

US Supreme Court takes up controversial abortion issue, again

15 January 2014, by Chantal Valery

More than four decades after legalizing abortion, the US Supreme Court returns to the hot-button issue Wednesday in a case about the right to protest near clinics that terminate pregnancies.

The high court is due to hear a challenge on the ground of free speech rights to a Massachusetts law that sets a buffer zone around the entrance to [abortion](#) clinics.

"Pro-life" and "pro-choice" activists are expected to wave their banners outside the Supreme Court steps during the debate.

Surprising court watchers and despite an increased number of appeals, the nine justices chose to weigh in on the peripheral issue, shunning the heart of the controversy and a potential return to the court's 1973 "Roe v. Wade" decision that legalized abortion.

On Monday, they refused to take up an Arizona law that largely banned abortions after 20 weeks of pregnancy after an appellate court struck it down as unconstitutional last year.

It was the second time this term that the court decided against reviving a new abortion control law, after removing from its docket an Oklahoma law that limited doctors' ability to perform medical abortions.

The court also let stand a state court decision invalidating limits on a so-called abortion pill.

"Because the court chose not to review the case, nothing final can be read into that denial, except perhaps that the court is not ready to reopen the whole question about the continuing validity of its precedents on women's abortion rights," said Lyle Denniston, who has covered the high court for 55 years and writes for the SCOTUSblog.

"Lawyers for anti-abortion groups have been

attempting to fashion arguments that they hoped would lead the court to see that earlier-stage laws against pregnancy terminations were actually regulations of the procedure, not a total ban."

In November, however, the court refused to block a new Texas law banning abortions in clinics lacking doctors on staff with full professional privileges at a hospital nearby. The decision triggered the closure of a third of the state's abortion clinics.

The divergent decisions make it more difficult to predict the future direction of the court on the controversial topic, especially since the conservative justices are now in the majority.

A divided bench

"The court's decision will likely be significant because of the underlying topic—abortion," said David Hudson of Vanderbilt Law School and Nashville School of Law.

In the latest case before the court, seven pro-life militants cited the [free speech rights](#) under the First Amendment of the US Constitution to contest a Massachusetts law barring them from protesting in a 30-foot (10-meter) buffer zone around the entrance, exit and private access of abortion clinics.

"It's time for the Supreme Court to put an end to these perverse attempts to silence pro-life speakers," said Dana Cody, president of the anti-abortion Life Legal Defense Foundation.

"Massachusetts is grasping at straws and its bubble zone law flies in the face of the very notion of freedom of speech."

She estimated it would only take the vote of two of the four new justices to nullify the law.

"Too many times, we've seen the Supreme Court pass a death sentence on voiceless children in the

womb. It would be yet another injustice to silence any person who speaks out on behalf of these children," said Live Action president Lila Rose.

"The Constitution of the United States does not become void as one gets close to an abortion facility."

In an editorial, The New York Times stressed that while the right to [free speech](#) is officially the question before the [court](#), "the broader issue at stake is protecting women's access to abortion, which is under assault around the country by lawmakers and protesters alike."

The ruling, expected in late June, could have an impact in other states that have also set up similar buffer zones around abortion clinics, as well as certain places of worship and funerals.

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