

No. 19-1392

IN THE
Supreme Court of the United States

THOMAS E. DOBBS, STATE HEALTH OFFICER OF
THE MISSISSIPPI DEPARTMENT OF HEALTH, *et al.*,

Petitioners,

v.

JACKSON WOMEN'S HEALTH ORGANIZATION, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

**BRIEF FOR *AMICUS CURIAE* ILLINOIS
RIGHT TO LIFE IN SUPPORT OF
PETITIONERS**

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TABLE OF CONTENTS

	<i>Page</i>
TABLE OF CONTENTS.....	i
TABLE OF CITED AUTHORITIES	vi
INTERESTS OF <i>AMICUS CURIAE</i>	1
SUMMARY OF ARGUMENT.....	1
ARGUMENT.....	4
I. R E C E N T D E V E L O P M E N T S E S T A B L I S H P R E V I A B L E F E T U S E S A R E H U M A N P E R S O N S , R E N D E R I N G <i>R O E</i> A N D I T S P R O G E N Y O B S O L E T E	4
A. S t a t e i n t e r e s t i n p r o t e c t i n g l i f e i s t h e m o s t f u n d a m e n t a l a n d i m p o r t a n t g o v e r n m e n t d u t y	4
B. I n <i>R o e</i> , t h e C o u r t b a s e d i t s “v i a b i l i t y” s t a n d a r d o n : (a) l a c k o f a s c i e n t i f i c c o n s e n s u s o n w h e n h u m a n l i f e b e g i n s , (b) a b s e n c e o f u n i f o r m l e g a l p r o t e c t i o n o f f e t u s e s , a n d (c) m a t e r n a l b u r d e n s o f p r e g n a n c y a n d c h i l d - r e a r i n g	6
C. S c i e n t i f i c , l e g a l , a n d s o c i a l d e v e l o p m e n t s h a v e r o b b e d <i>R o e</i> ’s v i a b i l i t y s t a n d a r d o f i t s o r i g i n a l j u s t i f i c a t i o n	8

Table of Contents

	<i>Page</i>
1. Principles of stare decisis do not foreclose review and reassessment of <i>Roe</i> ; <i>Casey</i> recognizes that evaluation of changes in fact and law require reevaluation of prior precedent.....	8
2. A consensus of biologists now acknowledges that a human fetus is, biologically speaking, a human being.....	10
a. The scientific literature has established that fertilization initiates a new human being.....	10
b. An overwhelming majority of biologists recognize that a human's life begins at fertilization.....	13
c. Legislative hearings on when life begins marshalled scientific evidence that life begins at fertilization.....	14
d. Even doctors who perform abortions and proponents of abortion rights admit fetuses are human beings.....	15

Table of Contents

	<i>Page</i>
e. Views opposing the position that human life starts at fertilization are unscientific and ideological.....	16
3. Changes in the law have further eroded the underpinnings <i>Roe</i> . Those changes recognize the human fetus as a human being.....	17
a. Enactment of fetal homicide laws in almost 80% of states demonstrates that, outside of the abortion context, a human fetus is legally recognized as a human being.....	17
b. States are increasingly proposing and enacting laws protective of unborn human beings even when abortion is curtailed as a result	18
4. Protective legislation has ameliorated many detriments associated with pregnancy	19

Table of Contents

	<i>Page</i>
D. The Court should not continue to follow <i>Roe</i> 's viability standard since it ignores the fact that a human fetus is a biological human being and legal person at all stages of the human life cycle.....	20
II. SINCE A HUMAN FETUS IS A HUMAN BEING, H.B. 1510 SHOULD BE SUSTAINED AS A REASONABLE PROTECTION OF A PREBORN PERSON UNDER THE FOURTEENTH AMENDMENT.....	21
A. The Fourteenth Amendment covers all human beings, including preborn humans, and guarantees the due process right to life and equal protection.....	21
1. The Fourteenth Amendment was intended to protect every human being within the jurisdiction of the U.S.	21
2. Overwhelming evidence now exists that human fetuses are human beings and therefore protected by the Fourteenth Amendment.....	21

Table of Contents

	<i>Page</i>
3. The Court has a constitutional duty to recognize the right of human fetuses to legal protections as persons, and to begin to build a consensus favoring protection of fetuses under law	23
B. Mississippi is entitled to pass legislation that protects prenatal humans from abortion	24
CONCLUSION	25

TABLE OF CITED AUTHORITIES

	<i>Page</i>
Cases	
<i>Brown v. Board of Education of Topeka</i> , 347 U.S. 483 (1954).....	24
<i>Burnet v. Coronado Oil & Gas Co.</i> , 285 U. S. 393 (1932)	8
<i>Connecticut Gen. Life Ins. Co. v. Johnson</i> , 303 U.S. 77, 87 (1938).....	21
<i>Gonzales v. Carhart</i> , 550 U.S. 124 (2007)	12
<i>Griswold v. Connecticut</i> , 381 U.S. 479 (1965).....	24
<i>Lawrence v. Texas</i> , 539 U.S. 558 (2003).....	24
<i>Loving v. Virginia</i> , 388 U.S. 1 (1967).....	24
<i>Obergefell v. Hodges</i> , 576 U.S. 1118 (2015)	24
<i>Patterson v. McLean Credit Union</i> , 491 U. S. 164 (1989)	9
<i>Planned Parenthood (Federation of America v. Ashcroft)</i> , 320 F. Supp. 2d	11-12

Cited Authorities

	<i>Page</i>
<i>Planned Parenthood v. Casey</i> , 505 U.S. 505 U.S. 833 (1992)	<i>passim</i>
<i>Ramos v. Louisiana</i> , __ U.S. __, 140 S.Ct. 139 (2020)	2
<i>Roe v. Wade</i> , 410 U.S 113 (1973)	<i>passim</i>
<i>South Dakota v. Wayfair, Inc.</i> , 138 S. Ct. 2080 (2018)	20
<i>Thornburgh v. American College of Obstetricians and Gynecologists</i> , 476 U.S. 747 (1986)	22
<i>Webster v. Reprod. Health Servs.</i> , 492 U.S. 490 (1989)	24

Statutes and Other Authorities

U.S. Const. Amend. I	44
U.S. Const. Amend. X	3, 24
U.S. Const. Amend. XIV	<i>passim</i>
20 U.S.C. § 1681 <i>et seq.</i>	19

Cited Authorities

	<i>Page</i>
<i>9 Months In The Womb: A Remarkable Look At Fetal Development Through Ultrasound By PregnancyChat.com, YOUTUBE, https://perma.cc/ZNJ3-T4GU</i>	10
<i>A New Ethic for Medicine and Society, CALIFORNIA MEDICINE, Sep. 1970</i>	15
<i>Alea Roberts, Where’s My Share?: Inheritance Rights of Posthumous Children, AMERICAN BAR ASSOCIATION, Jun. 13, 2019, https://perma.cc/36VN-HZZ8</i>	18
<i>Ashley Smith, Gov. Pritzker announces statewide stay at home order in response to COVID-19, KFVS12, Mar. 21, 2020, https://perma.cc/X8VW-PN3N</i>	5
<i>Charles I. Lugosi, Conforming to the Rule of Law: When Person and Human Being Finally Mean the Same Thing in Fourteenth Amendment Jurisprudence, 22 ISSUES L. & MED. 119 (2006)</i>	22
<i>Conception to birth -- visualized Alexander Tsiaras TED Talk, YOUTUBE, https://perma.cc/VL9Z-RQB5</i>	10
<i>Derek Smith, Pro-Choice Concedes: Prominent Abortion Proponents Concede The Barbarity Of Abortion, HUMAN DEFENSE INITIATIVE, Nov. 7, 2018, https://perma.cc/GXH8-MAUU</i>	19-20

Cited Authorities

	<i>Page</i>
Family Medical Leave Act, U.S. DEPARTMENT OF LABOR.....	19-20
Heather Long, <i>U.S. now has 22 million unemployed, wiping out a decade of job gains</i> , WASHINGTON POST-ECONOMY, Apr. 16, 2020, https://perma.cc/PU42-JUTZ	5
House Resolution No. 214 , https://perma.cc/6XRJ-L2C8	12
S-158 Hearings, April 23, 1981 Transcript, https://perma.cc/6DCT-UT4P	14, 15
Jack Brewster, <i>Americans Overwhelmingly Support Stay-At-Home Restrictions, New Poll Finds</i> , FORBES, Apr. 22, 2020, https://perma.cc/7S3M-BS6B	4
Jacob Sullum, <i>Only Social Darwinians Worry About the Harm Caused by COVID-19 Lockdowns, Andrew Cuomo Says</i> , REASON, Mar. 24, 2020, https://perma.cc/CZM3-G6W9	5
Jason Noble, <i>FACT CHECK: 50 million abortions claim checks out</i> , DES MOINES REGISTER, Mar. 17, 2015, https://perma.cc/4H92-H2AC	23

Cited Authorities

	<i>Page</i>
Joshua Craddock, <i>Protecting Prenatal Persons: Does the Fourteenth Amendment Prohibit Abortion?</i> , HARVARD JOURNAL OF LAW AND PUBLIC POLICY, Vol. 40, No. 2, May 15, 2017, https://perma.cc/5QGV-NMSX	23
KVUE Austin Interview of Dr. Curtis Boyd, YOUTUBE, Nov. 6, 2009, https://perma.cc/GYB2-3YFY	15
Maureen L. Condic, <i>When Does Human Life Begin, A Scientific Perspective</i> , WESTCHESTER INSTITUTE FOR ETHICS AND THE HUMAN PERSON, Oct. 2008, https://perma.cc/S4ZJ-AN67	11
Mark A. Hill, <i>Embryology Carnegie Stages</i> , UNIVERSITY OF NEW SOUTH WALES, Dec. 24, 2019, https://perma.cc/QX4R-UZXM	10
Maureen L. Condic, <i>When Does Human Life Begin? The Scientific Evidence and Terminology Revisited</i> , 8 U. ST. THOMAS J.L. & PUB. POL'Y, 2013, https://perma.cc/JP33-Y8BH	10
Paul Benjamin Linton, <i>The Legal Status of the Unborn Child Under State Law</i> , 6 U. ST. THOMAS J.L. & PUB. POL'Y 141, 2011, https://perma.cc/XB8E-G375	18

Cited Authorities

	<i>Page</i>
Paul Primakoff & Diana G. Myles, <i>Penetration, adhesion, and fusion in mammalian sperm-egg interaction</i> , SCIENCE, 296(5576):2183-5, Jun. 21, 2002, https://perma.cc/D2XU-F62E	12
Pete Williams, <i>Barr calls stay-at-home orders 'disturbingly close to house arrest'</i> , NBC NEWS, Apr. 21, 2020, https://perma.cc/JRN4-7UFM	4
Peter Singer, <i>Practical Ethics</i> , 2nd ed., CAMBRIDGE UNIVERSITY PRESS, 1993.	16
Public Law 111-148	20
<i>Report of The South Dakota Task Force to Study Abortion</i> , Submitted to the Governor and Legislature of South Dakota, Dec. 2005, https://perma.cc/4WF8-TNM3	14
Report, Subcommittee on Separation of Powers to Senate Judiciary Committee S-158, 97th Congress, 1st Session 1981, 7.	14
Richard J. Paulson, <i>The unscientific nature of the concept that "human life begins at fertilization," and why it matters</i> , FERTILITY AND STERILITY, Volume 107, Issue 3, Mar. 2017, https://perma.cc/QDE5-C5C4	16

Cited Authorities

	<i>Page</i>
Rita L. Gitchell, <i>Should Legal Precedent Based on Old, Flawed, Scientific Analysis Regarding When Life Begins, Continue To Apply to Parental Disputes over the Fate of Frozen Embryos, When There Are Now Scientifically Known and Observed Facts Proving Life Begins at Fertilization?</i> , 20 DEPAUL J. HEALTH CARE L. 1, (2018)	10
Sarah Mervosh, Denise Lu, & Vanessa Swales, <i>See Which States and Cities Have Told Residents to Stay at Home</i> , NEW YORK TIMES, <i>Last updated</i> , Apr. 20, 2020, https://perma.cc/8LT6-84XM	4
Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), USDA FOOD AND NUTRITION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, https://perma.cc/Y5G3-G4T8	20
SSR 68-22: SECTION 216(h)(3)(C)	18
<i>State Laws on Fetal Homicide and Penalty-enhancement for Crimes Against Pregnant Women</i> , NATIONAL CONFERENCE OF STATE LEGISLATURES, May 1, 2018, https://perma.cc/3XTG-WDLB	17-18

Cited Authorities

	<i>Page</i>
Steven A. Jacobs, <i>Balancing Abortion Rights and Fetal Rights: A Mixed Methods Mediation of the U.S. Abortion Debate</i> , KNOWLEDGE@UCHICAGO, 2019, https://perma.cc/GZT2-8JDN	13, 23
Steven A. Jacobs, <i>The Future of Roe v. Wade: Have Recent Developments Robbed Roe of its Original Justification?</i> , TENNESSEE LAW REVIEW, Vol. 87, No. 4, 2020, https://perma.cc/6U4A-BUP9	8
The Pregnancy Discrimination Act of 1978, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, https://perma.cc/MH3SMLFE	19
<i>When Does Life Begin?</i> , ILLINOIS RIGHT TO LIFE	12, 13
William Horatio Barnes, <i>History of the Thirty-ninth Congress of the United States</i> , HARPER & BROTHERS, Jan. 1, 1868.	21
Yuki Okada, Kazuo Yamagata, Kwonho Hong, Teruhiko Wakayama, & Yi Zhang, <i>A role for the elongator complex in zygotic paternal genome demethylation</i> , NATURE, 463(7280) Jan. 28, 2010, https://perma.cc/Y5YQ-LCW3	12

INTERESTS OF *AMICUS CURIAE*¹

Amicus curiae Illinois Right to Life (IRL) is an Illinois educational not-for-profit corporation that has been dedicated to educating the American public about the medical realities of abortion since 1968. IRL uses a grassroots approach to educate members of the public, legislative bodies, and the judiciary regarding advances in scientific research relating to fetal development that demonstrate the biological humanity of fetuses, and the secular value of preborn human life. IRL is active in helping the public recognize that pre-viable human fetuses are human beings.

These principles bear directly on the issues presented in this case. For this reason, IRL believes this brief will be of assistance to the Court in analyzing and deciding the case before it.

SUMMARY OF ARGUMENT

One of the questions presented in the Petition For Writ Of Certiorari is “[w]hether all pre-viability prohibitions on elective abortions are unconstitutional”. Addressed herein in greater detail, the answer is no.

1. Counsel for Petitioners and Respondent received timely notice of *Amici Curiae*'s intent to file this brief and counsel for Petitioners and Respondent have consented to its filing. Pursuant to this Court's Rule 37.6, *amicus* states that no counsel for any party authored this brief in whole or in part, and no person other than the *amicus* and its counsel made any monetary contribution intended to fund the preparation or submission of this brief.

In *Roe v. Wade*, 410 U.S. 113 (1973), and subsequent decisions upholding *Roe*, while a pregnant woman has a constitutional right to choose to have an abortion, that right is subordinate to state laws that further a compelling government interest. Thus, the operative question is whether Mississippi's interest in protecting 15-week fetuses is compelling.

Roe was decided at a time when the Court could find no consensus on when life begins² and at a time when states were reluctant to recognize fetuses as persons.³ Under *Roe*'s central holding, a state's interest in protecting a pre-viable fetus is not compelling. However, the viability standard is not beyond judicial review.

In *Casey*, the Court acknowledged that continuing to adhere to the rule of *stare decisis* would not be justified if the circumstances underpinning *Roe*'s jurisprudence changed: "[I]n constitutional adjudication as elsewhere in life, changed circumstances may impose new obligations." *Planned Parenthood v. Casey*, 505 U.S. 833, 864 (1992). The factors outlined in *Casey*, as recently clarified by the Court in *Ramos v. Louisiana*, U.S. , 140 S.Ct. 139, 1405 (2020), should be used to assess whether *Roe*'s viability standard continues as a permissible restriction

2. "When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer." *Roe*, 410 U.S. at 159.

3. "In areas other than criminal abortion, the law has been reluctant to endorse any theory that life, as we recognize it, begins before li[v]e birth...." *Roe*, 410 U.S. at 161.

on state rights to protect life as guaranteed by the Tenth Amendment.

The question of when a human's life begins is now recognized to be biologically determinable, and an overwhelming scientific consensus confirms the view that a human's life begins at fertilization. (See *infra* at Argument I.C.2.a-c). This growing scientific consensus has prompted 38 states to enact changes in fetal homicide laws that recognize the humanity of preborn humans in non-abortive contexts, and other laws are being passed to protect preborn humans even though abortion restrictions are a consequence. (See *infra* at Argument I.C.3 a-b). Finally, the social burdens associated with pregnancy identified by the Court in *Roe* have considerably lessened in the ensuing years owing to greater societal support of pregnancy and child-rearing. (See *infra* at Argument I.C.4).

The factual and legal underpinnings of *Roe* and its progeny have been so undermined that reassessment of *Roe's* precedential weight is required. This Court should recognize that *Roe's* viability standard is not a constitutionally permissible limit upon Mississippi's Tenth Amendment right to protect life within its jurisdiction. Accordingly, Mississippi H.B. 1510 should be upheld. (See *infra* at Argument II.).

ARGUMENT

I. RECENT DEVELOPMENTS ESTABLISH PREVIABLE FETUSES ARE HUMAN PERSONS, RENDERING *ROE* AND ITS PROGENY OBSOLETE.

A. State interest in protecting life is the most fundamental and important government duty.

The COVID-19 pandemic in 2020 has revealed broad public support for stay-at-home orders, which further states' interest in protecting life, even though the orders infringe on Americans' explicit First Amendment freedoms, rights to bodily autonomy, liberty and a litany of other rights. U.S. Attorney General William Barr has described these orders as being “disturbingly close to house arrest,”⁴ yet 42 states have passed such orders, which affect 316 million people.⁵ Despite these abridgements of individual rights, a recent AP poll found 87% support among Americans for these measures.⁶

This response of Americans is unsurprising. We recognize that, in order to be governed in an inclusive

4. Pete Williams, *Barr calls stay-at-home orders ‘disturbingly close to house arrest’*, NBC NEWS, last updated April 21, 2020, <https://perma.cc/JRN4-7UFM>.

5. Sarah Mervosh, Denise Lu, & Vanessa Swales, *See Which States and Cities Have Told Residents to Stay at Home*, NEW YORK TIMES, Last updated, Apr. 20, 2020, <https://perma.cc/8LT6-84XM>.

6. Jack Brewster, *Americans Overwhelmingly Support Stay-At-Home Restrictions, New Poll Finds*, FORBES, Apr. 22, 2020, <https://perma.cc/7S3M-BS6B>.

society, there are situations in which the common good, as effectuated by state action that furthers a compelling government interest, supersedes individual rights. This is the very basis of the Court’s strict scrutiny standard of judicial review, which permits state action that infringes on Americans’ constitutional rights when it is in the furtherance of compelling government interests.

Recognition of the validity of state action in support of compelling government interests is why there was widespread support of stay-at-home orders even though the orders devastated the economy⁷ and infringed on individual freedoms secured by the Constitution. Despite those costs, state governments were lauded for defending the orders as necessary to “protect [their] residents”⁸ and such measures were justified on the basis that their goal is to “save lives, period, whatever it costs”.⁹

It is in this light that Mississippi’s 15-week abortion ban should be considered. Since the Court has followed *Roe*’s viability framework, which recognizes that a state’s interest in protecting fetal life is unquestionably compelling at some point, -defined in *Roe* at the point of viability, the question is not whether a woman’s right to

7. Heather Long, *U.S. now has 22 million unemployed, wiping out a decade of job gains*, WASHINGTON POST, Apr. 16, 2020, <https://perma.cc/PU42-JUTZ>.

8. Ashley Smith, *Gov. Pritzker announces statewide stay at home order in response to COVID-19*, KFVS12, Mar. 21, 2020, Last updated March 21, 2020, <https://perma.cc/X8VW-PN3N>.

9. Jacob Sullum, *Only Social Darwinians Worry About the Harm Caused by COVID-19 Lockdowns*, Andrew Cuomo Says, REASON, Mar. 24, 2020, <https://perma.cc/CZM3-G6W9>.

abort can be constitutionally restricted, but when the state's interests become sufficiently compelling that a woman's right to abort may be constitutionally restricted.

B. In *Roe*, the Court based its “viability” standard on: (a) lack of a scientific consensus on when human life begins, (b) absence of uniform legal protection of fetuses, and (c) maternal burdens of pregnancy and child-rearing.

In *Roe*, attorneys for Roe and some *amici* argued that “the woman’s right [to privacy] is absolute and that she is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses.” *Roe*, 410 U.S. at 153. The Court rejected that argument. *Id.* It recognized that if a human fetus is a “person” under the Fourteenth Amendment, the case for unrestricted abortion would be untenable “for the fetus’ right to life would then be guaranteed specifically by the Amendment.” *Id.* at 157. The Court acknowledged that the state may assert a “legitimate interest in protecting the potentiality of human life.” *Id.* at 154, 162. But the Court ultimately determined that the evidentiary record was insufficient to establish in science or in law when a human’s life begins.

The Court could find no consensus of experts trained in “medicine, philosophy, and theology” on the “difficult question of when life begins.” *Id.* at 159. It said: “the judiciary, at this point in the development of man’s knowledge, is not in a position to speculate as to the answer.” *Id.* The Court then looked to the status of fetuses under the law, but concluded that “in areas other than criminal abortion, the law has been reluctant to endorse

any theory that life, as we recognize it, begins before live birth or to accord legal rights to the unborn.” *Id.* at 161. The Court said it could find no case “that holds that a fetus is a person within the meaning of the Fourteenth Amendment” and decided that “the word ‘person,’ as used in the Fourteenth Amendment, does not include the unborn.” *Id.* at 157.

During oral reargument, the attorney for Roe asserted that “a woman, because of her pregnancy, is often not a productive member of society. She cannot work. She cannot hold a job. She’s not eligible for welfare. She cannot get unemployment compensation.”¹⁰ Given those challenges¹¹, the Court found that the “Fourteenth Amendment’s concept of personal liberty and restrictions upon state action . . . is broad enough to encompass a woman’s decision whether or not to terminate her pregnancy.” *Id.* at 153.

The Court concluded that a woman’s liberty interest in terminating her pregnancy superseded the state’s interest in protecting the fetus, at least until the point of “viability.” *Id.* at 163. Before that point, the state’s interest was not considered sufficiently compelling to supersede a woman’s right to terminate her pregnancy.

Thus, in *Roe*, the Court’s decision was based on its stated inability to locate in the record a scientific or legal basis for the humanity or personhood of the fetus, and

10. Sarah Weddington, Oral Reargument of *Roe v. Wade*, 1972, at 48.

11. The Court described its holding in *Roe* as consistent “with the demands of the profound problems of the present day.” 410 U.S. at 165.

the detriments posed by pregnancy and child-rearing. However, these conditions no longer prevail,¹² so the Court is obliged to reconsider *Roe* in light of these changed circumstances.

C. Scientific, legal, and social developments have robbed *Roe*'s viability standard of its original justification.

1. Principles of stare decisis do not foreclose review and reassessment of *Roe*; *Casey* recognizes that evaluation of changes in fact and law require reevaluation of prior precedent.

In *Casey*, the Court addressed the issue of *stare decisis* as it related to the precedential strength of *Roe*, acknowledging that *stare decisis* is not an “inexorable command.” *Casey*, 505 U.S. at 854, citing *Burnet v. Coronado Oil & Gas Co.*, 285 U. S. 393, 405 (1932) (Brandeis, J., dissenting). While the Court declined to overturn *Roe* (*id.* at 854-869), it acknowledged that applying the rule of *stare decisis* would be unjustified if the circumstances underpinning *Roe*'s jurisprudence changed: “[I]n constitutional adjudication as elsewhere in life, changed circumstances may impose new obligations.” *Id.* at 864.

12. See, Steven A. Jacobs, *The Future of Roe v. Wade: Have Recent Developments Robbed Roe of its Original Justification?*, TENNESSEE LAW REVIEW, Vol. 87, No. 4, 2020, <https://perma.cc/6U4A-BUP9>.

Relevant *stare decisis* factors laid out by the Court include “whether related principles of law have so far developed as to have left the old rule no more than a remnant of abandoned doctrine” (citing *Patterson v. McLean Credit Union*, 491 U. S. 164, 173–174 (1989)) and “whether facts have so changed, or come to be seen so differently, as to have robbed the old rule of significant application or justification.” *Casey*, 505 U.S. at 855. In the decades since *Roe*, scientific understanding of human development has advanced significantly, and corresponding changes in the law have occurred, requiring a reexamination of the continued viability of the considerations that drove the *Roe* decision.

Roe’s recognition of a right to abort a previable pregnancy rests on the belief that the termination would *not* extinguish the life of a human person. That belief is no longer factually tenable given the current state of scientific knowledge concerning the origin and development of the human fetus. *Roe* also rests on a determination that the humanity and personhood of a human fetus was not generally recognized *in law*. That legal context has changed as well. Among other changes in the law, fetuses are now protected as human beings under laws prohibiting fetal homicide. Other laws, such as “heartbeat” laws and laws protecting against fetal pain, which are increasingly being enacted by the states, demonstrate their interest in protecting the youngest and most vulnerable humans. Finally, changes in the laws and the availability of social services that support and protect pregnant women have ameliorated the plight of pregnancy and lessened the burden of child-rearing. All of these changes rob *Roe* of its factual and legal underpinnings and require the Court to revisit and overrule it or, at a minimum, to recalibrate

the viability standard in *Roe* and *Casey*, to reflect the current state of scientific understanding and the legal realities of today.

2. **A consensus of biologists now acknowledges that a human fetus is, biologically speaking, a human being.**
 - a. **The scientific literature has established that fertilization initiates a new human being.**

A review of recent discoveries¹³ and the development of scientific literature since *Roe* reveal a strong consensus that sperm-egg plasma membrane fusion (fertilization) is the starting point of the life of a human organism (a human being).¹⁴ Dr. Maureen Condic, who is a member

13. The Virtual Human Embryo (VHE), a 14,250-page illustrated atlas of human embryology, describes the stages of human development called the Carnegie Stages of Embryonic Development. Mark A. Hill, *Embryology Carnegie Stages*, UNIVERSITY OF NEW SOUTH WALES, Dec. 24, 2019, <https://perma.cc/QX4R-UZXM>; see also: *Conception to birth -- visualized | Alexander Tsiaras TED Talk*, YOUTUBE, <https://perma.cc/VL9Z-RQB5>, and *9 Months In The Womb: A Remarkable Look At Fetal Development Through Ultrasound By PregnancyChat.com*, YOUTUBE, <https://perma.cc/ZNJ3-T4GU>.

14. Maureen L. Condic, *When Does Human Life Begin? The Scientific Evidence and Terminology Revisited*, 8 U. ST. THOMAS J.L. & PUB. POL'Y, 2013, <https://perma.cc/JP33-Y8BH>; Rita L. Gitchell, *Should Legal Precedent Based on Old, Flawed, Scientific Analysis Regarding When Life Begins, Continue To Apply to Parental Disputes over the Fate of Frozen Embryos, When There Are Now Scientifically Known and Observed Facts Proving Life Begins at Fertilization?*, 20 DEPAUL J. HEALTH CARE L. 1, at 8-9. (2018).

of the National Science Foundation's National Science Board, which "advises Congress and the Administration on issues in science,"¹⁵ writes:

From the moment of sperm-egg fusion, a human zygote acts as a complete whole. . . . The zygote acts immediately and decisively to initiate a program of development that will, if uninterrupted by accident, disease or external intervention, proceed seamlessly through formation of the definitive body, birth, childhood, adolescence, maturity and aging, ending with death. This coordinated behavior is the very hallmark of an organism.¹⁶

A human organism's self-directed "program of development" initiated by fertilization (sperm-egg fusion) is the human life cycle. A necessary and sufficient condition for an organism with human DNA to be classified as a human being is that it is developing in one of the stages of the life cycle initiated by fertilization. From the biological perspective, a human zygote (fertilized ovum) has a complete human genome, which will dictate its development and remain throughout the entirety of the human life cycle; a human zygote is a complete human organism.¹⁷ Thus, a human zygote is as much of a human

15. <https://perma.cc/7UYH-UP7Z>.

16. Maureen L. Condic, *When Does Human Life Begin, A Scientific Perspective*, WESTCHESTER INSTITUTE FOR ETHICS AND THE HUMAN PERSON, Oct. 2008, <https://perma.cc/S4ZJ-AN67>.

17. This Court has recognized that human zygotes are organisms: "[B]y common understanding and scientific terminology, a fetus is a living organism while within the womb, whether or not it is viable outside the womb. See, e.g., *Planned Parenthood [Federation of America v. Ashcroft]*, 320 F. Supp. 2d,

being as an infant, a teenager,¹⁸ or an adult -- a human zygote is simply a human being in a different stage of its development. Scientific articles routinely advance this view as an uncontroversial and basic fact of biology:¹⁹ “The life cycle of mammals begins when a sperm enters an egg”²⁰ and “[f]ertilization is the sum of the cellular mechanisms that pass the genome from one generation to the next and initiate development of a new organism.”²¹

at 971–972. We do not understand this point to be contested by the parties.” *Gonzales v. Carhart*, 550 U.S. 124 (2007).

18. Dr. Alfred Bongiovanni, University of Pennsylvania School of Medicine, in his testimony in connection with the 1981 hearing on Senate Bill 158, the “Human Life Bill, *see infra* at 15-16, concluded, “I am no more prepared to say that these early stages [of development in the womb] represent an incomplete human being than I would be to say that the child prior to the dramatic effects of puberty . . . is not a human being. This is human life at every stage.” Cited in House Resolution No. 214, <https://perma.cc/6XRG-L2C8>.

19. For a list of over 100 articles, books, and legislative testimonies affirming this scientific view, *see When Does Life Begin?*, ILLINOIS RIGHT TO LIFE, <https://perma.cc/U99P-4Y6C>.

20. Yuki Okada, Kazuo Yamagata, Kwonho Hong, Teruhiko Wakayama, & Yi Zhang, *A role for the elongator complex in zygotic paternal genome demethylation*, NATURE, 463(7280):554-8, Jan. 28, 2010, <https://perma.cc/Y5YQ-LCW3>.

21. Paul Primakoff & Diana G. Myles, *Penetration, adhesion, and fusion in mammalian sperm-egg interaction*, SCIENCE 296(5576):2183-5, Jun. 21, 2002, <https://perma.cc/D2XU-F62E>.

b. An overwhelming majority of biologists recognize that a human's life begins at fertilization.

A recent international study involving 5,577 biologists from 86 countries who work at 1,061 top-ranked academic institutions²² confirmed the scientific consensus on when life begins.²³ The study asked biologists to confirm or reject five statements that represent the view that a human's life begins at fertilization. The majority of the biologists in the study identified as liberal (89%), pro-choice (85%), and non-religious (63%).

5,337 biologists (96%) affirmed at least one of the statements and only 240 participants declined to affirm any statements (4%). The study participants were also asked to answer an essay question: "From a biological perspective, how would you answer the question, 'When does a human's life begin?'" Most biologists (68%) indicated fertilization. Thus, while in *Roe*, the Court found that experts could not arrive at any consensus at that point in the development of man's knowledge, that is no longer the case.

22. American participants included biologists from Harvard University, Princeton University, Stanford University, and Yale University. See *When Does Life Begin?*, ILLINOIS RIGHT TO LIFE, <https://perma.cc/U99P-4Y6C>.

23. Steven A. Jacobs, *Balancing Abortion Rights and Fetal Rights: A Mixed Methods Mediation of the U.S. Abortion Debate*, KNOWLEDGE@UCHICAGO, 2019, <https://perma.cc/GZT2-8JDN>.

c. Legislative hearings on when life begins marshalled scientific evidence that life begins at fertilization.

During hearings conducted by the Senate Judiciary Subcommittee on Senate Bill 158, the “Human Life Bill”, numerous scientific experts testified regarding when life begins. The Official Senate Report concluded that: “Physicians, biologists, and other scientists agree that conception marks the beginning of the life of a human being - a being that is alive and is a member of the human species. There is overwhelming agreement on this point in countless medical, biological, and scientific writings.”²⁴

In the hearings, Dr. Jerome Lejeune testified that “[l]ife has a very, very long history, but each individual has a very neat beginning – the moment of its conception” because “[t]o accept the fact that after fertilization has taken place a new human has come into being is no longer a matter of taste or opinion ... it is plain experimental evidence.” S-158 Hearings, April 23, 1981 transcript, 18.²⁵

Experts from leading institutions have testified that there are no alternative theories on when a human’s life

24. Report, Subcommittee on Separation of Powers to Senate Judiciary Committee S-158, 97th Congress, 1st Session 1981, 7; similarly, in 2006, the legislature in South Dakota heard expert medical testimony on when human life begins and concluded that “abortion terminates the life of a unique, whole, living human being”. *Report of The South Dakota Task Force to Study Abortion*, Submitted to the Governor and Legislature of South Dakota, Dec. 2005, <https://perma.cc/4WF8-TNM3>.

25. S-158 Hearings, April 23, 1981 Transcript, <https://perma.cc/6DCT-UT4P>.

begins in the scientific literature. Dr. Hymie Gordon, Professor of Medical Genetics and physician at the Mayo Clinic, testified: “I have never ever seen in my own scientific reading, long before I became concerned with issues of life of this nature, that anyone has ever argued that life did not begin at the moment of conception and that it was a human conception if it resulted from the fertilization of the human egg by a human sperm. As far as I know, these have never been argued against.” *Id.* at 52. This lack of any published, let alone generally accepted, alternative scientific theories was also attested to by Dr. Micheline Matthew-Roth, a principal research associate in the Department of Medicine at the Harvard Medical School. *Id.* at 41-42.

d. Even doctors who perform abortions and proponents of abortion rights admit fetuses are human beings.

Many practitioners of abortion and supporters of abortion rights acknowledge human life begins at conception.²⁶ For example, when abortion doctor Dr. Curtis Boyd was interviewed, he acknowledged with respect to abortion: “Am I killing? Yes, I am. I know that.”²⁷ Abortion rights supporter and ethicist Peter Singer has written that being “a member of a given species is something that

26. Derek Smith, *Pro-Choice Concedes: Prominent Abortion Proponents Concede The Barbarity Of Abortion*, HUMAN DEFENSE INITIATIVE, Nov. 7, 2018, <https://perma.cc/GXH8-MAUU>. See also, *A New Ethic for Medicine and Society*, CALIFORNIA MEDICINE, Sep. 1970.

27. *KVUE Austin Interview of Dr. Curtis Boyd*, at 0:23, YOUTUBE, Nov. 6, 2009, <https://perma.cc/GYB2-3YFY>.

can be determined scientifically, by an examination of the nature of the chromosomes in the cells of living organisms. In this sense there is no doubt that from the first moments of its existence an embryo conceived from human sperm and eggs is a human being.”²⁸

e. Views opposing the position that human life starts at fertilization are unscientific and ideological.

While some oppose the consensus view that human life begins at fertilization, the few counter-arguments made are philosophical or ideological, rather than scientific or fact-driven. In point of fact, no viable alternative to the consensus view has been propounded.²⁹

One opposing argument is that biological principles are incapable of classifying humans³⁰ despite the fact that scientists have done so for countless other animal species on Earth. Other opponents suggest that a human zygote cannot be considered a human individual because it is physiologically dependent on another human. Setting aside the fact that infants are also wholly dependent on other humans for survival, this ableist distinction rejects the humanity of conjoined twins who are physiologically dependent on each other’s bodies for survival. It is also sometimes claimed that a human zygote is not yet a human

28. Peter Singer, *Practical Ethics*, 2nd ed., CAMBRIDGE UNIVERSITY PRESS, 85-86, 1993.

29. *See supra*, p. 15.

30. Richard J. Paulson, *The unscientific nature of the concept that “human life begins at fertilization,” and why it matters*, FERTILITY AND STERILITY, Volume 107, Issue 3, Mar. 2017, <https://perma.cc/QDE5-C5C4>.

being because many fetuses fail to survive pregnancy and childbirth. But this view is fallacious because whether a human being is able to continue in life is not a condition of his or her status as a human being. A human life is always a life with potential, which may or may not be realized.

Ultimately, opposing arguments to the scientific consensus that a human's life begins at fertilization are fallacious or focus on aspects of biology that are not relevant to the biological classification of human beings.

- 3. Changes in the law have further eroded the underpinnings *Roe*. Those changes recognize the human fetus as a human being.**
 - a. Enactment of fetal homicide laws in almost 80% of states demonstrates that, outside of the abortion context, a human fetus is legally recognized as a human being.**

In its 1973 *Roe* decision, the Court stated, “the unborn have never been recognized in the law as persons in the whole sense.” *Roe*, 410 U.S. at 162. This has changed markedly since that time. Legislators in 38 of 50 states have enacted laws that criminalize the intentional killing of a human fetus. These “fetal homicide” laws, which only apply to non-abortive killings, recognize that preborn human fetuses are human beings entitled to protection under the law. In this context, a majority of states today recognize a human fetus as a human person from the moment of fertilization.³¹

31. A listing of the states with fetal homicide laws can be found at: *State Laws on Fetal Homicide and Penalty-enhancement*

Fetuses are recognized as human persons in numerous contexts: (1) laws that restrict abortion at some point in fetal development, (2) fetal homicide laws, (3) prohibitions against capital punishment imposed upon pregnant women, (4) recovery for fetal deaths under wrongful death statutes, (5) the rights of preborn children under property law, (6) legal guardianship of prenatal humans,³² (7) the rights of preborn children to a deceased parent's Social Security and Disability benefits³³, and (8) the rights of inheritance of posthumously born children.³⁴ Despite the plethora of contexts in which fetuses are recognized as persons under the law, this Court has yet to recognize the personhood of preborn humans.

b. States are increasingly proposing and enacting laws protective of unborn human beings even when abortion is curtailed as a result.

Today, 43 states have enacted laws protecting prenatal humans although abortion is thereby restricted. All but one restrict abortion access at the earliest point

for Crimes Against Pregnant Women, NATIONAL CONFERENCE OF STATE LEGISLATURES, May 1, 2018, <https://perma.cc/3XTG-WDLB>.

32. See Paul Benjamin Linton, *The Legal Status of the Unborn Child Under State Law*, 6 U. ST. THOMAS J.L. & PUB. POL'Y, 2011, <https://perma.cc/XB8E-G375>.

33. SSR 68-22: SECTION 216(h)(3)(C). – RELATIONSHIP – STATUS OF ILLEGITIMATE POSTHUMOUS CHILD, SOCIAL SECURITY ADMINISTRATION, <https://perma.cc/W3TR-89L9>.

34. Alea Roberts, *Where's My Share?: Inheritance Rights of Posthumous Children*, AMERICAN BAR ASSOCIATION, Jun. 13, 2019, <https://perma.cc/36VN-HZZ8>.

permissible by *Roe* (viability), and states have recently more emphatically asserted a state interest in the lives of preivable human beings by seeking to protect them: (1) after the sixth week since that is known to be the point at which a fetus' heart first beats (AL HB314; IA SF359) and (2) after the twentieth week since that has been found to be the point at which a fetus can first feel pain (OH SB 127).

Altogether, given the Court's willingness to permit states to protect prenatal humans from harm and states' desire to do so, it is clear that our nation prizes the protection of humans over the right to abortion. However, in the present case, the District and Circuit courts enjoined Mississippi's law because this Court has yet to recognize that preivable human fetuses are humans.

4. Protective legislation has ameliorated many detriments associated with pregnancy.

In deciding *Roe* in 1973, the Court considered the burdens upon women associated with child-rearing such as “a distressful life and future,” “[m]ental and physical health may be taxed by child care,” and “additional difficulties and continuing stigma of unwed motherhood may be involved.” *Roe*, 410 U.S. at 153. These considerations have since been significantly ameliorated through legislation including: Title IX of the Education Amendments of 1972,³⁵ the Pregnancy Discrimination Act,³⁶ the Family

35. 20 U.S.C. §1681 et seq.

36. The Pregnancy Discrimination Act of 1978, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <https://perma.cc/MH3S-MLFE>.

and Medical Leave Act (“FMLA”),³⁷ the Women, Infants, and Children program (“WIC”),³⁸ and the Pregnancy Assistance Fund (“PAF”).³⁹

D. The Court should not continue to follow *Roe*’s viability standard since it ignores the fact that a human fetus is a biological human being and legal person at all stages of the human life cycle.

Roe’s recognition of a right to abort a previable pregnancy rested on the belief that termination would not extinguish the life of a human being. Developments in science and law since *Roe* reveal that belief to be erroneous. An abortion does take a human’s life. Given these changes, the Court should reassess *Roe*. The Court has overturned precedent when “dramatic technological and social changes” occur. *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 at 15 (2018). Even in *Casey*, the Court acknowledged, “in constitutional adjudication as elsewhere in life, changed circumstances may impose new obligations.” *Casey*, 505 U.S. at 864. In view of the significant advances in scientific understanding and the legal changes that have occurred since *Roe*, the Court must reexamine *Roe* and the holding in *Casey* that relies on *Roe*.

37. Family Medical Leave Act, U.S. DEPARTMENT OF LABOR, <https://perma.cc/W5XX-LJJP>.

38. Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), USDA FOOD AND NUTRITION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, <https://perma.cc/Y5G3-G4T8>.

39. Public Law 111–148.

II. SINCE A HUMAN FETUS IS A HUMAN BEING, H.B. 1510 SHOULD BE SUSTAINED AS A REASONABLE PROTECTION OF A PREBORN PERSON UNDER THE FOURTEENTH AMENDMENT.

A. The Fourteenth Amendment covers all human beings, including preborn humans, and guarantees the due process right to life and equal protection.

1. The Fourteenth Amendment was intended to protect every human being within the jurisdiction of the U.S.

Promoters of adoption of the Fourteenth Amendment stressed its intended *universal* impact.⁴⁰ The Court has also supported this inclusive interpretation.⁴¹

2. Overwhelming evidence now exists that human fetuses are human beings and therefore protected by the Fourteenth Amendment.

Today, as discussed in *supra* Argument I.C.2.a-e, there is a clear scientific consensus on the biological view

40. See *e.g.*, William Horatio Barnes, *History of the Thirty-ninth Congress of the United States*, HARPER & BROTHERS, 132, Jan. 1, 1868.

41. Supreme Court Justice Hugo Black recognized, “[t]he history of the [Fourteenth A]mendment proves that the people were told that its purpose was to protect weak and helpless human beings”. *Connecticut Gen. Life Ins. Co. v. Johnson*, 303 U.S. 77, 87 (1938).

that human fetuses are human beings from the moment of fertilization. It follows that each human fetus is a human being and person entitled to the right to life and to equal protection of the laws under the Fourteenth Amendment of the U.S. Constitution.⁴²

In *Roe*, the Court agreed with this logic. In contemplating the consequences of recognizing a fetus as a person, the Court admitted that: “[i]f this suggestion of personhood is established, [*Roe’s*] case, of course, collapses, for the fetus’ right to life would then be guaranteed specifically by the Amendment. [*Roe’s* attorneys] conceded as much on reargument.” 410 U.S. at 157. Justice Stevens reemphasized this point in *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 779 (1986): “[T]here is a fundamental and well-recognized difference between a fetus and a human being; indeed, if there is not such a difference, the permissibility of terminating the life of a fetus could scarcely be left to the will of the state legislatures.” In doing so, the Court confirmed all human beings have constitutional rights, and that if a fetus is a human being, its personhood has been established for purposes of protection under the Fourteenth Amendment.

42. *Supra* footnote 2. Notably, several states criminalized abortion when ratifying the Fourteenth Amendment. Charles I. Lugosi, *Conforming to the Rule of Law: When Person and Human Being Finally Mean the Same Thing in Fourteenth Amendment Jurisprudence*, 22 ISSUES L. & MED. 119, 185-186 (2006).

3. The Court has a constitutional duty to recognize the right of human fetuses to legal protections as persons, and to begin to build a consensus favoring protection of fetuses under law.

The Court should fulfill its constitutional duty to reform its abortion jurisprudence in light of the realities of the present day.⁴³ There is no meaningful debate that a human's life should be protected once it begins.⁴⁴ Polls suggest only a minority of Americans support legal access to elective abortions before viability. This Court's duty is urgent. Over 50 million humans have been killed in the U.S. in the wake of *Roe*.⁴⁵ It is within the province of the Court to issue a mandate rooted in the Constitution recognizing current scientific understanding and reversing the damage *Roe* has done and is still doing to this day.

43. Joshua Craddock, *Protecting Prenatal Persons: Does the Fourteenth Amendment Prohibit Abortion?*, HARVARD JOURNAL OF LAW AND PUBLIC POLICY, Vol. 40, No. 2, May 15, 2017, <https://perma.cc/5QGV-NMSX>.

44. Ninety-three percent of Americans (93%) agree with that proposition. Steven A. Jacobs, *Balancing Abortion Rights and Fetal Rights: A Mixed Methods Mediation of the U.S. Abortion Debate*, KNOWLEDGE@UCHICAGO, 2019, <https://perma.cc/GZT2-8JDN>.

45. Jason Noble, *FACT CHECK: 50 million abortions claim checks out*, DES MOINES REGISTER, Mar. 17, 2015, <https://perma.cc/4H92-H2AC>.

B. Mississippi is entitled to pass legislation that protects prenatal humans from abortion.

Mississippi passed H.B. 1510, which its legislative representatives rightly believed was in accordance with the Tenth Amendment, to protect prenatal humans after the 15th week of pregnancy. However, both the rights of Mississippi and the Fourteenth Amendment rights of those prenatal humans are being infringed by *Roe*'s viability standard, which its author recognized as a mere "judge-made method,"⁴⁶ and which was forged by a Court that did not know that previable fetuses are humans and at a time before legislatures had acted to protect previable fetuses from non-abortive homicides.

Mississippi has a right to pursue this course under the Tenth Amendment, and the duty to do so under the Fourteenth Amendment. This Court has a long history of enforcing the Equal Protection Clause against the states.⁴⁷ Such decisions have restructured schools, mandated equal protection irrespective of sexual orientation, and required many other changes of law and policy. Consistent with those decisions, and recognizing that human fetuses are legal persons, Mississippi has a right and a positive duty to legally protect them. Since *Roe*'s viability standard should not, for the above-stated reasons, be considered a binding precedent, the Court should uphold H.B. 1510 as

46. *Webster v. Reprod. Health Servs.*, 492 U.S. 490, 548 (1989) (Blackmun, J., concurring in part and dissenting in part).

47. *Brown v. Board of Education of Topeka*, 347 U.S. 483, 494-495 (1954); *Griswold v. Connecticut*, 381 U.S. 479 (1965); *Loving v. Virginia*, 388 U.S. 1 (1967); *Lawrence v. Texas*, 539 U.S. 558 (2003); *Obergefell v. Hodges*, 576 U.S. 1118 (2015).

a reasonable law that represents Mississippi's compelling state interest in protecting preborn human lives within its jurisdiction.

CONCLUSION

The U.S. Constitution aims to “establish justice” and “insure domestic tranquility.” Our Declaration of Independence guarantees the “right to life.” This Court is the guardian of the Constitution and thus should take cognizance of the changes in culture, science, and law since *Roe*. The Court should revise its abortion jurisprudence to allow Mississippi and other states to enact laws to protect and further the inalienable and constitutional rights of preborn human beings.

For all of the foregoing reasons, *amicus curiae* respectfully request the Court to reexamine *Roe*, reverse the Court of Appeals' decision and uphold Mississippi's 15-week abortion ban.

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26

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