

# Understanding the *Dobbs* Decision



## Background

In the wake of the *Dobbs v. Jackson* decision's historic overturning of *Roe v. Wade*, attacks against the ruling have paid little attention to the actual merits of the constitutional argument. Yet the task of the Supreme Court is to decide cases guided by the Constitution, not a desired outcome. Further, those who argue against overturning nearly 50 years of precedent must acknowledge this is not the first time the Court has ruled that a past decision was in error. As one of multiple examples, the Court's *Brown v. Board of Education* decision in 1954 thankfully overturned its 1896 decision *Plessy v. Ferguson*, which had endorsed a racist "separate but equal" principle of segregation for American public schools.

As for *Roe v. Wade*, even the late Justice Ruth Bader Ginsburg, who was clearly an abortion-rights advocate, took issue with its reasoning, calling it "heavy-handed judicial intervention" that had "provoked, not resolved, conflict." And Harvard Law School's Laurence Tribe wrote of *Roe* that, "behind its own verbal smokescreen, the substantive judgment on which it rests is nowhere to be found."

## Key Quotes from the *Dobbs* Decision

*With that background in mind, consider a few quotes that follow, from the Dobbs majority opinion. A link to the full text of the decision – well worth reading – can be found at [www.diolc.org/respect-life](http://www.diolc.org/respect-life).*

"We hold that *Roe* and *Casey* must be overruled. The Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision, including the one on which the defenders of *Roe* and *Casey* now chiefly rely—the Due Process Clause of the Fourteenth Amendment." "Not only was there no support for such a constitutional right until shortly before *Roe*, but abortion had long been a *crime* in every single State."

Respect for Court precedent (*Stare decisis*)... "does not compel unending adherence to *Roe*'s abuse of judicial authority." "*Roe* was egregiously wrong from the start. Its reasoning was exceptionally weak, and the decision has had damaging consequences. And far from bringing about a national settlement of the abortion issue, *Roe* and *Casey* have enflamed debate and deepened division."

"It follows that the States may regulate abortion for legitimate reasons, and when such regulations are challenged under the Constitution, courts cannot 'substitute their social and economic beliefs for the judgment of legislative bodies' ....These legitimate interests include respect for and preservation of prenatal life at all stages of development; the protection of maternal health and safety; the elimination of particularly gruesome or barbaric medical procedures; the preservation of the integrity of the medical profession; the mitigation of fetal pain; and the prevention of discrimination on the basis of race, sex, or disability."

## What this means for Wisconsin, and for us as Catholics

For Wisconsin, the overturning of *Roe v. Wade* means a statute from 1849 is now back in force, which prohibits abortion except to save the life of the mother. Planned Parenthood, which has had abortion facilities in Milwaukee, Madison and Sheboygan, has already stopped performing abortions in the state. Governor Tony Evers called a special session for June 22, seeking to repeal the abortion ban, but he was opposed by the Republican-controlled Senate and Assembly, and the attempt failed.

**As Catholics, we heed above all the call to be channels of Christ's love**, articulated by Bishop Callahan in his June 24 statement, the call to help build "a culture that lovingly embraces and supports mothers and children before and after birth, along with their families." One way is through the many pregnancy resource centers supported in our diocese (see [www.diolc.org/pregnancy-resources](http://www.diolc.org/pregnancy-resources) for a list).