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Fact Sheet:

Dobbs v. Jackson: Legal Framework

DUE PROCESS

Roe v. Wade claimed that a constitutional right to abortion could be found in the “right to privacy,” which is not stated in the text of the Constitution. It is implied from the Fifth and Fourteenth Amendments’ due process clause.

“The Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision, including the one on which the defenders of *Roe* and *Casey* now chiefly rely—the Due Process Clause of the Fourteenth Amendment.”

Opinion of the Court, pg. 5

Roe was not an interpretation of the Constitution. It was a creation of a new nationwide law from an unelected group of judges. A poll conducted by Harvard University after the *Dobbs* ruling shows that only 25% of Americans want abortion standards to be set by the Supreme Court.

“Our decision returns the issue of abortion to those legislative bodies, and it allows women on both sides of the abortion issue to seek to affect the legislative process by influencing public opinion, lobbying legislators, voting, and running for office.”

Opinion of the Court, pg. 65

SEPARATION OF POWERS

“Unlike acts of Congress, a Supreme Court decision is the law of the case and not necessarily the law of the land.” *Fred Schlafly, response to Roe v. Wade decision*

STARE DECISIS

Stare decisis is the legal principle of applying reasoning from past court decisions when ruling on future cases on the same subject. Put another way, it is the tendency of courts to avoid overruling their past decisions.

“*Stare decisis*... does not compel unending adherence to *Roe*’s abuse of judicial authority. *Roe* was egregiously wrong from the start. Its reasoning was exceptionally weak, and the decision has had damaging consequences.”

Opinion of the Court, pg. 5