

Supreme Court Hears Challenges to Partial-Birth Abortion Ban Act

By Dave Andrusko

They were only 12 words, spoken by John Roberts, Chief Justice of the United States Supreme Court, at 10:05 a.m. on November 8. "We'll hear arguments first this morning in case 05-380, Gonzales vs. Carhart."

But while few in number, they symbolically represented the unyielding efforts of a multitude of pro-lifers. Passage of the Partial-Birth Abortion Ban Act of 2003 represents one of the most impressive displays of pro-life ingenuity, determination, and grassroots involvement in the nearly 34 years since the plague of *Roe v. Wade* was unleashed on America.

The nine justices were hearing oral arguments in the first of two challenges to the law. Defending the Partial-Birth Abortion Ban Act on behalf of the Bush Administration was Solicitor General Paul D. Clement (as he did in the second case, *Gonzales v. Planned Parenthood Federation of America*). Representing the plaintiff, abortionist LeRoy Carhart, was Priscilla Smith of the Center for Reproductive Rights, a leading pro-abortion advocacy organization.

The back-to-back hour-long oral arguments came almost exactly three years to the day after pro-life President George W. Bush signed the measure into law. Then-NARAL President Kate Michelman had this to say.

"Today we saw the real George Bush," she said. "Any shred of doubt that this is the most anti-choice president this country has ever had has been convincingly erased."

Listening to oral arguments on C-SPAN radio, it was obvious that the justices were attentive, alert, and ready to ask questions. Clement responded to every query—even the most arcane, could-this-happen-once-in-a-million-abortions questions—in an informal, conversational tone of voice that defused even those justices most primed to indignantly challenge the law's legal underpinnings.

No one knows how the Court will rule. Two new justices have joined the Court—Chief Justice Roberts and Justice Samuel Alito—since the High Court rejected Nebraska's state ban on partial-birth abortion in *Stenberg v. Carhart*. And while it is true that Justice Anthony Kennedy dissented in *Stenberg*, it is simply impossible to predict how he might decide.

Consider what a partial-birth abortion entails. It's not easy, which is why pro-abortionists did everything possible to keep medically accurate drawings from being shown.

"Thousands of times a year, an abortionist deliberately delivers, feet first, a premature, healthy infant until only the baby's head remains lodged just inside the mother's womb," wrote NRLC Legislative Director Douglas Johnson in an op-ed for *USA Today*. "Then he punctures the base of the baby's skull with 7-inch surgical scissors and suctions out the brain."

But people don't have to be pro-life to hope the Court upholds the Partial-Birth Abortion Ban for the very same reason they don't have to be pro-life to be appalled by this savage abortion "technique." They just have to have eyes, ears, and a conscience.

But what can be known for sure is that the legislative battle that went on for years (it took that long to dispel the endless series of lies propagated and defeat phony “compromises” conjured up) proved to be instrumental in changing the dynamics of public opinion. The following is taken from “Gallup Poll Special Reports: Public Opinion about Abortion—An In-Depth Review,” by Lydia Saad.

It is worth highlighting that in July 1996, coincident with the emergence of a new national debate over partial-birth abortion, Gallup recorded a significant drop in the number of Americans saying abortion should be legal in all cases. Since then, the percentage favoring unrestricted abortions has averaged just 25%, down from about 33% in the previous five years.

Two aspects of this adjustment make it unprecedented. First, it happened quickly, occurring between September 1995 and July 1996. Second, it represents the first time since Gallup began asking its principal abortion question in 1975 that opinion on the issue shifted in a significant and sustained way to the conservative side, rather than to the liberal side.

Given the timing of the shift, it appears that the debate over partial-birth abortion is the cause for this adjustment in public attitudes. It appears that partial-birth abortion became an important factor for Americans to consider when crystallizing their own positions on abortion. Specifically, partial-birth abortion became a widely familiar “circumstance” in 1996 that some people who previously favored “abortion in all circumstances” may have had in mind when they moved into the “only certain circumstances” category. Indeed, a large number of Americans who generally think abortion should be legal in all cases, nevertheless say they favor a ban on partial-birth abortion (57%, according to a March 2000 Gallup poll). Thus, the potential for this issue to move some of these people into the “only certain circumstances” category is clear.

There is a long way yet to go, as all pro-lifers know. But every journey of a thousand miles begins with a single step.

And it would be difficult to imagine a more important first step than teaching the American public about the brutality and violence that is partial-birth abortion.