

Ayotte case may alter U.S. abortion

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tion proposals from taking effect. States could enact rushes of anti-abortion laws, while severely limiting the ability of lawyers to get a hearing on whether the laws violated the constitution.

"Roe has been chipped away for years. If this goes the wrong way, it would permit states to enact more and more blatantly unconstitutional restrictions," said Dalven, who will argue the case in the U.S. Supreme Court.

The case is a stealth attack on Roe, said Dalven. By taking out the backbone of judicial protection, it could leave Roe as a spineless shell.

The name Ayotte in the case belongs to New Hampshire Attorney General Kelly A. Ayotte.

Joining with Ayotte, the Bush administration has asked the U.S. solicitor general to appear before the Supreme Court, arguing that the New Hampshire law is constitutional. Ayotte and the solicitor general argue that states should have the right to enact abortion restrictions without encountering head-on legal challenges to their constitutionality.

Under the approach proposed by Ayotte and the Bush administration an anti-abortion law could not be challenged as unacceptable on its face, or "facially invalid," except under the rarest circumstances.

Ayotte and the administration argue that a law should be brought into court only at the time that a woman suffers injury, for example, when the anti-abortion provision is applied to her situation and she is denied the service. (In legal terminology, this would be called an "as-applied" basis.) Only then could lawyers show that the law is unconstitutional.

If the Supreme Court agrees with Ayotte and the Bush administration, the case could gut the pro-choice provisions of a 1992 Supreme Court decision, *Planned Parenthood of Southeastern Pennsylvania v. Casey*, which crafted a compromise on abortion.

In *Casey*, the court preserved the core principles of a woman's right to choose, but gave states much more leeway to pass anti-abortion restrictions so long as they provide protections for women's life and health and do not place an "undue burden" on women's ability to exercise their rights prior to the ability of a fetus to survive outside the womb.

In *Casey*, the justices permitted Pennsylvania to institute waiting periods before abortions could be performed and to mandate that doctors read a prepared statement, intended to discourage patients from an abortion.

But the court did not permit a provision requiring a married woman to notify her hus-

band of a pending abortion because it might endanger some women who would encounter domestic violence or interference.

The current nominee for the court, Samuel A. Alito, wrote an opinion in the lower-court review of *Casey* that said the provision requiring married women to notify their spouses should be upheld.

In the years since *Casey* was decided, more than 400 abortion restrictions have been passed by anti-abortion state lawmakers. Many are challenged in court before they take effect by doctors, who argue that the laws are unconstitutional invasions of the right to privacy and will harm future patients.

In the late 1990s, for example, over two dozen state laws banning certain abortion procedures were blocked by legal challenges from doctors, who argued that the laws were overreaching, would subject the doctors to arrest and interfered with women's health.

"After a law goes into effect, it's very hard to challenge it. Most women don't want to reveal they are seeking an abortion. There is a time pressure. It's very much more difficult," said Kathryn Kolbert, an attorney in Philadelphia who represented pro-choice groups in *Casey*.

The 2003 New Hampshire law at issue in *Ayotte* subjects doctors to criminal and civil penalties if they do not notify the parent of a teen 48 hours before performing an abortion. It never took effect. Instead, it was challenged in court by Dr. Wayne Goldner and several clinics.

"In an emergency, I need to be able to go to the hospital not a courthouse," Goldner said in a statement.

The validity of parental notification per se will not be considered by the Supreme Court.

Beyond the legal standard for when an abortion restriction can be challenged in court, a second question the court will review is whether the New Hampshire law must have an exception to parental notification if a young woman's health is in peril. The federal district court for New Hampshire and the First U.S. Circuit Court of Appeals, based in Boston, found the law invalid for this reason.

Justice Sandra Day O'Connor, a pivotal middle-ground vote on abortion cases, will be present for the oral argument but might not be part of the court's decision. She is slated to step down immediately upon the confirmation of a successor. If remaining justices are evenly divided, the court could call for new oral arguments with her replacement.

The *Ayotte* case will be one of the first abortion cases heard by new Chief Justice John Roberts.

Pressure mounting for California governor to spare Crips founder

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He was convicted by an all-white jury for the murders of four people in 1979 during two separate robberies.

In his original trial, the main evidence against Williams was the testimony of jailhouse informants who appeals courts have admitted had "an incentive to lie in order to obtain leniency from the state."

None of the physical evidence found at the crime scenes could be linked to Williams. A witness' description of a suspect seen leaving one of the scenes did not fit Williams, either.

A shotgun shell supposedly matched a weapon Williams had bought several years earlier, but that gun was in the possession of a couple facing serious felony charges. After they claimed that Williams had confessed to them, the investigation against them was dropped.

The trial was later moved from Los Angeles to Torrance, a predominantly white, conservative area, and prosecutor, Robert Martin, not only successfully challenged all the African-Americans in the jury pool, but was said to have used inflammatory, "racist" language.

In his closing argument, Martin likened Williams to a Bengal tiger in the zoo and said that "in his environment, he would behave like the tiger in its natural habitat. The state Supreme Court later censured Martin twice for his racist practices. Death sentences he won in

two other cases were overturned because of racism.

In the clemency petition filed to California Supreme Court calls on Schwarzenegger to "save Stanley Williams in the name of so many who see this man as a symbol of hope and purpose in their own lives."

As the countdown approaches a lawyer for the Williams camp, Jonathan Harris, expressed hope of a victory.

"I think Gov. Schwarzenegger is a conscientious man and we trust that he will take this matter very seriously," he said.

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