

## **The Complexity of Roe v. Wade**

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In 1973, a court case named Roe v. Wade was brought before the United States Supreme Court, trying to decide whether abortion should be legally accessible to women across all states. “The court held that a woman’s right to an abortion was implicit in the right to privacy protected by the 14th Amendment to the Constitution” (History.com Editors, 2023). We are living in a society where abortion is a highly controversial topic as well as a sensitive one for many. Since 1973, amendments to the decision have been made, and new amendments to the decision have also been discussed. In April of 2007, “The court upheld the federal ban on late-term abortions, finding 5-4 in the case Gonzales v. Carhart that it was not unconstitutionally vague and did not impose an undue burden on the right to an abortion” (Quinn, 2022). This was a decision almost everyone could agree on, even though the decision was only decided by nine justices rather than by popular vote. So, we know that we do not want late-term abortions, but does this mean that we don’t want abortions at all? In the article “What Does Overturning Roe v. Wade Mean? What to Know About the Supreme Court Abortion Ruling” from *The Wall Street Journal*, Brent Kendall (2022), discusses what the 2022 abortion decision means and what the future for abortion rights might look like. Kendall (2022) explains that abortion didn’t become a “lightning rod” overnight, but he questions, “How is it that the court can just change its mind?” Kendall (2022) says, “The court as a general matter has believed that it is important to abide by past rulings, even if later groups of justices might have decided a case differently.” Ruth Bader Ginsburg was a Supreme Court Justice from 1993 up until 2020, when she died. She was a prominent women’s rights activist as well as an adamant supporter of women’s right to abortion. Kendall (2022) says that “The most pronounced ideological shift came when Justice Ruth Bader Ginsburg, a leading liberal and champion of abortion rights, died in the weeks before the 2020 election. President Donald Trump quickly filled the vacancy with Justice Amy Coney Barrett, a

conservative whose appointment put Roe in deep jeopardy.” What I interpreted from Kendall’s article is that the justices had a clear opening to bring up strong conversations about overturning Roe v. Wade after Ruth Bader Ginsburg (R.B.G.) died. I believe that Roe v. Wade should not have been overturned, but that it simply should have been amended to have more restrictions.

Kendall (2022) starts his article off by explaining to the reader what Roe v. Wade is. “The Roe case involved a pregnant Texas woman who sought a judicial declaration that state laws making it a crime to procure or attempt an abortion were unconstitutional” (Kendall, 2022). He also shares that the fourteenth amendment played a huge factor in the 1973 decision for Roe; however, in the 2022 decision, the amendment was not even considered. “The Supreme Court agreed by a 7-2 vote and found that the right to abortion was a fundamental liberty protected by the 14th Amendment, which says the states can’t deprive individuals of life, liberty or property without due process of law” (Kendall, 2022). From this quote, it is clear that the amendment states that not one person is allowed to deprive another person of their liberties. For example, a state is not allowed to deprive a pregnant person from having an abortion because the fourteenth amendment does not allow them to do so. In the article “Supreme Court Overturns Roe v. Wade, Eliminates Constitutional Right to Abortion” from *The Wall Street Journal*, Brent Kendall and Jess Bravin (2022) share quotes from current Justice Samuel Alito. Alito does not believe that the fourteenth amendment makes any reference to abortion; therefore, he believes that the right to get one is not protected by the constitution (Kendall and Bravin, 2022). I disagree with Alito when he claims that there is no reference to abortion, and that is why the decision to ban one is just. The constitution does not say outright that you cannot have an abortion or, for that matter, own a slave, but it does state that no one person can deprive someone of their personal liberties.

In both cases, the constitution applies to both situations, even if it doesn’t state the words

abortion or slave. Each amendment has a broad scope for what it protects, and if it did not, each one would be constantly revised.

Further into the article “What Does Overturning Roe v. Wade Mean? What to Know About the Supreme Court Abortion Ruling” from *The Wall Street Journal*, Brent Kendall (2022) titles a paragraph: Had Roe been under fire before now? Within this paragraph, Kendall (2022) argues that the Roe decision has been heavily discussed for years. He says, “Yes, especially after a series of appointments to the Supreme Court by Presidents Ronald Reagan and George H.W. Bush in the 1980s and early 1990s.” It is important to note that both President Reagan and President Bush are both republicans. It is generally known that the Republican Party tends to lean toward the pro-life side regarding abortion. Not all Republicans agree, but many of them choose to be pro-life. It is also known that when new justices are added into the Supreme Court, the current president’s party is almost always the same as the justice’s political party. I partially disagree with Kendall’s point above because Roe v. Wade had not been a main concern until 2018. It wasn’t until the courts party ratio was uneven in 2018 that abortion was a new concern because of the larger conservative chairholders. Kendall (2022) redeems himself when he then goes on to make another strong point by talking about how Roe fell. He says, “In large part because the high court’s composition has changed. The court became more conservative when Justice Samuel Alito, author of the Dobbs ruling, succeeded Justice O’Connor in 2006, and again in 2018 when Justice Brett Kavanaugh, another member of the Dobbs majority, succeeded Justice Kennedy, a maverick conservative who had long been a key vote for preserving abortion rights” (Kendall, 2022). The court, becoming more conservative, lit the match to overturn abortion. Kendall (2022) is trying to provide the reader with as much information as possible. What I took from this quote in his article was that since the court had a higher percentage of

conservatives, the match was lit to obtain hearings about the possibility of overturning Roe v. Wade.

Earlier in Kendall's article, "What Does Overturning Roe v. Wade Mean? What to Know About the Supreme Court Abortion Ruling" from *The Wall Street Journal*, he questions how the Supreme Court can just change their minds? As mentioned previously, Kendall (2022) says in the article that abortion didn't just become a "lightning rod" overnight. He argues that "The Supreme Court's respect for its own precedents has been a hallmark of the U.S. legal system." If the court respected its precedents, then why did they overturn a case that had been decided almost fifty years prior? Justice Samuel Alito played a significant role in the reversal of the Roe v. Wade case because he thought the original ruling was wrong. In an article written by Brent Kendall and Jess Bravin called, "Supreme Court Overturns Roe v. Wade, Eliminates Constitutional Right to Abortion," from *The Wall Street Journal*, they quote some of Alito's outrageous remarks. One in particular was when Justice Alito said, "The Roe decision was egregiously wrong" (Kendall and Bravin, 2022). I disagree with Alito on basically everything he has said so far about Roe, and this is another statement that I disagree with. The original Roe decision was not wrong; it was extremely helpful to so many women. It is a shame that it won't be helpful to women anymore because of a few conservatives' opinions.

Brent Kendall ends his article by discussing the future for abortion in the United States. He says that "With the Supreme Court withdrawing the constitutional right to an abortion, states now have wide latitude to restrict or allow abortion as they see fit." Kendall (2022) argues, "Half of the states are expected to prohibit many or most abortions" (Kendall, 2022). It is upsetting to hear that abortion laws and regulations will be left up to the states and not up to the people. Each state governor ultimately decides whether the state is going to ban abortions or allow abortions.

There was a girl I went to school with in sixth grade; her name was Evelyn. She had an older sister named Tessa, who got an abortion when she was in eighth grade. As soon as people found out that Tessa had an abortion, her friends were not her friends anymore. They judged her for making that decision; however, at least she had the choice. It was her decision, and I believe that because she did not have that baby, she was able to move on with her life. She moved schools and was able to leave her past mistakes behind. Tessa was able to grow up, go to college, and live the life that she knew she wanted. She knew she couldn't raise a baby at fourteen, so she made the choice. The choice that everyone should be able to have. Now many say that children in new generations will now have fewer rights than their mothers' and grandmothers'.

Brent Kendall's article painted a picture of a timeline in which Roe v. Wade was instated and then overturned. His article took the reader through fifty years of historical decisions! He started the article by explaining what Roe v. Wade was and the original decision. After that, Kendall explained that Roe v. Wade had been talked about for years, the court's composition changed, how the court could just change their mind, and finally, he wrapped up the article with the final decision and what states could do with abortion laws in the future. Researching this topic taught me so much. I learned about different people's views on abortions and where some people's heads were regarding the topic of abortion laws and regulations. Getting an abortion is never easy, and it is such an emotional and physical process. I shared earlier about Tessa, and her story is so important because she was so young when she had to make that decision. There are so many people going through similar circumstances as Tessa, and all of them deserve to feel heard. This topic is a difficult one; however, it is so important to discuss. The future for abortion laws and Roe v. Wade is unknown, but if they can reverse it once, they can reverse it again. I hope in the future the government puts regulations on how many Republicans and Democrats can hold a

seat on the Supreme Court. Who knows what might have happened if there were fewer pro-life justices making abortion right decisions.

### **Author's Note**

This essay was a difficult one for me to write. It was difficult because I wanted to do the essay justice and write it nicely. I don't know why I was having such a writer's block on this essay, but throughout each essay I was having stopping points. The first version I wrote was not good at all. I didn't feel like I grasped the concept of the assignment. It was too much of my opinion and not enough of my author's opinion. I feel like I was lacking clarity on the first draft that I wrote, but now I have found my voice a bit more. I hope that others can learn from the research I did, as well as from my own opinions. I tried ridiculously hard on this essay and drafted this essay over three times! I took away a lot of knowledge from writing this essay. I learned about so many historical cases, and I learned about some powerful women. I hope this article can help other women feel like someone hears them and hears their concerns. In the beginning of the semester, I felt like I didn't fully understand what critical writing was all about, but now I have learned that it is about writing from all viewpoints, while still remembering where you stand. Overall, this article was a tough one, but I would not have picked another topic. I wanted to learn, and I think that I did.

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