

# WASHINGTON **Examiner**

## **No, the Supreme Court did not overturn *Roe v. Wade***

Kaylee McGhee White

September 2, 2021

Late last night, the Supreme Court rejected an emergency request to block a Texas law that prohibits abortions once a fetal heartbeat can be detected. Contrary to what the hysterical abortion advocates in the media are saying, this ruling does not overturn *Roe v. Wade*. It does, however, suggest the court is getting ready to take a definitive stance on the issue soon.

In a 5-4 decision, with Chief Justice John Roberts joining the court's three liberal justices in dissent, the court ruled that the plaintiffs, in this case abortion providers challenging the law, failed to prove how they would be directly affected by a law that empowers private individuals, rather than state officials, to enforce the abortion ban.

“In light of such issues, we cannot say the applicants have met their burden to prevail in an injunction or stay application,” the court wrote, adding that its decision not to block the law “is not based on any conclusion about the constitutionality of Texas’s law, and in no way limits other procedurally proper challenges to the Texas law, including in Texas state courts.”

The court also made clear that its decision not to block the law was not an attempt to engage with its underlying abortion precedent.

“In reaching this conclusion, we stress that we do not purport to resolve definitively any jurisdictional or substantive claim in the applicants’ lawsuit,” the court said.

As the Cato Institute’s Ilya Shapiro noted, Texas’s law, which allows private citizens to sue anyone who performs or helps a woman undergo an abortion after six weeks, will likely be struck down once a private individual uses the law to sue an abortion provider and that provider responds with a suit to dismiss the complaint based on the *Roe v. Wade* precedent. But until a plaintiff emerges, the Supreme Court is right: Abortion providers simply have no case against the law because of the way it is enforced.

Would the Supreme Court rule in favor of the Texas law and against *Roe v. Wade* if such a lawsuit did reach its chambers? Maybe. But probably not. Roberts seems happy enough to stick with current precedent, and the only conservative justice who seems to have a sense of urgency on the matter is Clarence Thomas.

Regardless, the court will have to rule on abortion at some point. Texas’s law suggests we’ll get our answer sooner rather than later.