

# Lawrence v. Texas (2003)

## Background of the Case:

The petitioners, John Geddes Lawrence and Tyron Garner, were alleged to have been engaging in consensual anal sex in Lawrence's apartment in the outskirts of Houston between 10:30 and 11 p.m. on September 17, 1998 when Harris County sheriff's deputy Joseph Quinn entered the unlocked apartment, with his weapon drawn, arresting the two.

The arrests had stemmed from a false report of a "weapons disturbance" in their home — that because of a domestic disturbance or robbery, there was a man with a gun "going crazy." The neighbor who filed the report had earlier been accused of harassing the plaintiffs. The neighbor later admitted that he was lying and served 15 days in jail for filing a false police report.

Lawrence and Garner were arrested, held overnight in jail, and charged with violating Texas's anti-sodomy statute, the Texas "Homosexual Conduct" law. The law designated it as a Class C misdemeanor when someone "engages in deviant sexual intercourse with another individual of the same sex," prohibiting anal and oral sex between members of the same sex.

On November 20, Lawrence and Garner pleaded no contest to the charges. They were convicted by Justice of the Peace Mike Parrott, but exercised their right to a new trial before a Texas Criminal Court, where they asked the court to dismiss the charges against them on Fourteenth Amendment **equal protection** grounds, claiming that the law was unconstitutional since it prohibits sodomy between same-sex couples, but not between heterosexual couples, and also on right to privacy grounds.

## The Court's Decision:

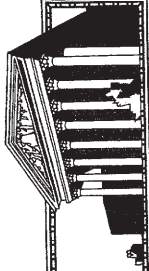
The Supreme Court voted 6–3 to strike down the Texas law, with five of the justices holding that it violated due process guarantees, and a sixth justice, Sandra Day O'Connor, found that it violated equal protection guarantees. The majority opinion also struck down similar laws in 12 other states. Justice Anthony Kennedy wrote the majority opinion. The majority decision also held that "the intimate, adult consensual conduct at issue here was part of the liberty protected by the substantive component of the Fourteenth Amendment's due process protections." Holding that "the Texas statute furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual," the court struck down the anti-sodomy law as unconstitutional.

## O'Connor's concurrence

Justice Sandra Day O'Connor filed a concurring opinion, agreeing with the invalidation of the Texas anti-sodomy statute, but not with Kennedy's rationale. O'Connor instead preferred the equal protection argument which would still strike the law because it was directed against a group rather than an act, but would avoid the inclusion of sexuality under protected liberty. O'Connor maintained that a sodomy law that was neutral both in effect and application might well be constitutional, but that there was little to fear because "democratic society" would not tolerate it for long.

## Answer these questions on a separate sheet:

1. What was the basis for the court's decision in Lawrence v. Texas?
2. Under what conditions did Justice O'Connor say that a sodomy law might be constitutional?
3. Do you agree with the Court's decision in Lawrence v. Texas?



# Supreme Court Case Study 48

## A Woman's Right to Abortion

### Roe v. Wade, 1973

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

One of the most widely debated issues in recent times has been over whether a woman may legally have an abortion. Many religious groups have vigorously opposed abortion, while women's rights organizations and civil libertarians, as well as many unaffiliated individuals, have supported that right.

An unmarried pregnant woman, Jane Roe (a pseudonym), brought suit against District Attorney Wade of Dallas County, Texas. She challenged a Texas statute that made it a crime to seek or perform an abortion except when, in a doctor's judgment, abortion would be necessary to save the mother's life. Because Roe's life had not been threatened by her pregnancy, she had not been able to obtain an abortion in Texas.

#### *Constitutional Issue* \*\*\*\*\*

Roe argued that her decision to obtain an abortion should be protected by the right of privacy, a right that stemmed from the Bill of Rights generally, and from the liberty interests guaranteed by the Fourteenth Amendment's due process clause. The state argued that the protection of life granted by the Fourteenth Amendment could not be applied to a fetus because a fetus was not a person in the eyes of the law.

#### \*\*\*\*\* The Supreme Court's Decision \*\*\*\*\*

The Court decided in Roe's favor. Justice Harry A. Blackmun wrote for the Court.

The Court, with one dissent, approached its decision by acknowledging the delicacy and depth of the issue before it. Nevertheless, it was the Court's task "to resolve the issue by constitutional measurement free of emotion and of predilection."

Justice Blackmun reaffirmed that there was a right to privacy that could be inferred from the First, Fourth, Fifth, Ninth, and Fourteenth Amendments. He said that "the right has some extension to activities relating to marriage . . . , procreation . . . , (and) contraception. . . ." Accordingly, "the right of privacy . . . is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." Although specific and direct medical injury might follow a denial of choice, other injuries as well could result from an unwanted pregnancy. These include "a distressful life and future, psychological harm," and also the "distress . . . associated with the unwanted child, and . . . the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it." Yet the Court concluded that the privacy right was not absolute; accordingly, the right could not support an absolute right to choose abortion and "must be [balanced] against important state interests in regulation."

The Court then turned to the question of whether a fetus is a person within the meaning of the Fourteenth Amendment. The Court decided that a fetus was not a person under the

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