

Life Issues Forum

Lost in a Labyrinth of Deception By Susan E. Wills, Esq.

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On November 8 the Supreme Court heard two cases challenging the federal Partial-Birth Abortion Ban Act – *Gonzales v. Carhart* and *Gonzales v. Planned Parenthood*. Transcripts of the oral arguments expose the dilemma faced by lawyers representing abortion providers: They must defend the indefensible, suspend reason and common sense, and argue contradictory positions, without appearing to be mortified.

In the past abortion advocates have even refused to use the statutory language “partial-birth abortion” (PBA), preferring “D&X,” to distinguish it from “D&E” (dismemberment inside the mother’s body) abortion. Now they are calling D&X “intact D&E,” to argue that the two are “similar” and are both banned by the federal statute. For clarity, we’ll stick with PBA.

The attorneys offered contradictory arguments on safety. In one breath they claimed that D&E is the “gold standard” of mid-trimester abortion and that PBA is equally safe. In the next, they claimed that allowing PBA is “medically necessary” to avert the “catastrophic health consequences” incident to D&E: risks of uterine perforation, infection, and “the spread of malignant cancer throughout the woman’s body.”

So which is it? Is D&E the most common, safe, “gold standard” mid-trimester abortion method, which the law must be careful to protect, or is it fraught with catastrophic dangers?

In fact the alleged superiority of PBA is refuted elsewhere in the transcripts: “two of the three district courts found that there was no particular condition where the D&X [PBA] abortion was medically necessary or had marginal safety benefits” (*Carhart* transcript, p. 22). The district court in Nebraska “identified only two conditions, preeclampsia combined with maternal cancer and placenta previa” (*Ibid.*). But obstetrics textbooks recommend caesarean delivery and treatments other than abortion in such cases.

Contradictions also emerged on legal liability. There are two ways an abortion provider can be exempted from the PBA ban, even if the fetus is intact when her head, or her legs and trunk past the navel, exit her mother. One way is to kill the child *in utero* by digoxin injection; the other is to demonstrate intent to perform a dismemberment abortion by dilating the woman’s cervix only 2-2.5 cm.

Planned Parenthood’s lawyer objected that digoxin injection, according to “overwhelming” testimony, “carries significant risks for some women.” But it turns out Dr. Carhart *always* kills the fetus by digoxin injection “as a matter of course after 17 weeks,” and her own witnesses offer it.

Could a doctor unintentionally perform a PBA and be held liable, when he really intended to dismember the child? No, because abortion providers themselves testified otherwise. Some always perform D&E abortions, dilating the cervix minimally, because (they state) the second day of dilation required for a PBA is “painful” and can lead to infection. Others stated that, because they always intend to perform PBA, they *always* dilate the cervix 5-6 cm over two days. There is no overlap or confusion here, except what attorneys tried to create.

As Aleksandr Solzhenitsyn said, violence “cannot flourish by itself; it is inevitably intertwined with LYING. Between them there is ...the most profound and natural bond: nothing screens violence except lies.”

Susan Wills is associate director for education, United States Conference of Catholic Bishops’ Secretariat for Pro-Life Activities