John Roe,

Petitioner

v.

State of Columbiana,

Respondent

The first midterm elections after the reversal of *Roe v. Wade* were very kind to conservatives in Columbiana. A record number of far-right candidates were elected to the Columbiana House and Senate; so many in fact that for the first time, far-right conservatives constituted a majority in both houses.

The new state House and Senate immediately got to work. With much pomp and ceremony on the opening day of the session, conservative legislators held a vigil on the State Capitol steps to pray for all the unborn children that had been "lost during the *Roe v. Wade* years".

In a speech later the same day (that opponents described as mostly a political rally), Rep. Dick Gethardt also decried Columbiana's increasingly low birth rate – a trend that started over thirty years ago – stating that, "Columbiana cannot become another Japan! Nor do we want a bunch of immigrants in our state to maintain an adequate workforce. If we had all those unborn children back, we would have enough workers!"

Rep. Gethardt ended his fiery speech by promising that "[T]he newly installed conservative majority will make Columbiana great again and ensure future generations will be treated with the same respect as their forebears enjoyed." Many female and minority legislators quickly pointed out that the representative's choice of words hinted at past misogyny and racial animus.

Very quickly, the House and Senate passed a bill making all abortions – without exemptions – illegal. The bill was quickly signed by the Governor who proclaimed that is was "a new day for unborn Columbianians." Under the new law, women seeking abortions or anyone assisting in a woman in seeking an abortion is guilty of a felony, punishable by life imprisonment. The law includes any healthcare provider who "performs surgical abortions or aides in medication abortions, either by obtaining the medication for patients or by informing patients in how to obtain such medication or refers a patient to a provider in another state for purposes of an abortion." The bill further defines all birth control methods as abortifacients, thereby making all birth control illegal in Columbiana. As such, the sale and possession of condoms in Columbiana are illegal. Sale or sale of condoms is a Class Three misdemeanor punishable by ten years in prison.

Most controversial, however, was H.B. 102, colloquially known as the "Save Our Seed" (SOS) bill. It passed overwhelmingly in the House and then, without changes, by a slightly more modest majority in the Senate. The Bill makes it illegal for any male between the ages of 13 and 63 to obtain a vasectomy. Unlike the abortion bill, the SOS Bill did not punish males who obtained a vasectomy. However, any healthcare provider found to have performed a vasectomy on a male between the proscribed ages would lose their medical license and be subject to ten years in prison.

The Governor of Columbiana is more moderate than the House or Senate majorities and, after giving a poignant speech regarding the loss of reproductive rights – "one of the most sacred of privacy rights in our country" – she vetoed the SOS law. In Columbiana, a three-fifths vote of the elected membership of both chambers is necessary to override a veto; the Governor's veto was immediately overridden.

Speaking again on the steps of the state Capitol building, Dick Gethardt (one of the sponsors of the bill) joyfully announced that "with the passage of the SOS Bill, not only is unborn life protected, but also the 'potential for life' is guaranteed." Rep. Gethardt went on to denounce Governor Bader for being a "CON - Christian Only in Name" and promised his constituents that she would be roundly defeated in the next election.

Reaction to both laws was swift and intense. Opposition to the SOS law was particularly harsh. A liberal Op-Ed writer at the *Columbiana Picayune* noted that almost all of the legislators who voted for the SOS Bill were either white men over the age of 65 (thus not impacted by the Bill) or far-right anti-abortion females. No minority and no moderate or liberal white female legislators voted for the bill. Between the House and Senate, even among the younger far-right male legislators, only three white men under the age of 65 voted in favor of it.

Tate Akin, a young, conservative legislator who voted for the abortion ban but not the SOS bill, decried the new legislation, stating:

> Performing vasectomies are not the same as performing abortions! Another life is not involved when deciding to have a vasectomy; therefore, a man should not be *punished* for what is a very private decision regarding his body only.
>
> Also, a woman can stop from getting pregnant if she really wants to. Even in rape, a woman can force her body to just shut down if she does not want a baby. Men do not have the same control over their sperm!

The Columbiana Civil Liberties Union (CCLU) immediately denounced the SOS law as unconstitutional, arguing that the law impermissibly intrudes upon a man's constitutional right to privacy.

In response, a coalition of fundamentalist religious groups reiterated Rep. Dick Gethardt's arguments, stating that the government had a significant interest in ensuring that both unborn children and the "potential for life" are protected. As one of the coalition's members stated in a press conference, "God does not want precious seed spilt simply because of wanton desire!"

Arguments over the law were quickly taken from the public square to the courts. CCLU filed a lawsuit in federal district court on behalf of plaintiff John Roe, a single adult male citizen of Columbiana. The lawsuit sought a temporary injunction to prohibit implementation of the law and a Motion for a Declaratory Injunction that the law was unconstitutional. The motion and the injunction were granted.

On appeal, the State of Columbiana argued that the State has a compelling interest for adopting the legislation and that the Nation's history and tradition evidenced no legal protections for vasectomies.

The Court of Appeals for the Thirteenth Circuit agreed. Finding for the State, it reversed the district court. It concluded that while "the law raises concerns under the scope of 'penumbras' of privacy, the State has a significant governmental interest in insuring that all potential life was given the chance to be born." It specifically noted the State's low birth-rate as a governmental concern.

At a press conference announcing the filing of a petition for *certiorari* with the United States Supreme Court, CCLU stated:

> The State is trying to force men to be unwilling studs. 'Forced siring' is not an American value! A man should not be compelled to impregnate a woman simply because he is not allowed access to obtaining a vasectomy. Even if the State does have a concern regarding its low birth rate, this does not give the State a right to force the possible siring of a child simply because a man chooses to engage in a consenting, heterosexual sex act.

The petition for *certiorari* has been granted. The Court will consider the following question only:

- Does the Save our Seed Bill of 2023 unconstitutionally invade petitioner's constitutional right to privacy or otherwise violate the Constitution?

(***Note***: The Court is <u>not</u> addressing the birth control issue arising from the abortion law. Additionally, the Court will <u>not</u> address any potential claims arising from Columbiana's RFRA statute nor consider any potential Equal Protections claims.)