

Notable moments from Supreme Court arguments over Mississippi abortion law

Oral arguments in *Dobbs v. Jackson Women's Health Organization* concluded on December 1. The U.S. Supreme Court heard arguments about the constitutionality of Mississippi's 15-week abortion ban. Here from Catholic News Agency are some of the more notable happenings in and around the court.



Opening argument: The court should overturn *Roe and Casey*

Mississippi Solicitor General Scott G. Stewart opened his argument by claiming that *Roe v. Wade* and *Planned Parenthood v. Casey* “have no basis in the Constitution,” and have “no home in our history or traditions.

“They’ve damaged the democratic process. They poison the law. They’ve choked off compromise for 50 years,” he said.

Stewart said those cases have “kept this court at the center of a political battle that it can never resolve.”

“Nowhere else does this court recognize a right to end a human life,” he said.

The two big words of the day: *stare decisis*

“*Stare decisis*,” the legal term for “precedent,” was a hot topic December 1, with nearly every justice raising the issue of how legal precedent should be applied to both sides of the case. Justice Brett Kavanaugh seemed to indicate that precedent is not necessarily a gold standard, noting that the court has overturned many high-profile cases.

“I think that is sometimes assumed if you think about some of the most important cases, the most consequential cases in this court’s history, there’s a string of them where the cases overruled precedent,” said Kavanaugh, singling out *Brown v. Board of Education*, *Lawrence v. Texas*, and *Miranda v. Arizona* as examples.

Another hot topic: viability

Chief Justice John Roberts asked the lawyer for Jackson Women’s Health Organization if a 15-week cutoff for abortions could be more workable as a legal standard than viability.

“It seems to me that (viability) doesn’t have anything to do with choice,” said Roberts. “If it really is an issue about choice, why is 15 weeks not enough time?”

Jackson Women’s Health’s counsel said it would not, as enacting a pre-viability line would result in states moving to ban abortions earlier and earlier in a pregnancy.

Since the “viability” standard for abortion law was established in the 1992 *Planned Parenthood v. Casey* decision, improved neonatal care has changed when babies are considered viable. Now, babies born at the 23rd week of pregnancy are statistically likely to survive. The earliest premature baby to survive, a boy named Richard Scott William Hutchison, was born when his mother was 21 weeks pregnant.

Pro-lifers rallied in large numbers...

^[1]_[SEP]Hundreds of people braved the near-freezing temperatures on Wednesday morning for the “Empower Women Promote Life” rally outside the Supreme Court. The all-female lineup of speakers included members of Congress, pro-life leaders of all political backgrounds.

...While others shouted their abortions

Three women cheered as they allegedly took mifepristone, the first pill in an abortion-drug regimen, while standing in front of the Supreme Court. A video of the act was shared by the organization “Shout Your Abortion,” an organization which seeks to normalize abortion.

Will history look at Roe the same way it regards *Plessy v. Ferguson*?

In his rebuttal, Stewart, representing Mississippi, compared *Dobbs v. Jackson Women’s Health* to *Brown v. Board of Education*.

“In closing, I would say that in the dissent of *Plessy v. Ferguson*, Justice Harlan emphasized that there is no caste system here; and the humblest in our country is the peer of the most powerful. Our Constitution neither knows nor tolerate distinctions on the basis of race,” he said.

“It took 58 years for this court to recognize the truth of those realities in a decision. And that was the greatest decision that this court ever reached. We’re running on 50 years of *Roe*,” said Stewart.

Roe “is an egregiously wrong decision that has inflicted tremendous damage on our country, and will continue to do so and take innumerable human lives” until it is overruled, he added.