

Iowa Supreme Court Aborts on Heartbeat Law

It was super disappointing that the Iowa Supreme Court, because of a split 3-3 ruling, has allowed the injunction to stand that keeps the Heartbeat Law from going into effect. That means the Heartbeat Law the legislature already passed in 2018 does not go into effect due to a district judge's decision to "enjoin" or stop it. So the way Iowa law currently stands is the unborn are only protected at 20 weeks and this decision does not change that. This is a decision against the protection of unborn children. Again, super disappointing!

There were 3 justices who voted to let the Heartbeat Law go into effect: Justices McDonald, McDermott, and May. The other 3 justices voted to keep the Heartbeat Law under the injunction: Justices Christensen, Mansfield, and Waterman. The 7th justice, Dana Oxley, recused herself from the case. No reason was given but her former law firm represented an abortion clinic in this case. So the ruling was split down the middle 3-3. Since there was not a majority the previous court decision, the district court's, stands.

Furthermore, we had asked the court whether they were going to use the rational basis standard (says an abortion law can stand if the legislature has a rational basis for it) to review any future abortion law cases or keep the undue burden standard (says an abortion law can stand only if it does not present an "undue burden" before a woman seeking an abortion). The rational basis standard is much better for protecting the unborn.

The undue burden standard was rejected by the U.S. Supreme Court last year in the Dobbs ruling that overturned Roe vs. Wade. Instead the U.S. Supreme Court adopted the rational basis standard on which they would evaluate abortion law. We had hoped the Iowa Supreme Court would follow the U.S. Supreme Court precedent and adopt the rational basis standard too. But—they didn't. They were silent on it! So we don't know how they will evaluate any law regarding abortion that we pass! That was also disappointing.

In the written opinions, Justice Waterman asserted that the Heartbeat Law was only a "hypothetical law" because it "had no chance of taking effect." Justice McDonald rejected that saying, "it is not a hypothetical law, it is an

actual law” (because the legislature never repealed it, it is still on the books). Justice McDermott went further in rebuking his colleagues for judging legislators’ motivations saying, “I’ve never seen this characterization of lawmaking in a judicial opinion.....The legislature we’re supposed to conclude, didn’t really mean it when they enacted the statute.....So instead of analyzing the law as a law, they offer conjecture about the intentions of the elected representatives that passed the law.”

Where do we go from here? Forward, of course! This is definitely not the end of the story! I want the strongest protection for unborn children that we can get through the legislature: preferably a life-at-conception protection law or a heartbeat law passed for the second time! Either one will protect thousands of babies in Iowa. I believe we have a supportive legislature to get something done. I have asked our Senate leaders to call a special session to do it. Actually, it will have to be the governor that would have to call a special session because for the legislature to do it requires a 2/3’s majority and we don’t have that.

The Declaration of Independence upheld the right to life as one of the most basic of all our God-given rights. No state can prosper that doesn’t do the same. Justice doesn’t sleep until wrongs are righted. All innocent life deserves the protection of the law. And that’s what I’m working for.

U.S. Supreme Court Rulings

Sackett vs. EPA: The U.S. Supreme Court recently unanimously decided that the Environmental Protection Agency exceeded its lawful authority by defining “Waters of the U.S.” (WOTUS) specified in the Clean Water Act too broadly. The court said WOTUS was intended to apply to permanent bodies of water or continuously flowing waters, such as oceans, seas, lakes, and rivers. The agency tried to extend federal control over wetlands. The Court said it could not do that.

Justice Alito, writing for the majority, said that only if a wetland was continuously connected to a body of water that was a true WOTUS itself would it be considered under federal control. Otherwise, he said that any piece of land that is wet part of the time could be considered a WOTUS by the EPA.

This was a good decision for farmers as the agriculture industry has been working for many years to curb federal control over farmland and farming activity. Farmers believe in protecting water quality but this type of overreach by the EPA does nothing to protect water quality but instead puts unnecessary regulatory burdens on farmers.

National Pork Producers Council vs. Ross: The U.S. Supreme Court recently upheld a California law that prohibits pork from being sold in its state that are not raised according to minimum space requirements the state has specified. California intended its law to improve animal welfare.

This was a 5-4 decision and was quite unusual with justices all over the board: conservatives and liberals on the court on each side of this issue. The majority argued that a state has the constitutional right to determine what products are sold in their state because the Constitution does not give the federal government the power to limit the state. The minority argued that California was imposing a substantial burden against interstate commerce, which regulating interstate commerce is a federal power, not a state power.

This was a disappointing ruling for farmers in Iowa and other states who now must be subject to California law before pork can be sold there. According to the Farm Bureau, California accounts for 13% of U.S. pork consumption. It is a restriction on livestock farming in Iowa and elsewhere outside of California in the U.S.

Meeting the California law will require changes made in buildings that house hogs and that will raise production costs for farmers. Prices will inevitably have to rise and that means all American consumers, not just Californians, will be paying more for their pork at the grocery store. This will hit low-income families the hardest. Furthermore, pork producers contend the changes will not improve animal welfare at all. That said, some pork producers in Iowa, looking ahead, have already made changes in their housing for hogs to comply with California law. Others are watching to see the final guidance that gets fleshed out.

Governor Reynolds is now asking Congress to pass a bill introduced by Senators Grassley and Ernst: the Exposing Agricultural Trade Suppression (EATS) Act, that prevents states from restricting interstate commerce, as the Supreme Court left open the possibility that Congress could override California's law.

Feel free to contact me with ideas, thoughts, and concerns. My phone is 319-987-3021 or you can email me at sandy.salmon@legis.iowa.gov . I want to hear what you are thinking and will listen to your input. Together we will work to make a difference for the future of Iowa. Thank you very much for the honor of representing you!

Sincerely,

Sandy