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Conclusion and Fast Forward

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410 U.S. 113, 35 L.Ed.2d 147

Jane ROE, et al., Appellants,

v.

Henry WADE.

No. 70-18.

Argued Dec. 13, 1971.
Reargued Oct. 11, 1972.
Decided Jan. 22, 1973.
Rehearing Denied Feb. 26, 1973.

See 410 U.S. 959, 93 S.Ct. 1409.

Action was brought for a declaratory and injunctive relief respecting Texas criminal abortion laws which were claimed to be unconstitutional. A three-judge United States District Court for the Northern District of Texas, 314 F.Supp. 1217, entered judgment declaring laws unconstitutional and an appeal was taken. The Supreme Court, Mr. Justice Blackmun, held that the Texas criminal abortion statutes prohibiting abortions at any stage of pregnancy except to save the life of the mother are unconstitutional; that 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, subsequent to approximately the end of the first trimester the state may regulate abortion procedure in ways reasonably related to maternal health, and at the stage subsequent to viability the state may regulate and even proscribe abortion except where necessary in appropriate medical judgment for preservation of life or health of mother.

Affirmed in part and reversed in part.

Mr. Chief Justice Burger, Mr. Justice Douglas and Mr. Justice Stewart filed concurring opinions.

Mr. Justice White filed a dissenting opinion in which Mr. Justice Rehnquist joined.

Mr. Justice Rehnquist filed a dissenting opinion.

1. Courts ⟸385(1)

Supreme Court was not foreclosed from review of both the injunctive and declaratory aspects of case attacking constitutionality of Texas criminal abortion statutes where case was properly before Supreme Court on direct appeal from decision of three-judge district court specifically denying injunctive relief and the arguments as to both aspects were necessarily identical. 28 U.S.C.A. § 1253.

2. Constitutional Law ⟸42.1(3), 46(1)

With respect to single, pregnant female who alleged that she was unable to obtain a legal abortion in Texas, when viewed as of the time of filing of case and for several months thereafter, she had standing to challenge constitutionality of Texas criminal abortion laws, even though record did not disclose that she was pregnant at time of district court hearing or when the opinion and judgment were filed, and she presented a justiciable controversy; the termination of her pregnancy did not render case moot. Vernon's Ann.Tex.P.C. arts. 1191–1194, 1196.

3. Courts ⟸383(1), 385(1)

Usual rule in federal cases is that an actual controversy must exist at stages of appellate or certiorari review and not simply at date action is initiated.

4. Action ⟸6

Where pregnancy of plaintiff was a significant fact in litigation and the normal human gestation period was so short that pregnancy would come to term before usual appellate process was complete, and pregnancy often came more than once to the same woman, fact of that pregnancy provided a classic justification for conclusion of nonmootness because of termination.

5. Federal Civil Procedure ⟸331

Texas physician, against whom there were pending indictments charging him with violations of Texas abortion laws who made no allegation of any substantial and immediate threat to any federally protected right that could not be asserted in his defense against state prosecutions and who had not alleged