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Eighth Circuit Court of Appeals Vacates Baker Injunction on Four 2017 Abortion Laws

The U.S. Eighth Circuit Court of Appeals has vacated an injunction issued by U.S. Eastern District Judge Kristine G. Baker preventing the enforcement of four Arkansas laws regulating abortion.

The 91st Arkansas General Assembly of 2017 enacted the following laws regulating abortion in the state: 1) the Arkansas Unborn Child Protection from Dismemberment Abortion Act of 2017 (Act 45); 2) the Sex Discrimination by Abortion Prohibition Act; 3) an amendment concerning the disposition of fetal remains, and 4) an amendment concerning the maintenance of forensic samples from abortions performed on a child.

Act 45, the top legislative priority of Arkansas Right to Life in 2017, bans dismemberment abortions.

In his dissent to the U.S. Supreme Court's 2000 *Stenberg v. Carhart* decision, Justice Anthony Kennedy observed that in D&E dismemberment abortions, "The fetus, in many cases, dies just as a human adult or child would: It bleeds to death as it is torn limb from limb. The fetus can be alive at the beginning of the dismemberment process and can survive for a time while its limbs are being torn off." Justice Kennedy added in the Court's 2007 opinion in *Gonzales v. Carhart* that D&E abortions are "laden with the power to devalue human life..."

"Today's decision by the court is a step in the right direction for unborn babies to escape a horrendous death from dismemberment abortion as they did from partial-birth abortion," said Rose Mimms, executive director of Arkansas Right to Life.

Former State Representative Andy Mayberry and sponsor of Act 45, who currently serves as president of Arkansas Right to Life, applauded the court's decision.

"This is a great, thoughtful decision today from the Eighth Circuit Court of Appeals that gives us continued hope that our efforts are paying off to save living unborn babies. The Eighth Circuit has now affirmed our state's right to prevent innocent unborn children from enduring the barbaric and horrific abortion procedure that literally rips them apart until their death," Mayberry said. "In 2019, there were 355 babies -- age 12 weeks to 19 weeks -- killed by this inhumane method in Arkansas. A civilized society must not allow such cruelty inflicted on our youngest members of the human family."

The opinion states, “the district court’s preliminary injunction and remand for reconsideration in light of Chief Justice John Roberts’s separate opinion in *June Medical*, which is controlling, as well as the Supreme Court’s decision in *Box v. Planned Parenthood of Ind. & Ky., Inc.* Justice Roberts rejected the observation” made in *Whole Woman’s Health* and again by the plurality “that the undue burden standard requires courts to weigh the law’s asserted benefits against the burdens it imposes on abortion access.”

The decision noted that Justice Roberts has previously “emphasized that, in the abortion context, ‘state and federal legislatures [have] wide discretion to pass legislation in areas where there is medical and scientific uncertainty.’”

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Arkansas Right to Life is the state affiliate of the National Right to Life Committee, the oldest and largest pro-life organization. For more information visit <https://artl.org/>.