GLOBAL LIFE CAMPAIGN™

Louisiana Constitution & Law v. U.S. Supreme Court (Part 2)

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On 29 June 2020, a five-member majority of the U.S. Supreme Court issued an egregious and unlawful decision that violated the jurisdiction and life-protecting authority of a State government in the case of *June Medical Services LLC* v. *Russo, Interim Secretary, Louisiana Department of Health and Hospitals*. The GLC Series this week, focusing on the *Sanctity of Human Life*, reviews that case, identifying the presuppositions of Justice Breyer and those who sided with him, contrasted by the Constitution-respecting dissenting opinion of Justice Thomas.

Majority opinion by Justice Breyer, joined by Justices Ginsburg, Sotomayor, and Kagan. Sadly, Chief Justice Roberts concurred in this ruling, shifting it to be the majority opinion in this case. Breyer's opinion begins with this statement:

> "In *Whole Woman's Health* v. *Hellerstedt*, 579 U.S. 15-274 (2016), we held that '[u]nnecessary health regulations that have the purpose or effect of presenting a substantial obstacle to a woman seeking an abortion impose an undue burden on the right' and are therefore 'constitutionally invalid.'"

Presuppositions of Justice Breyer and the other justices who joined or concurred:

1. An unborn baby is not human, or not yet human.
2. An unborn baby is not a "person" entitled to protection of law.
3. Abortion is acceptable.
4. Access to abortion should not be restricted.
5. Access to abortion should be protected by civil government.
6. Civil government does not have the authority to restrict access to abortion.
7. State governments do not have the authority to require abortionists and abortion clinics to meet standard medical and healthcare requirements.
8. Government "health regulations" that create an "obstacle to a woman seeking an abortion" are wrong, and are beyond the state's lawful authority.
9. The U.S. Supreme Court has constitutional and jurisdictional authority over States – including over their legislatures and laws, their government administrations and policies, and their courts – in matters pertaining to abortion.
10. The U.S. Supreme Court's opinion in their prior ruling, in *Whole Woman's Health* v. *Hellerstedt*, and other opinions upon which these were based, were correct.

All of these presuppositions are false! Think about each of these presuppositions. If they were true, then the U.S. Supreme Court has jurisdiction, that is, authority to rule in the matter. But if they are false, then the Court has no authority in this matter, or no authority over the States in such matters. Further, Federal courts have no constitutional authority to rule regarding a woman's access to abortion, except possibly within Washington, DC, and Federal territories.

Dissenting opinion by Justice Thomas: he disagreed with the opinion of the five justices above, writing a strongly worded dissenting opinion with this opening statement:

> "Today a majority of the Court perpetuates its ill-founded abortion jurisprudence by enjoining a perfectly legitimate state law and doing so without jurisdiction. As is often the case with legal challenges to abortion regulations, this suit was brought by abortionists and abortion clinics. Their sole claim before this Court is that Louisiana's law violates the purported substantive due process right of a woman to abort her unborn child. But they concede that this right does not belong to them, and they seek to vindicate no private rights of their own. Under a proper understanding of Article III, these plaintiffs lack standing to invoke our jurisdiction. . . .
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> "The plurality and THE CHIEF JUSTICE ultimately cast aside this jurisdictional barrier to conclude that Louisiana's law is unconstitutional under our precedents. But those decisions created the right to abortion out of whole cloth, without a shred of support from the Constitution's text. Our abortion precedents are grievously wrong and should be overruled. Because we have neither jurisdiction nor constitutional authority to declare Louisiana's duly enacted law unconstitutional, I respectfully dissent." (Additional quotes from Justice Thomas' opinion follow on the next page.)

Justice Breyer et al. further said,

> "The Texas statute at issue in *Whole Woman's Health* required abortion providers to hold 'active admitting privileges at a hospital' within 30 miles of the place where they perform abortions. . . . And that obstacle . . . imposed an 'undue burden' on abortion access in violation of the Federal Constitution."

Presuppositions of Justice Breyer and the other justices who joined or concurred:

1. Requiring an abortionist to have "active admitting privileges" at a nearby hospital in case there is a medical emergency or risk of death of a pregnant woman during or after he destroys her baby (or perhaps also if the baby survived the abortion, as some do), is an "undue burden" upon the abortionist, the abortion clinic and their business.
2. Placing a "burden on abortion access" violated "the Federal Constitution."

Both of these presuppositions are false! Therefore the U.S. Supreme Court has no jurisdiction in the matter. Further, the Federal Constitution has no provision regarding health care, health policy, or abortion, so Federal courts have no jurisdiction over the States in these matters. The first presupposition is false based on truth and violation of standard medical and healthcare policies and practices, and the second based on the Constitution.

Justice Breyer et al. concluded the opening of his opinion with this assertion:

> "We consequently hold that the Louisiana statute is unconstitutional."

Presuppositions of Justice Breyer and the other justices who joined or concurred:

1. If a state law violates a Federal court ruling, especially a U.S. Supreme Court ruling, then it is "unconstitutional."

2. What the U.S. Supreme Court and Federal courts decide is "constitutional," is "constitutional," even if they never quote a specific provision in the Constitution.

Both of these presuppositions are false! If they were true, then all state laws and policies would be subject to Federal court oversight and possible invalidation. And the actual words of the Constitution, and intent of the Framers of the Constitution, would not matter; only what the courts say. And if that is the case, then we as a nation are subject to the rule of as few as 5 unaccountable people. I think Justice Thomas would say that both presuppositions are false.

Justice Thomas' dissenting opinion forthrightly, with humility, honesty and integrity, exposed the faulty reasoning upon which this and other abortion cases were decided since *Griswold* and *Roe*. Here are some quotes that will help you understand these matters with much greater clarity, and give hope for the future should we be blessed with a majority that think like this righteous judge. The first issue he addresses is that those who filed the lawsuit were third parties, and it was not their alleged rights that were burdened or violated.

> "Louisiana argues that the abortionists and abortion clinics lack standing under Article III to assert the putative rights of their potential clients. No waiver, however explicit, could relieve us of our independent obligation to ensure that we have jurisdiction before addressing the merits of a case. . . . And under a proper understanding of Article III's case-or-controversy requirement, plaintiffs lack standing to invoke our jurisdiction because they assert no private rights of their own, seeking only to vindicate the putative constitutional rights of individuals not before the Court. . . . The rule against third-party standing is constitutional, not prudential. The judicial power is limited to 'cases and controversies of the sort traditionally amenable to, and resolved by, the judicial process.' . . . (A) plaintiff could not establish a case or controversy by asserting the constitutional rights of others.". . .
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> "Applying these principles to the case at hand, plaintiffs lack standing under Article III and we, in turn, lack jurisdiction to decide these cases." . . .
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> "The only injury asserted by plaintiffs in this suit is the possibility of facing criminal sanctions if the abortionists conduct abortions without admitting privileges in violation of the law. . . . But plaintiffs do not claim any right to provide abortions, nor do they contest that the State has authority to regulate such procedures." . . .
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> "Even if the plaintiffs had standing, the Court would still lack the authority to enjoin Louisiana's law, which represents a constitutionally valid exercise of the State's traditional police powers." . . .
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> "The Constitution does not constrain the States' ability to regulate or even prohibit abortion. This Court created the right to abortion based on an amorphous, unwritten right to privacy, which it grounded in the 'legal fiction' of substantive due process. . . . As the origins of this jurisprudence readily demonstrate, the putative right to abortion is a creation that should be undone." . . .
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> "The Court first conceived a free-floating constitutional right to privacy in *Griswold* v. *Connecticut*. . . . Just eight years later, the Court utilized its newfound power in *Roe* v. *Wade* . . . There, the Court struck down a Texas law restricting abortion as a violation of a woman's constitutional

'right of privacy.' . . . Without any legal explanation, the Court simply concluded that this unwritten right to privacy was 'broad enough to encompass a woman's [abortion] decision.'" . . .

"Roe is grievously wrong for many reasons, but the most fundamental is that its core holding—that the Constitution protects a woman's right to abort her unborn child—finds no support in the text of the Fourteenth Amendment. . . . (T)he idea that the Framers of the Fourteenth Amendment understood the Due Process Clause to protect a right to abortion is farcical. . . . In 1868, when the Fourteenth Amendment was ratified, a majority of the States and numerous Territories had laws on the books that limited (and in many cases nearly prohibited) abortion." . . .

"(W)hen our prior decisions clearly conflict with the text of the Constitution, we are required to 'privilege [the] text over our own precedents.'" . . .

"Because *Roe* and its progeny are premised on a 'demonstrably erroneous interpretation of the Constitution,' we should not apply them here. . . . Because we can reconcile neither *Roe* nor its progeny with the text of our Constitution, those decisions should be overruled." . . .

"Because we lack jurisdiction and our abortion jurisprudence finds no basis in the Constitution, I respectfully dissent."

What should the State of Louisiana do? In short, faithfully fulfill its duty to God, and to its own citizens and every person within its borders, by protecting the right to life from conception. Last week, in Part 1 of "Louisiana Constitution & Law v. U.S. Supreme Court," I documented the responsibility of the government of Louisiana to protect human life and the right to life. This mandate comes from the Highest Authority, the Creator God Himself and the Law of God, and secondly from the Declaration of Independence, the U.S. Constitution, and the Constitution of Louisiana. Louisiana's duty to protect human life from conception stands regardless of the U.S. Supreme Court decision. Because the Court had no jurisdiction to consider the case, Louisiana should disregard the decision while faithfully complying with every other Federal law or Court decision that was within Federal jurisdiction. This is not a call for rebellion, but the opposite, a demand for respect for the rule of law and for the State's to govern themselves as guaranteed to them in the Constitution and its 10th Amendment.

SDG and for the sanctity of human life,

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"You shall not distort justice; you shall not be partial, and you shall not take a bribe, for a bribe blinds the eyes of the wise and perverts the words of the righteous. Justice, [and only] justice, you shall pursue, that you may live and possess the land which the LORD your God is giving you" (Deuteronomy 16:19-20).