

A ruling gone too far

by the Milwaukee Journal Sentinel

Abortion opponents applauded the Supreme Court's 5-4 decision Wednesday upholding a nationwide ban on a late-term abortion procedure. Still, the 2003 congressional ban went too far. And by affirming the ban, the court has also gone too far.

It's egregious enough that the Partial Birth Abortion Ban allows the federal government to intrude on medical decisions between a patient and physician. But by supporting its constitutionality, the majority of the court also is giving the tacit green light to further attempts by lawmakers, federal and state, to restrict the fundamental right of American women to abortion, established by the high court more than 30 years ago.

The high court said the ban does not violate a woman's constitutional right to an abortion. But as Justice Ruth Bader Ginsburg rightly noted in her dissent, the decision condones "federal intervention to ban nationwide a procedure found necessary and proper in certain cases by the American College of Obstetricians and Gynecologists."

Because the procedure involves partially removing the fetus intact from the uterus and crushing or cutting the skull to complete the abortion, it understandably has become highly controversial and emotionally wrenching. All the more reason to leave these decisions to the women involved, their families and their doctors, not lawmakers.

In the majority opinion, Justice Anthony Kennedy said opponents of the act "have not demonstrated that the act would be unconstitutional in a large fraction of relevant cases." Nearly 90 percent of abortions occur during the first 12 weeks of pregnancy and would not be affected.

But the ban allows the procedure only to save a woman's life, not for health reasons. That distinction "flies in the face of ethical care" for women, says Chris Taylor, an attorney who is public policy director for Planned Parenthood of Wisconsin. She's right.

She's also right when she says Wednesday's decision will generate even more abortion restrictions.

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