**Gonzalez v. Planned Parenthood (2007)**

1. **Facts:** The Partial-Birth Abortion Ban Act was passed and signed in 2003 to proscribe a method of ending fetal life in the later stages of pregnancy. The Act banned abortion methods referred to as “intact D&E” (dilation and evacuation) which occurs during the usual second trimester. In this procedure, the doctor removes the fetus from the uterus by pulling out its entire body instead of ripping it apart. Planned Parenthood sued the Attorney General, Alberto Gonzales, arguing that the Partial-Birth Abortion Ban was unconstitutionally vague and interfered in a woman’s right to choose.
2. **Procedural History:** This case is part of several cases in response to the Partial-Birth Abortion Ban Act of 2003. The Federal District Court found the act unconstitutional because it lacked an exception allowing partial-birth abortions when necessary for the mother’s health and because it covered many D&Es. The Eigth and Ninth Circuits affirmed, concluding that the Act was constitutional because it placed undue burden on women’s choice, was too vague, and because it lack a women’s health exception as required by Stenberg. The case was consolidated with *Gonzales v. Carhart* (the lead case) and was then taken to the Supreme Court.
3. **Issues:**
	1. Is the Partial Birth Abortion Ban Act of 2003 unconstitutional under the Due Process clause of 5th Amendment because of its’ vagueness?
	2. Does this Act pose an undue burden on a woman’s right to choose?
	3. Is the Act unconstitutional because of the lack of an exception for partial-birth abortions necessary to protect the mother’s health?
4. **Holding**
	1. The Act, at face value, has not been demonstrated to be unconstitutionally vague.
	2. The Act has not been demonstrated to impose an undue burden on a woman’s right to choose based on the lack of a health exception
5. **Judgment:** Upheld (5/4)
6. **Legal Reasoning:**
	1. Majority by Justice Kennedy with Roberts and Alito.
		1. Precedent
			1. The Partial Birth Abortion Ban Act is less ambiguous than the state statute at issue in Stenberg. The Act is more specific concerning the instances to which abortion procedures apply and more precise in its coverage than that of Stenberg, and is therefore valid.
		2. Government Interest
			1. The premise central to the conclusion of Casey states that “the government has legitimate and substantial interest in promoting fetal life.”
			2. The State, with rational basis and without imposing an undue burden, may use its regulatory power to bar certain procedures and substitute others in furtherance of its legitimate interests in regarding the medical profession and in promoting respect for life, including that of the unborn.
			3. The lack of information concerning the way in which the fetus will be killed is of substantial concern to the State. The State has an interest in ensuring so grave a choice is well informed.
		3. Medical uncertainty of the intact D&E procedure doesn’t foreclose the exercise of legislative power under the necessary and proper clause in the abortion context more than any other.
		4. There are other abortion procedures that are safe alternatives in response to preserving a women’s health. There is no demonstration of undue burden or lack of health exception.
		5. Act hasn’t been demonstrated to be unconstitutional in a large fraction of relevant cases.
	2. Concurrence by Thomas with Scalia.
		1. The Opinion accurately applies current jurisprudence set under *Planned Parenthood v. Casey*.
		2. The Court’s abortion jurisprudence, which includes cases such as *Roe v. Wade* and *Planned Parenthood v. Casey* has no basis in the Constitution.
		3. Whether the Act is a permissible exercise of Congress’ power under the Commerce Clause was not brought before the Court, and Respondents failed to show that Congress lacked the power to ban the abortion procedure.
	3. Dissent by Ginsburg with Stevens, Souter, and Bryer.
		1. Long-standing precedent set by Casey and Stenburg, that “the State cannot proscribe an abortion procedure when its use is necessary to protect a woman’s health,” should be upheld.
		2. The medical findings of the District Courts’ have consistently shown that the majority of high-qualified experts believe that intact “D&E” is “the safest, most appropriate procedure under certain circumstances,” and should merit the Court’s consideration and not be prohibited under this Act.
		3. This Act deprives women of their essential right to choose, a right that has previously been declared by the Court, reflecting ancient notions about women’s subordinate place in society and in the family.
7. **Relation to Other Cases:**
	1. *Roe v Wade*: (1973)
		1. Three-part essential holding
			1. Right of the woman to choose and to obtain an abortion without undue burden from the state.
			2. State has power to restrict abortions after fetal viability if law contains exceptions regarding the woman’s life or health.
			3. State has interest in protecting the health of the woman and the life of the fetus.
	2. *Planned Parenthood of Southeastern PA v. Casey* (1992)
		1. Overruled Roe’s rigid trimester framework
		2. “The government may use its voice and its regulatory authority to show its profound respect for the life within the woman” as long as it doesn’t interfere with a woman’s right to abortion.
	3. *Stenberg v. Carhart* (2000)
		1. Court ruled that abortion regulation must contain a health exception.
8. **Source of Law:** 5th Amendment and Partial-Birth Abortion Ban Act.
9. **Interpretation Style:** The majority took a textualist approach to the right to privacy. They expanded what is permissible state interest regarding the protection of fetal life and the mother’s health.