

Roe v. Wade: A Controversial Case of Women's Reproductive Rights

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Historical Paper

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Fighting For Constitutional Rights

In the first section of the Fourteenth Amendment to the United States Constitution, it states:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.¹

The Fourteenth Amendment was first recognized by the Supreme Court as a Right to Privacy in the landmark case *Griswold v. Connecticut* (1965).² *Griswold v. Connecticut* was the case that legalized birth control in all of America. The right to privacy was also fundamental to other women's health and rights cases, such as *Roe v. Wade*.³ In 1973, the United States Supreme Court decision of 7-2 in the *Roe v. Wade* case made abortions legal in America. Norma McCorvey, aka "*Jane Roe*," became a household name in women's reproductive rights. *Roe v. Wade* was a barrier-breaking Supreme Court decision that would set into motion a decades-long argument over a woman's right to choose to terminate a pregnancy without government interference.

¹ Staff, LII. "14th Amendment." *LII / Legal Information Institute*, 17 May 2018, www.law.cornell.edu/constitution/amendmentxiv.

² "Privacy." *LII / Legal Information Institute*, 6 Aug. 2007, www.law.cornell.edu/wex/Privacy

³ McBride, Alex. "The Supreme Court . Expanding Civil Rights . Landmark Cases . *Griswold v. Connecticut* (1965) | PBS." *Thirteen.Org*, 2005, www.thirteen.org/wnet/supremecourt/rights/landmark_griswold.html.

The lawyers who argued *Roe v. Wade* in front of the United States Supreme Court were Linda Coffee and Sarah Weddington.⁴ Weddington graduated from the University of Texas Law School in Austin with a class of 1,600, 40 of which were women.⁵ In Weddington's third year of law school, she became pregnant by her boyfriend Ron Weddington, who would later become her husband. She decided to get an abortion for the sake of her and her boyfriend's future. After getting an illegal abortion in Mexico, she finished her law degree.⁶ During her time as a student, Weddington became involved with an underground newspaper supporting women's rights and providing information on safe abortion providers. During this time, she grew even more interested in the laws that surrounded the controversial issue of abortion. Weddington said this in an interview:

We wanted to distribute the (abortion) provider information to the newspapers, but we were worried that we might be charged as accomplices in abortions — which was an actual threat back then — if we spread the word. When I went to the library, to see exactly where the laws stood, I started finding cases challenging the anti-abortion statutes in various states, including the *Griswold* case. And we decided we would file a lawsuit challenging the Texas statutes. Lots of people ask me why the case fell to me. It's because this group decided we wanted a woman to take it, and we also wanted someone who'd do it for free.⁷

⁴ CNN Library. "Roe v. Wade Fast Facts." *CNN*, 2013, www.cnn.com/2013/11/04/us/roe-v-wade-fast-facts/index.html.

⁵ J. Garrow, David. "She Put the v in *Roe v. Wade*." *The New York Times*, 27 Sept. 1992, www.nytimes.com/1992/09/27/books/she-put-the-v-in-roe-v-wade.html. Accessed 5 Feb. 2020.

⁶ Weddington, Sarah. *A Question of Choice*. Feminist Press at CUNY, 13 Mar. 2013, www.google.com/books/edition/A_Question_of_Choice/bFqoAgAAQBAJ?hl=en&gbpv=1.

⁷ Reaves, Jessica. "Interview: Sarah Weddington." *Time Magazine*, 16 Jan. 2003, content.time.com/time/nation/article/0,8599,409103,00.html.

It was during her time as an early lawyer that she was inspired to challenge the laws of abortions in Texas court with the help of Linda Coffee, a former law school classmate.⁸

Coffee, at the time, was working at a small law firm that specializes in bankruptcy in Dallas, Texas.⁹ Coffee and Weddington luckily shared the same views on the laws against abortion: they wanted to destroy them. Linda Coffee and Sarah Weddington needed to seek out a plaintiff to use in their class-action lawsuit. A plaintiff is someone who takes action against the defendant in a civil way with a lawsuit.¹⁰ Coffee and Weddington were looking for someone to be the name and face of their case. They were looking for a woman in her early stages of pregnancy that had tried to have an abortion but had been restricted by Texas law.¹¹ Norma McCorvey, given the pseudonym “Jane Roe,” reached out to Coffee and Weddington on the reference of her lawyer Henry McCluskey. McCorvey became pregnant after a sexual assault and wanted to terminate her pregnancy.¹²

⁸ J. Garrow, David. “She Put the v in Roe v. Wade.” *The New York Times*, 27 Sept. 1992, www.nytimes.com/1992/09/27/books/she-put-the-v-in-roe-v-wade.html. Accessed 5 Feb. 2020.

⁹ Prager, Joshua. “Exclusive: Roe v. Wade’s Secret Heroine Tells Her Story.” *Vanity Fair*, Vanity Fair, 19 Jan. 2017, www.vanityfair.com/news/2017/01/roe-v-wades-secret-heroine-tells-her-story.

¹⁰ “Plaintiff.” *LII / Legal Information Institute*, 2020, www.law.cornell.edu/wex/plaintiff. Accessed 5 Feb. 2020.

¹¹ Susan Dudley Gold. *Roe v. Wade (1973) : Abortion*. New York, Twenty-First Century Books, 1994.

¹² Faux, Marian. *Roe v. Wade : The Untold Story of the Landmark Supreme Court Decision That Made Abortion Legal*. New York, Macmillan, 1988.

Breaking Barriers in Reproductive Rights

The lawyers, Coffee and Weddington, decided to represent Norma McCorvey, aka “Jane Roe,” in her pursuit to seek out an abortion. They went to the United States District Court for the Northern District of Texas on July 17, 1970. Weddington argued that every woman should have access to abortions for their reproductive rights, and those rights are protected as a citizen under American law. Weddington claimed that the laws against abortion were unconstitutional, violating the Fourteenth Amendment and a person’s right to privacy. The three-judge panel ultimately decided that the laws against abortion were in violation of Roe’s rights. The Texas district court sent the case to the United States Supreme Court.

The case reached the United States Supreme Court's hands in 1970 and was scheduled for December 13, 1971. On December 13, 1971, the case was initially argued, then reargued on October 11, 1972. In preparing to present their argument to the Supreme Court, Coffee and Weddington knew they had a tough challenge ahead of them. Weddington said:

Well, honestly, we plead it from every angle we could, including using the 9th and the 14th amendments. The springboard for Roe was *Griswold vs. Connecticut*, which involved a woman, Griswold, who, as head of Planned Parenthood of Connecticut, had given a married couple a contraceptive device. She was tried and convicted as an accomplice in distributing a contraceptive device. The Supreme Court ruled eventually that the couple's right to privacy precluded the state from dictating whether they would or would not have a baby.¹³

¹³ Reaves, Jessica. “Interview: Sarah Weddington.” *Time Magazine*, 16 Jan. 2003, content.time.com/time/nation/article/0,8599,409103,00.html.

On January 22, 1973, the decision of *Roe v. Wade* was 7-2 opinion.¹⁴ In the final *Roe v. Wade* decision, it states:

This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is, or, as the District Court determined, in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy.¹⁵

For and Against a New Law

When the Supreme Court ruled in favor of *Roe v. Wade*, it was very controversial and set in motion a debate that has lasted decades between “pro-choice” and “pro-life” individuals and organizations.

The National Abortion Rights Action League (NARAL) was founded in 1969 following the *Roe v. Wade* decision. The term “pro-choice” was coined during this time to describe people who believe that a person's life starts at their first breath, not at conception. Allies of the *Roe v. Wade* decision identify themselves as pro-choice. They are spreading the word about their pro-choice beliefs and work with state affiliates to promote pro-choice policies.¹⁶

Immediately following the decision of the Supreme Court, a group called the National Right to Life Committee (NRLC) was founded in 1968 to recriminalize abortion, meaning keep abortions illegal, and speak out against abortion. The opposition mainly came from “pro-life”

¹⁴ Landmark Supreme Court Cases. “Landmark Supreme Court Cases | Cases - *Roe v. Wade*.” *Landmark Supreme Court Cases*, 2019, www.landmarkcases.org/cases/roe-v-wade.

¹⁵ *ROE ET AL. v. WADE, DISTRICT ATTORNEY OF DALLAS COUNTY*. 22 Jan. 1973, cdn.loc.gov/service/ll/usrep/usrep410/usrep410113/usrep410113.pdf.

¹⁶ “About - NARAL Pro-Choice America.” *NARAL Pro-Choice America*, 2019, www.prochoiceamerica.org/about/.

individuals, people who believe that a person's life begins at conception. Pro-life supporters argue that since life begins at conception, the fetus deserves the same protection as a grown human being. Pro-life groups began attacking supporters of abortions, and the judges who legalized abortions were also under scrutiny.¹⁷ Another opponent of the then newly legalized abortion law was the Roman Catholic Church. The Catholic Church was very vocal about their opposition to Roe v Wade. Which in turn, made many devoted followers of the Church become “pro-life” and also become vocal about their disapproval of Roe’s law.¹⁸ Pope Benedict XVI when asked his opinion on abortions, stated:

The fundamental human right, the presupposition of every other right, is the right to life itself. This is true of life from the moment of conception until its natural end. Abortion, consequently, cannot be a human right. It is the very opposite. It is a deep wound in society.¹⁹

Legacy

Roe v. Wade is one of the most debated Supreme Court cases in history. Attempts to weaken Roe have occurred over the years from laws like Alabama's near-total ban on abortions in 2019 and the Hyde Amendment of 1976, which stops federal Medicare funds from being used

¹⁷ Pisacreta, Emily. “What Do the Terms ‘pro-Choice’ and ‘pro-Life’ Mean?” *Plannedparenthood.Org*, Ask the Experts, 14 Sept. 2010, www.plannedparenthood.org/learn/teens/ask-experts/can-you-explain-what-pro-choice-means-and-pro-life-means-im-supposed-to-do-it-for-a-class-thanks.

¹⁸ “Roe v. Wade and Its Impact [Ushistory.Org].” *Ushistory.Org*, 2019, www.ushistory.org/us/57d.asp.

¹⁹ “Abortion Not a Human Right, Says Pope Benedict XVI.” *Catholic News Agency*, 10 Sept. 2007, www.catholicnewsagency.com/news/abortion_not_a_human_right_says_pope_benedict_xvi. Accessed 2 Apr. 2020.

for abortions. By banning Medicare for abortions, it limits the access that less wealthy women who want an abortion have to this medical procedure.²⁰ If *Roe v. Wade* were overturned, then that would cause a total ban on abortions in states like Louisiana, Mississippi, North Dakota, and South Dakota. Many women would lose the right to abortions and would have to travel hundreds of miles for access to one.²¹ There are nine states that have pre-*Roe* laws that would go in effect because they were never taken off the books. There are nine states that currently have laws in place so that abortions will still be legal even if *Roe v. Wade* were overturned.²² That may become the new reality. *Roe v. Wade* remains a controversial topic, and it is expected to go through many further challenges in the Supreme Court.

In an interesting turn of events in 1995, Norma McCorvey became a part of the Roman Catholic Church, one of the leading opponents to *Roe v. Wade*. She became devoted to overturning *Roe v. Wade*.²³ She also renounced her homosexuality in a 1996 interview

²⁰ “*Roe v. Wade* and Its Impact [Ushistory.Org].” *Ushistory.Org*, 2019, www.ushistory.org/us/57d.asp.

²¹ Bui, Quoc Trung, et al. “Where *Roe v. Wade* Has the Biggest Effect.” *The New York Times*, 18 July 2019, www.nytimes.com/interactive/2019/07/18/upshot/roe-v-wade-abortion-maps-planned-parenthood.html. Accessed 5 Feb. 2020.

²² Fox, Joe, et al. “What Could Happen If *Roe v. Wade* Gets Struck Down?” *Washington Post*, 2 Nov. 2018, www.washingtonpost.com/graphics/2018/national/abortion-rights-supreme-court/. Accessed 19 Feb. 2020.

²³ Kruse, Michael. “Norma McCorvey: The Woman Who Became ‘*Roe*’—Then Regretted It.” *POLITICO Magazine*, 28 Dec. 2017, www.politico.com/magazine/story/2017/12/28/norma-mccorvey-obituary-216184.

McCorvey said, "I am not a lesbian. I'm just a child in Christ now."²⁴ McCorvey later died at the age of 69 after many years of advocating for pro-life beliefs.²⁵

It all started with Sarah Weddington and Linda Coffee wanting and succeeding to overturn the abortion law in their home state of Texas and to fight for women's reproductive rights. Laws that prevent a person from choosing their reproductive rights and right to privacy create barriers. When Sarah Weddington and Linda Coffee won their argument in favor of a woman's right to choose what happens to her body, their lives were changed, and so were the lives of millions of women in America. Sarah Weddington said this On the 30th anniversary of the Roe v. Wade ruling:

It's a different time today. The early 1970s were such a wonderful time for activist women. We were asking all sorts of questions that seem ludicrous now: why do high school girls play half-court basketball? Why do women in Texas get fired when they get pregnant? Why do women have to have a husband or father sign for them in order to get credit? We were arguing about abortion, but women's issues are part of a big wheel, and reproductive rights are only one part of a larger consciousness — if you can't decide this for yourself, you can never have control over the rest of your life.²⁶

²⁴ GUZMÁN, NATASHA. "7 Polarizing Norma McCorvey Quotes." *Bustle*, 18 Feb. 2017, www.bustle.com/p/7-norma-mccorvey-quotes-that-show-what-a-polarizing-figure-she-was-39125. Accessed 2 Apr. 2020.

²⁵ Kruse, Michael. "Norma McCorvey: The Woman Who Became 'Roe'—Then Regretted It." *POLITICO Magazine*, 28 Dec. 2017, www.politico.com/magazine/story/2017/12/28/norma-mccorvey-obituary-216184.

²⁶ Reaves, Jessica. "Interview: Sarah Weddington." *Time Magazine*, 16 Jan. 2003, content.time.com/time/nation/article/0,8599,409103,00.html.

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Primary Sources

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Weddington, Sarah. *A Question of Choice*. Feminist Press at CUNY, 13 Mar. 2013, www.google.com/books/edition/A_Question_of_Choice/bFqoAgAAQBAJ?hl=en&gbpv=1.

This book is about Sarah Weddington's first-hand journey through *Roe v. Wade*. It was used in the “Fighting for Constitutional Rights” section of my project. It was used to explain Sarah Weddington’s history that led her to *Roe v. Wade* case.

Interview

Reaves, Jessica. “Interview: Sarah Weddington.” *Time Magazine*, 16 Jan. 2003, content.time.com/time/nation/article/0,8599,409103,00.html.

This interview is with Sarah Weddington. It was used in the Legacy of my project. It was used to explain the significance of the women's rights movement in the 1970s in quote form. This source gave me a deeper understanding of her views of the women's rights movement in the 1970s, and also gave me an understanding of what she felt *Roe v. Wade* influenced it.

Legal Case

ROE ET AL. v. WADE, DISTRICT ATTORNEY OF DALLAS COUNTY. 22 Jan. 1973, cdn.loc.gov/service/ll/usrep/usrep410/usrep410113/usrep410113.pdf.

This legal case about *Roe v. Wade* was where the decision for *Roe v. Wade* was written as a U.S Report. It was used in the “Breaking Barriers in Reproductive Rights” portion of my project. It was used to explain the decision of the court.

Legislation

Staff, LII. “14th Amendment.” *LII / Legal Information Institute*, 17 May 2018, www.law.cornell.edu/constitution/amendmentxiv.

This legislation is about the 14th Amendment. It was used in the “Fighting for Constitutional Rights” section of my project. It was used to explain the first section of the 14th Amendment, as a quote, which was key in the arguments of the lawyers who argued *Roe v. Wade* case.

Newspaper

J. Garrow, David. "She Put the v in Roe v. Wade." *The New York Times*, 27 Sept. 1992, www.nytimes.com/1992/09/27/books/she-put-the-v-in-roe-v-wade.html. Accessed 5 Feb. 2020.

This Newspaper article is about Sarah Weddington and Linda Coffee's start of Roe v. Wade. It was used in my "Fighting For Constitutional Rights" section of my project.

Secondary Sources

Books

Faux, Marian. *Roe v. Wade : The Untold Story of the Landmark Supreme Court Decision That Made Abortion Legal*. New York, Macmillan, 1988.

This book is about the story of *Roe v. Wade*. It was used in the "Breaking Barriers in Reproductive Rights" section of my project. It was used to explain the allies of *Roe v. Wade*.

Susan Dudley Gold. *Roe v. Wade (1973) : Abortion*. New York, Twenty-First Century Books, 1994.

This book is about *Roe v. Wade*. It was used in the "Fighting for Constitutional Rights" section of my project. It was used to explain how Coffee and Weddington were looking for a plaintiff in their case to fight against abortions being illegal.

Websites

"Abortion Not a Human Right, Says Pope Benedict XVI." *Catholic News Agency*, 10 Sept. 2007, www.catholicnewsagency.com/news/abortion_not_a_human_right_says_pope_benedict_xvi. Accessed 2 Apr. 2020.

This website is about the quote from Pope Benedict XVI. It was used in the For and Against a New Law section of my project. It was used to explain the Roman Catholic Church's opinion on abortions in a quote form.

“About - NARAL Pro-Choice America.” *NARAL Pro-Choice America*, 2019, www.prochoiceamerica.org/about/.

This website is about the history of the National Abortion Rights Action League (NARAL). It was used in the “For and Against a New Law” section of my project. It was used to explain the history and the views of NARAL, which ties into the allies section of my topic.

CNN Library. “Roe v. Wade Fast Facts.” *CNN*, 2013, www.cnn.com/2013/11/04/us/roe-v-wade-fast-facts/index.html.

This website is about the facts of Roe v. Wade. This was used in the “Fighting For Constitutional Rights” section of my project. It was used to explain who the lawyers were in the Roe v. Wade case.

Fox, Joe, et al. “What Could Happen If Roe v. Wade Gets Struck Down?” *Washington Post*, 2 Nov. 2018, www.washingtonpost.com/graphics/2018/national/abortion-rights-supreme-court/. Accessed 19 Feb. 2020.

This website is about what would happen if Roe v. Wade was overturned. This was used in the “Legacy” section of my project. This was used in my project because it tells the audience what would happen if Roe v. Wade was struck down and how it would impact people.

Kruse, Michael. “Norma McCorvey: The Woman Who Became ‘Roe’—Then Regretted It.” *POLITICO Magazine*, 28 Dec. 2017, www.politico.com/magazine/story/2017/12/28/norma-mccorvey-obituary-216184.

This website is about the life of Norma McCovery. It was used in the Legacy section of my project. It was used to explain what happened to Norma McCovery after Roe v. Wade and after she became pro life.

McBride, Alex. “The Supreme Court. Expanding Civil Rights. Landmark Cases. Griswold v. Connecticut (1965) | PBS.” *Thirteen.Org*, 2005, www.thirteen.org/wnet/supremecourt/rights/landmark_griswold.html.

This website is about Griswold v. Connecticut. This was used in the “Fighting For Constitutional Rights” section of my project. It was used to explain Griswold v. Connecticut, which was a landmark case in women's reproductive rights prior to Roe v. Wade.

Pisacreta, Emily. "What Do the Terms 'pro-Choice' and 'pro-Life' Mean?" *Plannedparenthood.Org*, Ask the Experts, 14 Sept. 2010, www.plannedparenthood.org/learn/teens/ask-experts/can-you-explain-what-pro-choice-means-and-pro-life-means-im-supposed-to-do-it-for-a-class-thanks.

This website is about the definition of pro-life and pro-choice. It was used in my "For and Against a New Law" section of my project. It was used to explain what the beliefs of pro-life and pro-choice.

Prager, Joshua. "Exclusive: Roe v. Wade's Secret Heroine Tells Her Story." *Vanity Fair*, Vanity Fair, 19 Jan. 2017, www.vanityfair.com/news/2017/01/roe-v-wades-secret-heroine-tells-her-story.

This website is about Linda Coffee, one of two lawyers in the *Roe v. Wade* case. It was used in the "Fighting for Constitutional Rights" section of my project. It was used to explain who Linda Coffee is and dive deeper into her as a lawyer.

"Privacy." *LII / Legal Information Institute*, 6 Aug. 2007, www.law.cornell.edu/wex/Privacy.

This website is about the definition of privacy in the legal sense. It was used in the "Breaking Barriers in Reproductive Rights" section of my project. It was used to explain the definition of privacy in the *Griswold v. Connecticut* case, which set a precedent in arguing *Roe v. Wade*.

"Roe v. Wade and Its Impact [Ushistory.Org]." *Ushistory.Org*, 2019, www.ushistory.org/us/57d.asp.

This website is about how *Roe v. Wade* impacted America. It was used in all sections of my paper. It was used to explain the background of the whole case of *Roe v. Wade*.

Rojas, Rick, and Alan Blinder. "Alabama Abortion Ban Is Temporarily Blocked by a Federal Judge." *The New York Times*, 29 Oct. 2019, www.nytimes.com/2019/10/29/us/alabama-abortion-ban.html?auth=login-google. Accessed 15 Feb. 2020.

This website is about the blocked abortion ban in Alabama. It was used in the "Legacy" section of my project. It was used to explain how state officials are trying to weaken Roe's law years after the *Roe v. Wade* case.