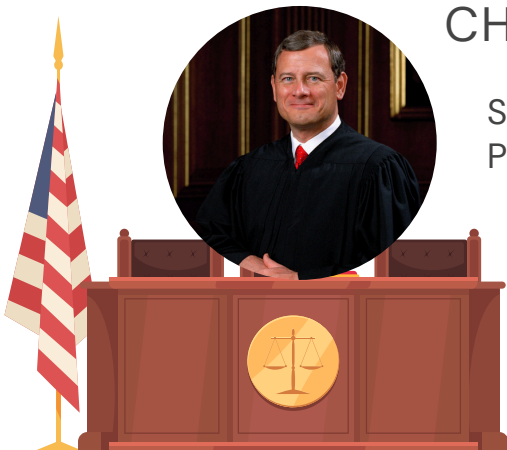


KETANJI BROWN JACKSON

SINCE 2022. APPOINTED BY PRESIDENT JOE BIDEN

CHIEF JUSTICE JOHN ROBERTS

SINCE 2005. APPOINTED BY PRESIDENT GEORGE W. BUSH





What is the Supreme Court?

The Supreme Court of the United States is the highest court in the judicial system and possesses the power to decide appeals on all cases brought to federal or state courts. However, they are limited to dealing with issues pertaining to federal law. They establish the boundaries of authority between state and nation to specify which decisions are ubiquitous and which decisions are up to each state. The Court has the ability to regulate the actions of the White House and Congress. As per the Constitution, appointments to the Supreme Court and to the federal circuits are made by the president with the advice and consent of the Senate,

however, nominations have rarely been made with consultation from the Senate. The Senate Judiciary Committee conducts hearings on nominations to the Supreme Court, and a majority of the full Senate is required for appointment. Appointments are for life, but they may be expelled in cases of impeachment by the House of Representatives and convicted in the Senate. Supreme Court precedents varied significantly among the lower courts so Congress eventually passed the Circuit Court of Appeals Act (1891) which established nine 'intermediate' courts with authority over appeals from federal district courts.

REACHING THE SUPREME COURT

Generally, a case reaches the Supreme Court by three ways. First, on appeal from a federal circuit. A circuit court, or court of appeals, has appellate jurisdiction. They don't hold trials, but instead review the decisions of the district courts to determine whether they are valid by constitutional law. One of the parties would need to appeal the decision reached by the federal circuit court by filing a petition for a writ of certiorari, or cert.

This petition informs the Supreme Court that the party would like the decision to be reviewed. At this point, the Supreme Court can decide to accept or decline the case, which would mean that the decision by the federal circuit would be final and not reviewable elsewhere. Second, on appeal from a State supreme court. Each state has its own supreme court which possesses the final authority on state law.

Since the supreme court is highly selective about which cases are accepted, most cases from the state supreme court end there. The Supreme Court can decide to accept or decline the case, which would mean that the decision by the state supreme court is final, and would not be getting federal review. Third, is through the Supreme Court's original jurisdiction. This is the least common way that cases reach the Supreme Court, but can still occur.

Original jurisdiction means that the case begins at the Supreme Court, rather than coming via other courts (such as state supreme court or federal circuit court). Under Article 3, Section 2 of the Constitution, the Supreme Court has executive jurisdiction over important cases involving disagreements between the states. Usually, only two or three cases are accepted under original jurisdiction. By law, the Supreme Court's term, the time period where cases are heard and decided each year, begins on the first Monday in October and goes through the Sunday before the first Monday in October of the following year. Recesses are typically taken from late June or early July. However, cases can be submitted for consideration by the Supreme Court at any time. There are nine Supreme Court judges appointed at once, and the court follows the rule of four meaning that at least four justices must agree to hear a case in order for the Court to accept.





In Roe v. Wade, the Supreme Court decided that women have the federal right to get an abortion. The case started when Norma McCorvey, who went by the pseudonym Jane Roe, wanted to terminate her pregnancy but was unable to due to Texas law. The Supreme Court ruled 7-2 in favor of Roe. One side celebrated the decision as a victory for women's rights and bodily autonomy, while the other side lamented the decision, claiming that it violates the sanctity of life and that unborn babies deserve protection under the Constitution.

The media coverage of the Roe v. Wade decision in 1973 considered the moment to be a groundbreaking event in American history. Conservative-leaning outlets had a negative view of the ruling, saying that it went against the sanctity of life. In 2022 at the time of its overturning, the media coverage was highly divided, reflecting today's polarized political climate. Conservative outlets praised the decision as a return to an original interpretation of the Constitution and victory for the pro-life movement, while liberal media criticized the ruling as a step back in human rights.

OTHER CASES

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In *Griswold v. Connecticut*, the Court established the federal right to medical privacy. Estelle Griswold and Dr. C. Lee Buxton were convicted of giving contraceptive advice and treatment to married couples, even though Connecticut state law prohibited the use of contraceptives. The Court heard their appeal, arguing that it violated the constitutional right to privacy.



In *Planned Parenthood v. Casey*, the Supreme Court upheld their decision in *Roe v. Wade*, but allowed states to impose their own restrictions, as long as it did not place an "undue burden" on women seeking access to an abortion. Supporters of the ruling felt that the decision reached a balance between protecting women's abortion rights and states' ability to regulate abortion, while opponents argued that the states were able to freely regulate abortion around a vague definition of undue burden.

In *Burwell v. Hobby Lobby*, the Supreme Court ruled that a private and closely-held corporation, one held by a small group of people, can refuse to provide employees with contraceptive healthcare coverage if it went against the owner's religious beliefs. The case was brought by Hobby Lobby's owners, as the Affordable Care Act, also known as Obamacare, required all employers to include contraception into healthcare coverage. Supporters championed the decision as a win for religious rights, while opponents said it undermined the ability of women to make their own reproductive choices.



WHAT DOES IT ALL MEAN?

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The Privacy Clause

The Supreme Court first recognized that the Bill of Rights creates a "zone of privacy" in *Griswold v. Connecticut*, a 1965 ruling that upheld marital privacy and struck down bans on contraception. The Supreme Court ruled that a married couple has a right to privacy that cannot be infringed upon by state law.

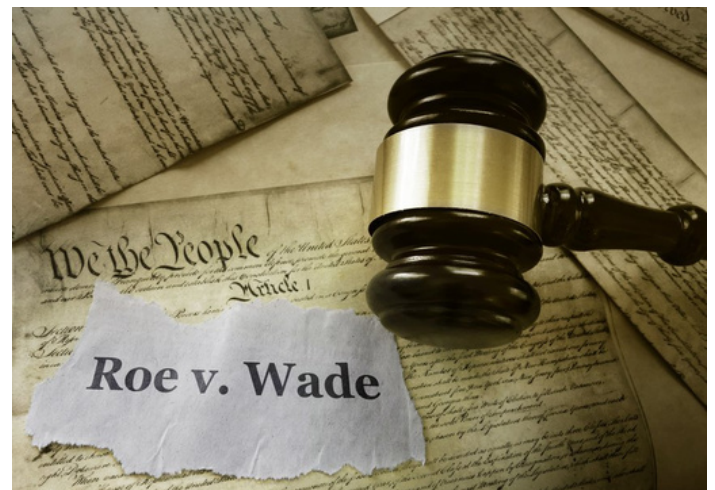
While the right to privacy is not specifically guaranteed by the Constitution, the decision in *Griswold* showed that privacy is implied by certain guarantees in the Bill of Rights. *Griswold* then paved the way for the Supreme Court's historic ruling in the 1973 case of *Roe v. Wade*.

In *Roe v. Wade*, the Supreme Court held that the right to privacy encompasses a woman's decision whether or not to terminate her pregnancy. *Griswold v. Connecticut* served as an important precedent in the *Roe v. Wade* decision.

What about those who aren't women?

When it comes to women's rights and issues, the impact on non-women is typically not evaluated because women are the ones being disproportionately affected. However, by taking into account the impact on non-women, the overall societal impact on women's rights issues is highlighted.

The overturning of *Roe v. Wade* may impact both women and their partners and/or families. In a study published in the *Journal of Adolescent Health*, it was found that younger men whose partners chose to have an abortion were nearly four times more likely to graduate from college than those whose partners chose to go through with the pregnancy. This study also found that being denied the option to have an abortion can impact the financial status of a pregnant person and their partner, which in turn, may affect future outcomes for those living in the household. Individuals from lower-income backgrounds that are denied access to an abortion were also more likely to experience financial stressors.



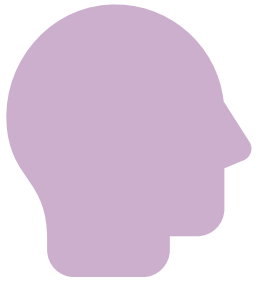


With the overturning of *Roe v. Wade*, many healthcare workers, particularly those who work in reproductive healthcare, have been targets of state laws. These laws have imposed regulatory requirements and legal restrictions on providers being able to provide care to patients. Patients and providers may have to navigate a legal labyrinth to find out what procedures are acceptable to perform. Providers may have to deal with more pregnancies complicated by unsafe abortion attempts. Some states have enacted laws where civilians can file civil suits against doctors who perform abortions, or physicians can be held to a maximum sentence of life in prison for performing an abortion.

When women are unable to obtain legal abortions, they may turn to unsafe and potentially deadly alternatives, such as drinking home-made remedies, undergoing physical trauma, or inserting sharp objects, which can have serious health consequences. They may also have to travel to states where abortion is legal, which can incur a monetary and emotional cost on the woman seeking an abortion. Many couples use family planning services, and stricter abortion laws could lead to restricted access to contraception. Maternal mortality may rise, as ectopic pregnancy, miscarriage, or other pregnancy complications can become fatal.

HEARD AROUND CAMPUS

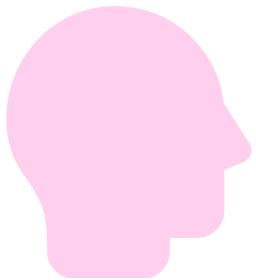
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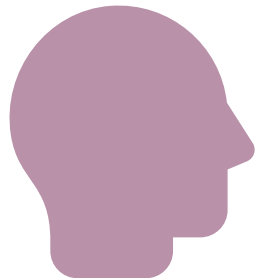
"I think it's totally inappropriate that male justices are making decisions about women's bodies. I think it speaks volumes about how much more representation we need."



"But what about the father? What if he wants to keep the baby?"



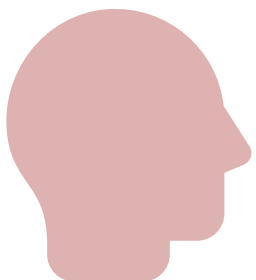
"No matter what school, no matter what job, they could pay me a million bucks, I will not go if they don't support me and they don't support my body."



"I don't like that males are imposing their own set of rules on females."



"I think that as women, our bodies are our bodies."



"Roe v. Wade overturning is seen as a women's rights issue, but I see it as a human's rights issue."

GUIDED QUESTIONS

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- 1- Do you believe that the process of confirming a Supreme Court Justice is partisan? How do you think Supreme Court Justices should be appointed? Supreme Court Justices are appointed for life: do you think there should be term limits?
- 2- Do you believe that there is enough diversity in the Supreme Court? Should Supreme Court decisions be made by people not affected by them? What changes would you suggest so the population impacted has more input? How do the outcomes of cases and rulings have different impacts on marginalized populations based on race and socioeconomic status?
- 3- What are the consequences of overturning a Supreme Court decision? Will other decisions be brought into question? How do other cases involving personal privacy, like the right to same-sex marriage (*Obergefell v Hodges*), relate to this?
- 4- Should there be exceptions for *Roe v. Wade*, such as for cases of incest or rape? If exceptions are allowed for Supreme Court decisions, does that make the decisions invalid and set the precedent to make exceptions for other cases?
- 5- How do issues of women's rights affect non-women? How do you navigate having difficult conversations with someone who may not be directly impacted or understand your point of view?
- 6- Do you think the Supreme Court's decisions related to women's rights should reflect changing societal and moral attitudes and values over time? Why or why not?

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